

Program and Budget Committee

Twenty-Eighth Session
Geneva, September 10 to 12, 2018

REPORT

adopted by the Program and Budget Committee

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1. The 28th session of the WIPO Program and Budget Committee (PBC) was held at the Headquarters of WIPO from September 10 to 12, 2018.
2. From October 2017 to October 2019, the Committee is being composed of the following Member States: Algeria, Angola, Argentina, Azerbaijan, Bangladesh, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia (2019), Costa Rica (2018), Czech Republic, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, France, Gabon, Germany, Greece, Guatemala, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kazakhstan, Kyrgyzstan, Latvia, Lithuania, Malaysia, Mexico, Morocco, Nigeria, Oman, Panama, Republic of Korea, Romania, Russian Federation, Singapore, South Africa, Spain, Sweden, Switzerland (*ex officio*), Tajikistan, Thailand, Turkey, Uganda, United Arab Emirates, United Kingdom, United States of America (54).
3. Members of the Committee represented at this session were: Algeria, Angola, Argentina, Brazil, Canada, China, Costa Rica, Czech Republic, Ecuador, El Salvador, France, Germany, Greece, Guatemala, Hungary, India, Iran (Islamic Republic of), Italy, Japan, Kazakhstan, Kyrgyzstan, Lithuania, Malaysia, Mexico, Oman, Republic of Korea, Romania, Russian Federation, Singapore, Spain, Sweden, Switzerland (*ex officio*), Tajikistan, Thailand, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America (40).
4. In addition, the following States, members of WIPO but not members of the Committee, were represented as observers: Austria, Belarus, Benin, Bosnia and Herzegovina, Burundi, Chad, Côte D'Ivoire, Croatia, Democratic People's Republic of Korea, Democratic Republic of the Congo, Djibouti, Dominican Republic, Finland, Georgia, Ghana, Haiti, Indonesia, Ireland, Israel, Kuwait, Malta, Monaco, Pakistan, Peru, Philippines, Poland, Portugal, Saudi Arabia, Senegal, Yemen, Zambia, Zimbabwe (32).

ITEM 1 OPENING OF THE SESSION

5. The session was opened by the Director General who welcomed delegations to the 28th session of the PBC. He noted that September was an important month since, in addition to the Program and Budget Committee (PBC), the Assemblies would be held later on that month. The Director General thanked all Members for their strong engagement and reminded them that this was a non-budget year. This was an opportunity, continued the Director General, to review the work of the Organization since the last meeting of the PBC. This review would constitute the first group of items on the agenda, dedicated to Audit and Oversight, which also included proposed amendments of the Terms of Reference (ToR) of the WIPO Independent Advisory Oversight Committee (IAOC) and to the Internal Oversight Charter, as well as a progress report on the implementation of the recommendations made by the Joint Inspection Unit (JIU). The Director General wished to take the opportunity to thank the External Auditor, the Comptroller Auditor General of India, as well as all the Audit teams from the Government of India, who had completed their term of six years as External Auditor of the Organization at the end of the previous year, for their valuable service to the Organization and for the role they had played during those six years. The work of the External Auditor continued in the present year since they were reviewing 2017, at which time they were still the External Auditor. The Director General underlined the importance of the audit exercise, which provided assurance to both the Member States and the International Bureau. The Director General further expressed his gratitude, on behalf of the Secretariat, to the IAOC and to the Internal Oversight Division (IOD) for their excellent work. The Director General introduced the second category of items, pertaining to the Financial and Performance review of the Organization, which had been favorable and positive. The Director General referred to the consolidated Performance Report, namely the WIPO Performance Report 2016/17, explaining that it replaced two separate reporting lines, one on Financial Management and the other on Program Evaluation. He stated that it was an improvement having a single document which reviewed all facets of the performance of the

Organization. The Organization finished the biennium with very positive results with an overall financial result of 56 million Swiss francs for the biennium which represented over 75 per cent of the biennial target. The Net Assets of the Organization were 341 million Swiss francs excluding actuarial losses, and 203 million Swiss francs taking actuarial losses into account. This was, overall, a very healthy, stable financial situation for the Organization in an economically and financially rather unpredictable and unstable world. The Director General emphasized the need to continue the policy of exercising a great deal of caution in relation to the financial management of the Organization. Speaking of income and expenditure, the Director General pointed out that income was higher than budgeted. This had been a fairly standard result over the previous few years as a result of the cautious approach adopted in the determination of the budget figures, in particular in the anticipation of the demand for the Patent Cooperation Treaty (PCT), which constituted 75 per cent of the income of the Organization. The PCT system had outperformed budget estimates, which demonstrated the importance of the PCT system for the Organization. When looking at the overall picture of the Organization, there could be a tendency, from the financial point of view, just to look at the bottom line. However, to constitute that bottom line, there were several extremely important assets that the Organization had in terms of systems that had been established over the years. The Director General noted that the PCT was most important from a financial point of view, and the amount of work that had gone into this System should not be underestimated. This included not just the International Bureau, but the whole network of Member States who were actively engaged in the administration and execution of the PCT System in their capacity as Receiving Offices, receiving the international applications under the PCT searching and preliminary examining authorities. This was truly an example of successful international cooperation which depended upon all of the Member States and the Secretariat for its good performance. The Director General added that nearly 260,000 international applications were expected in the current year, which was a very large number. The second most important system and asset of the Organization in constituting its financially stable situation was the Madrid System, constituting about 17 per cent of the revenue of the Organization. While Member States continued to join the system, and this was a reasonably slow process, there were now about 117 participating countries and about 102 contracting parties, some of which were international and regional organizations representing states. This was not as high as the PCT System, which had 152. The Madrid System, noted the Director General, was becoming a very interesting one with a demand which may increase to rise to a level that was higher than had been seen traditionally and historically. The third major system was the Hague System which accounted for a rather small percentage of the budget but which was also a system which was in movement in terms of new Member States joining and for which an increase in demand was hoped for. Moving away from income to expenditure, the Director General explained that the surplus was also accounted for by a lower than budgeted level of expenditure, particularly in personnel costs, which were 2.6 per cent lower than the budgeted amount. Speaking of the financial management area, the Director General wished to mention the new policy on investments which was an extremely important topic for the Organization. Traditionally, net reserves were held with the Swiss federal authorities. As the Organization moved away from this secure and stable environment, a policy was needed for the management of the investments of these assets of the Organization. The initial horizon to assess the performance of this policy was five years and the Organization was still some way from this horizon with just one year of experience with the new policy. However, the architecture had been put in place and the resulting investments had been made and the Organization would follow the evolution of the market to see what the results in the long term would be. The Director General thanked colleagues for their very careful management of the delicate situation with negative interest rates prevailing in Switzerland. An active management approach, involving the management of multiple accounts on special arrangements with banks, had enabled any negative impact to be avoided. Finally, the Director General mentioned the conducting, together with the Member States, of a netting experiment to explore the possibility of reducing the exposure of PCT payments to fluctuations in exchange rates. The Director General extended his thanks to Member States

who were participating in this exercise, which was extremely important for the future of the system. Turning to the specific proposals, the Director General referred to the Supplementary Capital Master Plan. The Capital Master Plan had been extensively considered the previous year, and it had been established and approved by the Member States. The Capital Master Plan document was a living document designed to ensure that the perception of future needs was taken in to account. Two elements were under consideration in the context of the proposal under review. The first concerned the migration of much of the storage of data within the Organization within various and specific systems to the cloud. This was an extremely complex operation for a variety of reasons, but also an extremely important one as it offered the possibility of significantly reduced costs in the future. Another reason for the migration to the cloud was linked to security, resilience and the mitigation of risks against cyber-attacks. Some requirements in terms of premises needs were also to be expected in the future. Although these had not yet materialized, they would be presented to Member States in the future. Finally, the Director General extended his wishes to all for a very productive session, 28th session of the PBC, adding that the agenda was an extensive one despite the fact that it was a non-budget year.

ITEM 2 ELECTION OF THE CHAIR AND TWO VICE-CHAIRS OF THE PROGRAM AND BUDGET COMMITTEE (PBC)

6. The Director General opened the floor for nominations for the Chair and two Vice-Chairs of the Program and Budget Committee (PBC) for its 2018 and 2019 sessions.
7. The Delegation of Switzerland, speaking on behalf of Group B, proposed the nomination of H.E. Mr. Andrew Staines, Ambassador, Deputy Permanent Representative, Permanent Mission of the United Kingdom.
8. The Delegation of Morocco, speaking on behalf of the African Group, supported the nomination made by Group B.
9. The Delegation of El Salvador, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC), voiced its support for the candidacy presented by Group B.
10. The Delegation of Lithuania, speaking on behalf of the Group of Central European and Baltic States (CEBS), expressed its support of the nomination of Group B.
11. The Director General noted that there was overwhelming and unanimous support for the proposal to elect H. E. Mr. Andrew Staines, Ambassador, as the Chair of the PBC for its 2018 and 2019 sessions. The Director General further noted that there had not been any nominations for the Vice-Chairs, adding that this could be addressed at a convenient point in the agenda in the course of that week. The Director General invited the Chair to the podium.
12. The Chair of the PBC thanked the Director General for his welcome, for having overseen the process and for his opening remarks. The Chair wished first of all to thank the PBC membership for having electing him. The Chair considered the PBC as an extremely important Committee, as the Director General had set out, adding that the coming two years were critical and that he was honored in the trust that had been placed in him to help or to support the PBC in its work. The Chair was also proud and indeed humbled to be the first British national in nearly a quarter of a century to Chair a WIPO Committee. The Chair wished to start by thanking the Secretariat for their hard work in the help they had provided him in preparing for the week and, more generally, in preparing for the PBC session.
13. The Chair indicated that, as the Director General had noted previously, the PBC traditionally had two Vice Chairs. The Chair noted that he would be honored and would very much welcome some support throughout the week, but also, of course, for the discussions

next year. One candidate had kindly stepped forward already. The Chair wished to thank the candidate. However, the Chair further noted that there were two positions, and therefore expressions of interest were very much still welcome from the Regional Groups if there were to be another delegate that wished to support the Committee and the Chair in their work, as Vice Chair. The Chair recalled that, as the Director General said previously, and as with the position of the Chair, the position of the Vice Chair was for the biennium, i.e. for the current and the following years.

14. The Chair, indicating his understanding that there was a candidate for the role of Vice-Chair from the GRULAC Group, gave the floor to El Salvador.

15. The Delegation of El Salvador, speaking on behalf of GRULAC, proposed Mr. Raúl Vargas, from the Mexican Mission, for the position of Vice-Chair of the PBC.

16. The Delegation of Morocco, speaking on behalf of the African Group, expressed its support for the proposal put forward by GRULAC.

17. The Delegation of Switzerland, speaking on behalf of Group B, expressed its support for the nomination made by El Salvador on behalf of GRULAC.

18. The Delegation of Lithuania, speaking on behalf of the CEBS Group, expressed its support for GRULAC's nomination for the Vice-Chair.

19. The Delegation of China expressed its support for the nomination made by El Salvador on behalf of GRULAC.

20. The Chair, noting the support for the nomination, put the decision to the PBC to appoint Mr. Raúl Vargas from the Delegation of Mexico as Vice-Chair of the PBC for the 2018/19 biennium. There were no objections and the proposed decision was confirmed. The Chair expressed his personal gratitude to Mr. Vargas for his support for the two years to come, thanked him for having stepped forward, and again reminded delegations that there were traditionally two Vice Chairs of the PBC, and that if there was any other interest for the Vice Chair's positions, then delegations should let him know as it was a busy year ahead, and the Chair would welcome as much support as possible.

21. The Chair indicated that he understood that there was one interested candidate for the second Vice Chair's position and that a formal proposal had been circulated to Regional Groups.

22. The Delegation of Lithuania, speaking on behalf of the CEBS Group, had the honor to announce that the CEBS group decided to contribute to geographical diversity and gender balance in the chairmanship of the PBC and to propose the candidacy of Ms. Liene Griķe, Adviser, Economic and Intellectual Property Affairs, Permanent Mission of Latvia, for the second position of Vice-Chair of the PBC.

23. The Delegation of Morocco, speaking on behalf of the African Group, expressed its support for the candidacy put forward by CEBS.

24. The Delegation of Indonesia, speaking on behalf of the Asia and Pacific Group, indicated that as members of the Committee, the Asia and Pacific Group had always favored equitable geographical distribution as well as gender balance, and wished to lend its full support to the candidacy put forward by CEBS.

25. The Delegation of El Salvador, speaking on behalf of GRULAC, also expressed its support for the candidacy proposed by CEBS.

26. The Delegation of Switzerland, speaking on behalf of Group B, expressed its support for the nomination made by CEBS.
27. The Delegation of China expressed its support for the nomination made by CEBS.
28. The Chair thanked the Committee for the very broad support and proposed formally, that the PBC elect Ms. Liene Grike from the Delegation of Latvia as Vice-Chair of the PBC for the 2018/19 biennium. The Chair concluded that the decision seemed to be agreeable to all delegations, and was therefore so agreed.
29. The Program and Budget Committee (PBC) elected, for its sessions to be held in 2018 and 2019: Ambassador Andrew STAINES (United Kingdom) as the Chair of the PBC, and Mr. Raúl VARGAS JUÁREZ (Mexico) and Ms. Liene GRIKE (Latvia) as Vice-Chairs of the Committee.

ITEM 3 ADOPTION OF THE AGENDA

30. Discussions were based on document WO/PBC/28/1 Prov.2.
31. The Chair introduced the draft agenda and explained that it was set out in document WIPO/PBC/28/1 Prov.2 and that it was structured under a number of high-level groupings. Firstly, Audit and Oversight, secondly, Performance and Financial reviews, and thirdly, items following the past two Program and Budget Committees and the 2017 General Assemblies. The Chair intended to take up the items one by one, in accordance with the workplan, adding that there may be a little bit of flexibility that day as there were items concerning the IAOC and the External Auditor. Items would be moved forward if the rate of progression was quicker than expected. The Chair suggested starting with item 6, the report by the External Auditor, followed by items 3 and 4. The Chair inquired whether delegations were in agreement to adopt the draft agenda. As there were no comments, the decision was gaveled.
32. The Program and Budget Committee (PBC) adopted the agenda (document WO/PBC/28/1).
33. The Chair wished to make some general remarks before moving on to the first agenda item. Firstly, in addition to the comprehensive briefing made that morning by the Director General, the Chair had understood that the Secretariat had made itself available to regional groups the previous week for briefings on some of the points of detail. In terms of the running of the meeting that week, the Chair said that the normal procedure would be followed, that morning sessions would start at 10 a.m. until 1 p.m. and from 3 p.m. to 6 p.m. The Chair referred to the wish of some delegations to make opening or general remarks and requested delegations to bear in mind the interest of efficiency, inviting them to add their full comments to the verbatim record of the meeting. The Chair opened the floor for opening statements.
34. The Delegation of Indonesia, speaking on behalf of the Asia and Pacific Group, wished to congratulate the Chair on his election and believed that under his guidance the Committee would yield the desired results. The Group thanked the Secretariat for the preparation of the meeting in providing all relevant documents. The Group referred to Audit and Oversight matters and wished to thank the IAOC, the External Auditor and IOD for their reports. The Group hoped that the Committee would be able to approve the proposed amendments to the Terms of Reference of the WIPO IAOC and Internal Oversight Charter. With regard to the report by the External Auditor, the Asia and Pacific Group was delighted to learn that the financial position of the Organization and its financial performance, as well as its cash flow for the year 2017, were in accordance with the International Public Sector Accounting Standards. The Group thanked the Director, IOD, for the annual report of IOD

and hoped that IOD would continue to provide independent and effective internal oversight for the Organization, in line with the Internal Oversight Charter. The Group noted the progress report on implementation of the recommendations of the Joint Inspection Unit (JIU) as reflected in WO/PBC/28/6. The Group looked forward to the discussion on whether the Secretariat should propose amendments in respect of the open recommendations made by the JIU for consideration by Member States. Turning to the Performance and Financial review area, the Group took note of the WIPO Performance Report 2016/17, document WO/PBC/28/7, and was delighted to learn that the report continued to provide a comprehensive and transparent assessment of programmatic and financial performance. The Group noted the positive financial and programmatic performance of the Organization for the 2016/17 biennium. It also took note of the IOD validation report of the WPR and was delighted to learn that the number of programs reporting accurate self-assessment had increased. The Group looked forward to seeing the implementation of the improvements and recommendations proposed in the validation report. The Group thanked the Secretariat for the annual financial report and financial statements for 2017, document WO/PBC/28/9, and hoped that the Committee would recommend the approval of all documents to the General Assembly. The Group also noted document WO/PBC/28/13 on the Capital Master Plan Projects and looked forward to the discussion on this matter. The Group hoped that the Committee would be in a position to guide the Organization so that it would be able to realize its high priority cloud technology projects. Concerning agenda item 16, the Group said that it would actively participate in the discussion and hoped that the Committee would achieve an acceptable outcome for the methodology in respect of income and expenditure. The Group added that it would make country-specific comments under each agenda item.

35. The Delegation of Switzerland, speaking on behalf of Group B, wished to congratulate the Chair on his election and looked forward to counting on his leadership to guide discussions. The Group thanked the Secretariat for its hard work in preparing the Session, and expressed its gratitude to the External Auditor, the IAOC and IOD for their continuous work, reports and for the essential role played in the oversight mechanism of the Organization. The Group further indicated that, in order to save time for the discussions that week, it would deliver its substantive comments under the relevant agenda items. The Group remained convinced that the Chair's guidance and delegations' collective efforts throughout the session would lead to fruitful discussions and positive outcomes.

36. The Delegation of El Salvador, speaking on behalf of GRULAC, wished to congratulate the Chair on his election. The Group wished to take the opportunity to thank the Secretariat for all its work in the preparation of the meeting and the working documents for the Session. The Group expressed its gratitude for the audit and oversight reports, the WIPO performance report for the biennium, the Financial Statements, the contributions and the Working Capital Fund documents, and the Annual Report on Human Resources. The Group noted with satisfaction the good financial results of the Organization, with over 400 million Swiss francs of income. The Group indicated that it would take the floor on the concrete aspects of interest, in the Group's capacity on each specific agenda item, as well as in its national capacity, as the Delegation of El Salvador.

37. The Delegation of Lithuania, speaking on behalf of the CEBS Group, congratulated the Chair on his election and expressed confidence in his able guidance during that session. The Group thanked the Secretariat for having prepared all the high-quality documents in a timely manner as well as for having organized an informative briefing for Members of the Group ahead of the Session. The Group extended its appreciation to the External Auditor, to the IAOC and to IOD for their reports to the Committee and their important mission in ensuring the transparency, effectiveness and efficiency of the Organization. The Delegation assured the Chair of its constructive engagement in the discussion of every agenda item.

38. The Delegation of Morocco, speaking on behalf of the African Group, congratulated the Chair on his election and wished him every success in his endeavors. The Group wished

to express its gratitude to the Chair for his professionalism which would enable constructive conclusions to be reached as a result of the Session. The Group conveyed its gratitude to the Secretariat for its excellent preparatory work in the run up to the Session and timely way in which it had made all relevant documents available. The Group remained convinced that the PBC was a Committee of the utmost importance for Developing Countries and LDCs, given its crucial role in enabling Member States to exercise financial oversight functions of WIPO programs, illustrating how intellectual property could indeed promote development. With regard to the agenda items under the Audit and Oversight, and Financial Performance headings, the Group was convinced that ongoing fine-tuning would help improve the results of the Organization and help it in the accomplishment of its work. The Group had taken note of the agenda items for examination, in particular the report of the IAOC, the Annual Report on Human Resources, the WIPO 2016/17 performance report, the annual financial report and accounts for 2017, and the progress report on Constitutional reform. The Group had also taken note of the substantive observations and specific recommendations from the External Auditor for the 2017 financial period. The Group thanked the External Auditor for the painstaking work that had been undertaken in conformity with international auditing standards. In this regard, the Group noted that, in 2017 WIPO generated a surplus of 18.6 million Swiss francs, which was a 50 per cent reduction *vis-a-vis* the surplus of 2016 and 44 per cent *vis-a-vis* that of 2015. This reduction was principally due to the increase in expenditure for contractual services and personnel services. The Group acknowledged the importance played by the IAOC as a subsidiary body of the WIPO General Assembly and the PBC, since it enabled both of these to shoulder Member States' responsibility as well as to fill oversight functions for various WIPO operations. With this in mind, the African Group endorsed all efforts to support the IAOC at the professional level which would enable it to undertake its function effectively, in particular with respect to ethics and focusing on certain areas for improvement. With regard to the geographical distribution of WIPO staff, the Group was firmly convinced that there were gaps in the geographical representation from the African region within the WIPO Secretariat. It welcomed WIPO's initiatives, including awareness-raising, in order to improve geographical distribution and felt it was crucial to take all necessary steps to gradually increase geographical representation, particularly for Member States currently under represented from the African region. In terms of staffing levels and posts, this would be in line with the principle of fair geographical representation as a core objective of WIPO as per Article 9 of its Charter. The Group encouraged WIPO to pursue its policies and activities to foster gender equality through the accelerated implementation of the UN system-wide action plan on gender equality and the empowerment of women (UN-SWAP) set up in 2012. The Group indicated that it would take the floor when necessary with specific comments on various agenda items.

39. The Delegation of China congratulated the Chair on his election, trusting that under his strong leadership the Session would achieve perfect success. The Delegation thanked the Secretariat for having prepared many high-quality documents. The Delegation noted with appreciation that the financial situation of the Organization had continued to maintain its sound level over the previous two years. In the 2016/17 biennium, the Delegation noted that the operating surplus of the Organization had reached 55.9 million and its net assets 202.7 million, thus laying a sound foundation for the future development of the Organization. Many positive results had been achieved in the implementation of the nine strategic objectives and more countries had acceded to or ratified the international treaties administered by WIPO. The PCT, Madrid and Hague systems continued to prove their popularity amongst users and the number of filings was continuously increasing. The Delegation was pleased to note that Chinese users were both contributing to and benefitting from the system. In its view, the healthy development of the global IP system of the Organization required that the system meet the needs of a large number of users, in particular those from emerging countries. The systems, including the Madrid and Hague systems, should consider expanding the language mechanism so as to facilitate their use. The Delegation stated that the topics discussed during that meeting would have an important

impact on the Organization, and that it was willing to actively and constructively participate in the discussion and wished the meeting a full success.

40. The Delegation of India congratulated the Chair on his election to steer the proceedings of the Committee. The Delegation thanked the Secretariat for having put together the detailed documentation for the session. The Delegation expressed its support for the statement made by Indonesia on behalf of the Asia and Pacific Group. Speaking of the Human Resources Annual report prepared by Secretariat, the Delegation commended the fact that the workforce productivity had continued to increase and that a gender balance was maintained in the overall workforce of the Organization. While India appreciated the representation of 118 nationalities in the workforce of WIPO, it still believed that a lot needed to be done to ensure a balanced geographical distribution in terms of ratios and numbers in the overall workforce of the Organization. The Delegation commended the report of the External Auditor which had some valuable recommendations made by the Comptroller and Auditor General of India in its capacity as External Auditor of WIPO. The Delegation felt positive that the Organization would work towards implementation of the recommendations made by the External Auditor, particularly with respect to the Madrid System and ensuring sound financial management of assets of the Organization. India complimented the work of the WIPO IAOC, and considered that the report of the Director of IOD made some valuable recommendations in line with the provisions of the Internal Oversight Charter, and felt confident that the Organization would work towards the closure of these recommendations. The Delegation looked forward to constructive and value added deliberations in the PBC's 28th session.

41. The Delegation of the Republic of Korea congratulated the Chair on his election and showed appreciation for his dedication to the Committee. The Delegation thanked the Secretariat for their countless efforts in preparing and arranging the PBC meeting. The Delegation thanked the Delegation of Indonesia for having delivered the opening statement, which it supported, on behalf of the Asia and Pacific Group. The Delegation expressed its satisfaction that, despite economic uncertainty, WIPO completed the year 2017 with a surplus. This was due to the continued growth of global IP systems, added the Delegation, who believed that full advantage should be taken to reinforce WIPO's financial stability and that all of WIPO's efforts should aim towards the goal of implementing systems. For this, members of the Program and Budget Committee should extensively review and discuss the best way of ensuring optimal performance. Considering the aforementioned and WIPO's high financial reliance on the revenues of the PCT Madrid and Hague Systems, the Delegation said that the international registration systems should be made to be more user-friendly for WIPO's sustainability and further development. With this in mind, the Delegation believed it would be in WIPO's best interest to enhance its customer services capacity and place a greater reliance on customer feedback in determining IP policy. The Delegation looked forward to constructive discussion on those topics and other issues throughout the session.

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

42. Discussions were based on document WO/PBC/28/2.

43. The Chair noted that, in accordance with their Terms of Reference, the IAOC submitted written reports on its activities, and indicated that delegations should hopefully have the reports in front of them. The Chair highlighted that the document also contained the generic recommendation on the topic, which was to recommend to the General Assembly to take note of the report. The Chair proposed, in line with practice, that he would hand the floor to the Chair of the IAOC to present the report and would then open the floor for questions and comments. With that, the Chair turned to the Chair of the IAOC, and invited him to present the report.

44. The Chair of the WIPO IAOC made the following Statement:

“Thank you very much, Chair. My name is Gabor Amon. I am the Chair of the IAOC. I am here to present the annual report of the IAOC that can be found under reference WO/PBC/28/2.

“During the reporting period between July 7, 2017 and July 5, 2018, the Committee had four in-person meetings and had a large number of email exchanges to deal with matters of urgency between in-person meetings. Allow me to give you a short summary of some of the major activities of the Committee.

“Internal oversight: Throughout the year, based on the quarterly activity reports prepared by the Director, IOD, the Committee reviewed the progress in implementing the oversight workplan for IOD. The Committee was satisfied with the overall progress in implementing the plan, the oversight coverage achieved, and the overall quality of the results produced. The Committee notes that this was achieved despite the challenging staffing situation that IOD faced during the period, which included numerous vacant positions and occasionally rather lengthy recruitment processes for some of these positions. At the time of writing our report, there were 12 open investigation cases, of which five were registered in 2018, six in 2017, and one in 2016. In cases involving potential conflict of interest on the part of IOD, the Committee reviewed each case in detail and provided advice to the Director IOD and others, in accordance with the Internal Oversight Charter.

“External Audit: During the reporting period, the Committee had a video meeting with the outgoing External Auditor, Comptroller and Auditor General (CAG) of India. The Committee discussed with the External Auditor, *inter alia*, the expected timing for the submission of the report on the 2017 Financial Statements. The Committee thanked the outgoing External Auditor for the audit worked performed over the past year and for their contribution to enhancing governance at WIPO. The Committee was pleased to note that the External Auditor placed, once again, an unqualified audit opinion on WIPO's financial statements and commends the Management on this result. On two occasions, the Committee met with the new External Auditor, (National Audit Office, UK) who briefed the Committee on their preliminary engagement activities, and sought the Committee's input on the audit strategy and audit planning. The Committee also discussed with the External Auditor the proposed amendments to its Terms of Reference with regard to external auditing.

“Implementation of Oversight Recommendations: At each of its sessions, the Committee reviewed the status of implementation of oversight recommendations, based on data provided by IOD. The Committee discussed with Management and IOD ways to address, in particular, long outstanding recommendations and encouraged IOD to reassess such long outstanding recommendations as to their continued validity and relevance.

“Ethics Office: It remained a challenge for the Committee to fully discharge its ethics-related duties. Therefore, to avoid ambiguities and misunderstandings in the future, the Committee suggests clarifying its role and responsibilities with regard to the ethics function and recommends to the PBC appropriate amendments to its Terms of Reference.

“During the period, the Committee conducted the following main ethics-related tasks: we reviewed the Policy to Protect against Retaliation and provided extensive comments and suggestions, the majority of which were taken into consideration when the final policy was promulgated. Additionally, with regard to implementing the new policy, the Committee recommended that the Chief Ethics Officer provide input to the

Director, IOD, on how to identify situations of potential retaliatory threats in the investigative phase and how to interact with the Ethics Office in addressing those threats. The Committee was pleased to note that the Policy on Financial Disclosure and Declaration of Interest, which was aligned with financial disclosure policies in other United Nations system organizations, incorporates International Public Sector Accounting Standards (IPSAS) disclosure requirements, and contains adequate safeguards for the protection of confidentiality.

“Proposed Amendments to the IAOC Terms of Reference: The Terms of Reference of the IAOC were last amended in October 2015. As required by the Terms of Reference, the Committee has reviewed the current version and has shared these proposed amendments with Member States and the Secretariat for consultation. The proposed amendments focus on a complete revision of Section B, describing the Committee's function and responsibilities with a view to better structuring, streamlining, and clarifying the section in light of past experience. As some of the proposed amendments to the Terms of Reference will have an impact on the Internal Oversight Charter, the Committee considered it advisable to submit proposed amendments to both documents for simultaneous considerations by the PBC. In the past, the periodic review of these documents took place in different years, resulting in both documents never being fully aligned.

“This concludes my short summary. So, if Member States have questions, I am more than happy to address them.”

45. The Chair thanked the Chair of the IAOC for the report and indicated that, in order to keep the conversation as structured as possible, he wished to focus first on the report from the previous year and to have a discussion on that, including questions delegations may have for the Chair of the IAOC and the Secretariat. He indicated that, in order to keep the discussion as orderly as possible, once the first part of the discussion had been completed, the second part would be continued with the proposed amendments to the Terms of Reference.

46. The Delegation of Lithuania, speaking on behalf of the CEBS Group, thanked the IAOC for its work and for the report provided in document WO/PBC/28/2, stating it was not possible to overestimate the importance of the IAOC's role in the internal oversight and external audit, as well as financial reporting, risk management and, since recently, on ethics of WIPO. The Group was grateful for the regular information meetings organized for Member States after the quarterly sessions of the IAOC, and took note of the suggestion in the report that the new IAOC function on ethics required clarification, as well as the recommendation to adopt related amendments to the Terms of Reference, which would be discussed under the following agenda item. The CEBS Group commended the IAOC's active involvement in the audit and oversight mechanism of WIPO and thanked the Committee's Chair for the presentation of the report.

47. The Delegation of Switzerland, speaking on behalf of Group B, thanked the IAOC for the report, as contained in document WO/PBC/28/2. The Group expressed its gratitude to the IAOC for its essential role in the audit and oversight mechanism of WIPO for the purpose of maintaining effectiveness, efficiency, and relevance of management and activities of the Organization. The Group appreciated the interaction of the IAOC with Member States, particularly through the information sessions, and welcomed the Committee's interaction with the External Auditor, which it noted improved the follow-up process on recommendations and enhanced cooperation. The Group appreciated the IAOC's review of the Financial Investment Reports, which it felt was an important function as it provided Member States with additional assurances that an independent body oversaw the implementation of the investment policy over the year. The Group supported the IAOC's suggestion to clarify its role and responsibilities with regard to the ethics function and the reflection of the same in

the IAOC's Terms of Reference. Group B felt that the IAOC advisory role regarding ethics matters was indeed very important and should not be neglected, and understood that the IAOC should be consulted in the review process of the relevant draft ethics documents, workplans, and policies before they were finalized, in order to take into account comments made by the IAOC in its advisory capacity. Group B closed its statement by again thanking the IAOC for its excellent work, and looked forward to the continued key and active role that the IAOC played in the audit and oversight mechanism of the Organization.

48. The Delegation of China thanked the IAOC for its annual report and expressed appreciation for the hard work carried out by the IAOC over the previous year. The Delegation felt that the close coordination between the IAOC, the Director General, WIPO's Management team, IOD, and the External Auditor, allowed the Committee to carry out its mandate. The Delegation indicated that it would continue to support the IAOC in the future to ensure that it would improve its way to carry out its oversight and advisory functions. The Delegation wished to offer the following comments about the report. First, it noted that by the end of June 2018, there were 180 outstanding oversight recommendations. The Delegation encouraged IOD to discuss with the Secretariat how to analyze and assess the validity of the recommendations. Secondly, considering that the IAOC and the IOD are closely related, the Delegation agreed with the proposal made by the IAOC to simultaneously review its Terms of Reference and the Internal Oversight Charter in the same cycle, in order to align the amendments made. Third, the reports of the current year as well as the previous year both mentioned the need for professional level support and its importance. The Delegation agreed with this, and considering the Terms of Reference and the complexity of the IAOC's work, it agreed that the IAOC should have more support at the professional level so that its work could be carried out efficiently.

49. The Delegation of Brazil underlined the important role of the IAOC for the Organization, as well as the Delegation's appreciation of the openness of the Committee towards Member States with regular meetings that enabled additional transparency. The Delegation, through the IAOC Director, wished to thank the IAOC for its openness and constant efforts to improve the oversight function of the Organization. The Delegation further noted that, according to the self-assessment by the Committee as reported on paragraph 9 and 10 of the document under review, areas for improvements in the field of Ethics had been indicated. The self-assessment also saw the need for additional professional-level support. The Delegation requested further information regarding any suggestions that the IAOC may have in this respect and asked for the Secretariat's view on the issue. The Delegation of Brazil concluded by stating that special attention should be given to potential improvements regarding serial and possibly frivolous complaints, as reported in paragraph 21 of the document, without prejudice to the Whistleblower Protection Policy.

50. The Delegation of Morocco, speaking on behalf of the African Group, first of all thanked the IAOC for its work and for the report, which it felt reflected an important key role in oversight. The African Group continued to support the work of the Committee and reiterated the position expressed during its opening statement, whereby it offered full support to the IAOC, believing that the Committee required the necessary means to fulfill its mandate, particularly with respect to ethics.

51. The Delegation of Australia congratulated the Chair on his election and looked forward to working with him that week. The Delegation held the work of the IAOC and its role in providing independent expert advice and oversight in great esteem, and was pleased to see that the IAOC was generally satisfied with many areas of work, including internal oversight, external audit, and financial reporting. The Delegation considered the role of the Ethics Office at WIPO to be essential, and the IAOC played an important advisory role with respect to this function. The Delegation welcomed collaboration between the IAOC and the Ethics Office to support best practice operations, as it considered the work of the IAOC to be a priority. Sufficient resourcing for the function was therefore important, taking into account

the need to maintain the independence of the Committee. The Delegation said it placed a high value on the effective implementation of the Policy on Protection against Retaliation and supported ongoing efforts to ensure that WIPO's approach reflected best practice. The Delegation concluded by noting the Organization's positive results in the recent Joint Inspection Unit review of Whistleblower Policies and Practices across the United Nations Systems.

52. The Delegation of the United States thanked the IAOC for the informative report and for its work throughout the year, recognizing the IAOC's valuable efforts to strengthen oversight of the Organization, and thanked the WIPO Secretariat for supporting the Committee's mission. Noting the IAOC's concern about the protracted length of time to recruit IOD staff, the Delegation said it would appreciate more information from the Committee, on the reasons for the delays in filling positions. Regarding audits undertaken in 2017, the Delegation asked if any of the audit reports reviewed by the Committee caused significant concern or identified any systemic weaknesses which the Organization needed to address immediately. In the Report, the Committee was concerned about frivolous complaints and the IOD reports on increase in investigation time from about six months in the last reporting period to seven months. The Delegation of the United States asked the IAOC whether it thought that this increase in the time required to complete investigations was most likely due to an increase in these types of frivolous complaints. The Delegation also noted the Committee's concern with subjects or complainants using and communicating through their own legal counsel. The Delegation understood that WIPO was in the process of assessing the implication of such practice. Perhaps, the Organization might wish to consider whether it would be beneficial to provide legal assistance to staff like the United Nations did through its Office of Staff Legal Assistance. Regarding the implementation of IPSAS 39 and the restatement of WIPO's 2016 net assets, the Delegation asked the Secretariat if it expected the decrease to occur from 311 million Swiss francs to 149 Swiss francs with the implementation of the new IPSAS standard. Lastly, the Delegation appreciated that IAOC provided advice on a number of ethics-related policies over the previous year, wondering if the Committee had been able to assess the final Office Instruction on the WIPO Ethics Office.

53. The Chair of the IAOC said that many Member States had mentioned the professional-level of support to the Committee, acknowledging that this was becoming a matter of importance. The Chair of the IAOC said that the real question concerning field support from the Secretariat was how and what was economically reasonable, adding that it made no sense to engage someone on a full-time basis, there was a lot of work but not enough to engage someone full-time. The Chair of the IAOC said that it was necessary to find a balance between the needs of the Committee and how these could be met, whilst avoiding such needs from becoming a financial burden for the Organization. The Chair of the IAOC said he had ideas about it and that he was working on it. On the matter of audits, the Delegation of the United States had asked if any of the audits reviewed by the Committee were a cause of concern or if any systemic weaknesses had been identified. There was nothing visible which might have suggested this. However, the audit reports had been published on the WIPO website and the Chair of the IAOC encouraged Member States to review them and to make their own assessment about whether or not they were within the Member States' comfort zone. Concerning frivolous complaints and the increased time required to carry out investigations, the Chair of the IAOC said that this was a balance between due process rights, which everybody had, and finding a way to tell when somebody was trying to abuse them. This was not an easy subject and the Chair of the IAOC underlined the need to be very careful, adding that his personal opinion was that the IAOC should concentrate more on due process rights, even if it meant that more investigative manpower was needed, but that the right to complain should not be taken away from anyone. The Chair of the IAOC said that the increased time spent on investigations was not necessarily due to frivolous complaints, which were relatively easy to close down in a preliminary evaluation phase. Although such complaints represented a contributing factor to

the total number of cases, they did not necessarily increase the average time taken for IOD to close a case, again by virtue of the fact that such cases were closed very early on in their lifecycle. With regard to complainants communicating with legal advisors, the IAOC had already addressed this matter. The IOD was taking steps in this sense, and deciding what level of support was provided to people was in the hands of the Secretariat. The Chair of the IAOC felt sure that the Secretariat would make an assessment of the potential benefits and risks in that regard which, strangely enough, could include the potential to increase frivolous complaints, but again, that was part of a risk and benefit comparison. The Chair of the IAOC questioned if the Committee would have expected the IPSAS restatement, and that, changes to the Financial Statements as a result of implementing new IPSAS regulations were a fact of life and, as such, were to be expected. The Committee had discussed the matter with the Secretariat and was satisfied with the explanation received. Considering that such changes were usually of a very high-profile change because they were of a large number, but they were a fact of life in accounting considering accounting principle could change. With regards to the Ethics Office Instruction, the Committee was not aware that a new office instruction had been promulgated. As far as it was concerned, the old Ethics Office Instruction was still in force. The Chair of the IAOC said that the Secretariat might have been waiting for discussions on the Terms of Reference of the IAOC, which had the potential to impact the Ethics Office Instruction as they contained ethics and Ethics Office-related matters. Viewed in that sense, the Chair of the IAOC said that this was a sensible approach.

54. The Chair of the PBC thanked the IAOC Chair for its answers. The Chair said that delegations would alert the Secretariat if anything was missed. Then, he thanked the Director, IOD, for joining the podium to respond to queries. The Chair of the PBC knew there were one or two questions that were directed on the role of the Internal Oversight, including recruitment delays. The Chair of the PBC suggested the IOD Director might want to say a few words on that. And the Chair of the PBC said that the Delegation of China also had a question about reviewing recommendations. Finally, the Chair handed the floor to the Secretariat (the Director, IOD).

55. The Secretariat (the Director, IOD) clarified that on the matter of recruitment there was in general a very tight process to be followed. On average it took about three months to complete the vacancy notification, including the pre-screening and screening, and the written test following the competition, and, the candidates usually took one or two months to serve their notice periods. So, on an average, it didn't go beyond six months. In fact, in some cases, the process had been completed as early as three to four months. Regarding the position of Head of Internal Audit, there had been delays due to an issue of the vacancy notification between the old rules and slight changes in the new rules. But then it was cleared, and the incumbent had joined the Division on August 1, 2018, which meant that all three section heads were present. A temporary investigative vacancy at P3 level had also been completed and the incumbent joined on April 1, 2018. As for the P4 fixed term investigation post, the process had been completed and the incumbent should have been able to join by October 2018. There was currently no pendency as such, in any of the posts which were within IOD, the Secretariat thought it was just a matter of exceptions in some cases when delays happened. With reference to addressing the recommendations, there was a strong mechanism in place for the follow-up, through quarterly memorandums addressed to the attention of the Director General, and through the IAOC who followed up on those recommendations. Furthermore, exception reports were given to the IAOC, especially on recommendations where the timelines had been changed more than twice. The IAOC was primarily really interested in looking at those recommendations, especially the older ones. So there was a strong mechanism for the follow up. Nevertheless, as explained that morning by the Director General, due to some policy changes required or some of the computerization activities, such as upgrades to AIMS and support which happened, there remained some pending recommendations to be addressed. However, by and large, it had a good mechanism to follow up.

56. The Secretariat stated it had nothing further to add to what had already been stated, regarding the 180 outstanding recommendations, and took the opportunity to thank the IAOC and its Chair for the level of collaboration that existed between the Secretariat and the follow-up that was done in collaboration with and through the IAOC, in order to provide the assurance that Member States needed when it came to issues of oversight. Responding to a question posed earlier by the Delegation of Brazil on the effectiveness of the evaluations, the Secretariat stated that it was always good to be able to have such discussions and to get direct feedback from the Oversight and Advisory Board, which was the IAOC, in terms of future projects.

57. As there were no further comments, the Chair proceeded to read out the decision paragraph, which was adopted.

58. The Program and Budget Committee (PBC) recommended to the WIPO General Assembly to take note of the "Report by the WIPO Independent Advisory Oversight Committee (IAOC)" (document WO/PBC/28/2).

ITEM 5 PROPOSED AMENDMENTS TO THE TERMS OF REFERENCE OF THE WIPO INDEPENDENT ADVISORY OVERSIGHT COMMITTEE AND TO THE INTERNAL OVERSIGHT CHARTER

59. Discussions were based on document WO/PBC/28/3.

60. The Chair of the PBC proposed to turn to agenda item 5, understanding that the Chair of the IAOC had consulted with some of the delegations already. The Chair of the PBC invited the Chair of the IAOC to introduce its proposal, by reference WO/PBC/28/3.

61. The Chair of the IAOC explained that the document had two components, the first of which was the proposed amendments of the Terms of Reference (ToR) of the IAOC. Three reasons were given as to why the IAOC proposed amendments to the ToR. Firstly, the role and responsibilities of the IAOC were now being described more clearly and coherently according to the areas of responsibilities typically assigned to an oversight committee. The proposals were an effort at restructuring, while saying the very same thing, in a different way. Secondly, as the ToR were being aligned with the Internal Oversight Charter which was last amended in 2016, it was an effort to catch up with changes in other documents. Thirdly, the changes sought to bring about clarification of the IAOC's responsibilities with regard to the ethics function, according to the Committee's perception of its role. Regarding the Internal Oversight Charter, there were four reasons for proposing changes. The first was to follow-up on certain changes in the International Standards for Internal Auditing. The second was to reflect amendments to the WIPO Staff Regulations and Rules which had been adopted by the WIPO General Assembly at its 57th session. The third was to clarify certain provisions which had given rise to different interpretations in the past. And the fourth was to align or synchronize the Charter with the ToR, triggered by the proposed changes to the latter.

62. The Chair of the PBC opened the floor for questions and comments on the proposed changes.

63. The Delegation of the Russian Federation expressed its gratitude to the IAOC for the document and notably for the transparency and openness of the Committee *vis-à-vis* all interested parties, but noted that the amendments to the Internal Oversight Charter had been made available later than the changes directly within the Committee's purview. The Delegation added that the Joint Investigation Unit (JIU) was undertaking a review of the functioning of the audit committees of the United Nations system organizations. In that regard, the Delegation regretted that the proposed changes to the ToR would not take into account the JIU's recommendations, and felt it would have been more appropriate to await the outcome of the work of the group and, when reviewing the Terms of Reference of the

IAOC, bear in mind the best practice know-how of other organizations in auditing work of the United Nations System organizations. That being said, the Delegation stood ready to work constructively on the basis of the document being proposed to the PBC. From a positive standpoint, the Delegation noted that the final version of the document reflected many comments shared by Member States during the preparatory process. Notwithstanding, there were a series of proposals which the Delegation was not in a position to agree with, notably paragraph 3(c)(i), 3(c)(ii) and 3(c)(v), where reference was made to the responsibility of the IAOC *vis-à-vis* the External Auditor. It was felt that such a characterization was outside the special consultative status framework of the IAOC and touched upon the powers of Member States and the External Auditor appointed by them. Moreover, it was felt that the proposed drafting particularly contradicted provisions 8.1, 8.6, and 8.11 of the WIPO Financial Regulations and Rules. The Chair of the IAOC said that the Committee considered cooperation between the IAOC and External Auditor to be important, but within the framework of, and bearing in mind, the consultative status of the Committee and the independent special status of the External Auditor, as described in the financial provisions and rules of WIPO. Here, the proposed changes in the ToR required correction, and the Delegation stood ready to propose, as an alternative, the following wording: *“The IAOC advises the PBC concerning the independent effectiveness and quality of reporting of the External Auditor.”* The Delegation noted that departures by the Committee as a consultative body from the ToR were also to be found in paragraphs 3(d)(vii) and 3(e)(v), where the IAOC was bestowed with responsibilities to endorse proposed actions in respect of the appointment and dismissal of the Director of the Internal Oversight Division and the Chief Ethics Officer. Those were the prerogatives of the Director General of the Organization. It was therefore proposed to introduce a semicolon after the word *“candidates”* and to delete the phrase *“...and to endorse the proposed action.”* The Delegation looked forward to collaborating fruitfully with other delegations and also with the IAOC and the Secretariat on the matter.

64. The Delegation of Switzerland, speaking on behalf of Group B, expressed its appreciation to the IAOC for reviewing the ToR and the Charter as presented in document WO/PBC/28/3, and also thanked the IAOC for sharing its proposed amendments with the Member States and taking into account their comments. The Delegation welcomed the proposed amendments to the ToR, which were aimed at describing more clearly and coherently the role and responsibilities of the IAOC while aligning the ToR with the Charter and clarifying the IAOC's responsibilities with regard to the ethics function. The Group fully supported the recommendation of the IAOC to conduct the review of the IAOC ToR and of the Charter simultaneously. Group B shared the view that both documents were interrelated and that amendments to the IAOC ToR might have an impact on the Charter so as to make them fully aligned. Group B particularly welcomed the clarifications offered in new Section 3(e) as to the IAOC's responsibilities regarding the ethics function, and felt confident that the comprehensive description of the Committee's role would facilitate its work, as it established a clear framework on the IAOC's advisory role and on the modalities to review the relevant ethics documents, workplans, and policies, as well as their implementation. Group B supported and approved the amendments to the ToR and to the Charter contained in Annexes I and II of document WO/PBC/28/3. However, the Group noted that the recent JIU report, *Review of Whistleblower Policies and Practices in United Nations System Organizations*, called on organizations to incorporate explicit timelines in each step of their investigation processes for reports of misconduct and retaliation, as could be seen in paragraphs 99 to 101. Group B proposed the addition of the following paragraph to the decision for agenda Item 5: *“The PBC also directed the IAOC to review and propose amendments as required to the WIPO Internal Oversight Charter with the view to provide clarification of timelines in the reporting and investigation processes to ensure cases are addressed in a timely manner, while taking into account United Nations System-wide best practices and the United Nations Joint Inspection Unit's report on Review of Whistleblower Policies and Practices in United Nations System Organizations.”*

65. Speaking on behalf of the CEBS Group, the Delegation of Lithuania thanked the IAOC for reviewing its ToR and the Charter, and for proposing amendments upon which Member States had been consulted in advance. The Group welcomed the amendments set out in document WO/PBC/28/3 which described more clearly and coherently the role and responsibilities of the IAOC and clarified the IAOC's responsibilities with regards to the ethics function. The Group supported the IAOC's recommendation to conduct the review of its ToR and of the Charter at the same time so as to ensure that provisions of both these documents were simultaneously and fully aligned. With that in mind, the Group endorsed the approval of the proposed amendment to the ToR and to the Charter provided in Annexes I and II of document WO/PBC/28/3. The Group remained open to considering any further proposals which might be presented by delegates, which it looked forward to receiving in written format.

66. The Delegation of Mexico thanked the IAOC for its report and its commitment to independent advice which had always been part of the Organization's principles. The proposed amendments would undoubtedly make the responsibilities and work of the Committee clearer and ensure better cooperation between the IAOC and WIPO as a whole. The Delegation thanked the various departments of the Organization for their support to the IAOC, and urged the Ethics Office to increase its efforts and to continue to work and cooperate with the Committee. As there had been some proposals from Member States to enrich the proposed amendments, the Delegation of Mexico said it could support the proposed amendments as presented by the IAOC as well as the amendments to the Charter.

67. The Delegation of Australia supported the proposed amendments to the ToR, adding that it valued the oversight and advisory role of the IAOC in all aspects of its work. Citing the importance of the IAOC's role with respect to internal oversight and ethics, the Delegation expressed appreciation for the consultative approach of the IAOC with respect to the draft amendments. Observing that the JIU would be undertaking a review of the role of independent oversight committees in the United Nations System, the Delegation encouraged the IAOC to consider any recommendations in that report and to consider whether the ToR of the IAOC should be reviewed again in light of those recommendations. In the meantime, the Delegation was comfortable with moving ahead with the proposed amendments under consideration. With respect to the Charter, the Delegation placed a high value on fair and effective procedures being in place at WIPO which reflected United Nations best practices and that were implemented effectively. The Delegation was therefore comfortable with the IAOC's proposed consequential changes to the Charter which it hoped should clarify the operation of those provisions to ensure the efficient and effective handling of allegations. The Delegation aligned itself with the position of Group B and noted the specific proposal made.

68. The Delegation of the United States expressed its support of the amendment and proposal made by Group B. The Delegation thanked the IAOC for the due diligence and for proposing amendments to the Charter and to the ToR, which it supported. This, considered the Delegation, would ensure that both documents met best practice and that the oversight standards in both were consistent.

69. The Delegation of Brazil thanked the IAOC for the work undertaken in preparing the documents as well as the comments that were sent by Member States, and agreed with the IAOC's suggestion that the review of the ToR and of the Charter should be carried out in parallel, so as to facilitate them being fully aligned, provided that the simultaneous review would not overburden the exercise. While being comfortable with the proposed amendments to the ToR as they appeared in the document, the Delegation agreed with the suggestion made by Australia that it might be prudent to revert to those ToR after the JIU had circulated its report.

70. The Chair gave back the floor to the Chair of the IAOC to comment on some of the specific proposals that were put in the room to the delegates. The Chair indicated that he

had heard some support for updating the Terms of References subject to the detail. The Chair noted that Delegations had referred to the JIU review of audit committees in other organizations, and that, as far as he understood, there was a question of sequencing and how to ensure that WIPO rules reflected the [future] JIU recommendations. The Russian delegation had some specific concerns on a number of points and language which the Secretariat would circulate. Finally, the Chair said that Group B proposed a decision to direct the IAOC to review proposed amendments and to clarify timelines, in the reporting of investigative processes. The Chair asked the delegations for their comments on those areas and on other aspects they might want to pick up.

71. The Chair of the IAOC acknowledged that a JIU review was indeed underway and that both the Chair and Vice-Chair of the Committee had been interviewed by the Inspector conducting the review. Not knowing exactly when the report would be issued presented a challenge in deciding whether or not to await the outcome of the report, or to already introduce proposed changes pending any relevant recommendations for WIPO to follow up at a later stage. The IAOC felt that, with regard to rules pertaining to the IAOC, the Organization was in a fairly good shape, and any recommendations that might emerge from the report would most probably not be significant enough to justify waiting a full year for all the changes that were proposed to be made. That had been the deciding factor in presenting the proposed amendments to the ToR at that stage. The IAOC was prepared to review the outcome of the JIU review and to make changes, as necessary, should there be any oversight issues to follow up on during the 29th session of the PBC, especially if the decision paragraph were to be modified in line with that which had been suggested by Group B. Moreover, the IAOC was prepared to further discuss the concerns of the Delegation of the Russian Federation regarding the Financial Regulations and Rules (FRR) so as to better understand why the Delegation thought the proposed changes were not in line with the FRR *vis-à-vis* the IAOC's stand on the issue. With regard to removing the mention of endorsement by the IAOC from the text, this had been past practice for IOD and, barring any error of recollection, had been introduced in 2016 when the Internal Oversight Charter had been changed. The underlying reason for that change was that, albeit WIPO was a specialized United Nations agency with a large number of talented IP lawyers, not many would be considered a peer to the Director of IOD, in terms of oversight experience, skills, and practical knowledge in all three oversight areas of internal audit, investigation, and evaluations. With that in mind, there was presently no one on the selection panel handling the recruitment of the Director of IOD and the Ethics Official who could be considered as an expert in those very specialized areas. Ultimately, the intention behind introducing the IAOC's endorsement was that the Committee worked as a quality assurance mechanism to counterbalance the lack of this in-practice detailed experience in a highly specialized area that was not present within WIPO. Nevertheless, the IAOC was prepared to be guided by whatever decision was taken by the Member States on the issue, but counselled that, if the endorsement clause were removed, the matter should be addressed in another way, such as through the introduction of an entity on the selection panel who was independent and possessed significant relevant skills, at least at peer-level skills in those areas.

72. The Chair was inclined to open the floor for brief discussions. He noted that the Chair of the IAOC had offered to meet with the Delegation of Russia to discuss some of the specific concerns it had on a few of the particular proposals. The Chair addressed the matter of the JIU review into audit processes, asking if the IAOC was comfortable accepting the changes suggested by the Delegations of Australia and Brazil, subject to revisiting them in due course, following decisions by the JIU and ensuring that the rules reflected what the JIU would say. There was also a proposal from the Delegation of Switzerland on behalf of Group B asking the IAOC to come back on a very specific area next year. As the Delegations of Russia and Group B had particular changes to the language, the Chair proposed adjourning that particular agenda item to allow for more time between the IAOC and interested delegations and, with the support of the Secretariat, to circulate copies of the proposed changes. The Chair adjourned the agenda item to allow more time for discussions.

73. Upon resuming, the Chair returned to agenda item 5, the proposed amendments to the Terms of Reference of the WIPO IAOC, and to the Internal Oversight Charter (IOC). As there were ongoing consultations on both possible decisions of that agenda item, and also on further proposed changes to the Terms of Reference themselves, concerns expressed by one delegation needed to be taken into account, and the floor was briefly opened for the Chair of the IAOC and delegations to provide updates.

74. Taking the floor, the Chair of the IAOC stated that following a fruitful meeting with the Delegation of the Russian Federation, a more detailed understanding of the latter's concerns had resulted in the drafting of an alternate wording to the Terms of Reference which was currently under consideration. The Committee would be informed upon any new development.

75. Thanking the Chair of the IAOC for leading that process, the Chair suggested allowing sufficient time for consultations to continue, and invited Delegations who had an interest in the topic to consult with the IAOC Chair.

76. The Delegation of the Russian Federation thanked the IAOC for its cooperative work and expressed its hope in shortly closing the item.

77. Speaking on behalf of Group B, the Delegation of Switzerland reminded the Committee that the Group had proposed an additional decision paragraph for the item. There had been some consultations with the IAOC at which time three amendments to the language had been suggested. However, it was not then possible to advance as the Group had not yet been consulted on the matter. The new proposals had been forwarded to the other Regional Coordinators, who were being asked to share it with their respective groups so that a position could be reached the following day.

78. Summarizing the situation, the Chair observed that there was a proposal from Group B which had been circulated in hard copy for an additional decision which had picked up some points on time lines and on taking into account the JIU work on a similar area, all which was aimed at reflecting input from the IAOC. That had been circulated to the Regional Groups. Delegations with queries were invited to speak directly with either the IAOC Chair or the Delegation of Switzerland. The agenda item would be revisited the following day.

79. Resuming discussions on agenda Item 5, the Chair recalled that at least one Delegation had had some concerns with the proposed changes as presented. Following constructive engagement overnight, the Committee was close to having a new version of the document. In the interest of absolute transparency and to give all Delegations a chance to carefully consult the changes, the Chair suggested that the Secretariat should circulate the latest version of the Terms of Reference and of the decision. Once this was done, the Chair of IAOC would be invited to formally present the proposals to the Committee and ideally the Committee could take the decision to adopt them.

80. The Chair stated that two documents had now been distributed by the Secretariat, and steered the focus to the first one, which was a revised decision document, for acceptance. The second document was a further revision of the revised ToR of the IAOC, which had come back with track changes and now had supplementary changes to the aforementioned track changes.

81. Given the floor to explain the changes, the Chair of the IAOC stated there had been a general consensus on the ToR and to the proposed amendments to the Charter and thanked the Member States for their flexibility and availability for discussions on those matters. As a revised version of the document, including a revised decision paragraph, had been distributed to Member States, the IAOC Chair explained the changes. In the first part of the decision paragraph (a), part (i) practically followed the fact that there were changes after the IAOC's proposal, the same for part (ii). A new text based on a Member State proposal was

introduced to part (b) which required the IAOC to review and propose amendments either to the Oversight Charter or the Investigation Manual, depending on if the case were or not based on the actual content of the proposal at the time of the next session of the PBC. A text had been included to the original proposed amendment to ensure that the Director, IOD, would be included in those discussions, which represented normal protocol. With regard to the new changes to the ToR, Section B, 3(c)(i) and 3(c)(ii), which dealt with the IAOC's direct and indirect involvement in the selection of the External Auditor, had been removed. Given that the process was already quite robust, the Chair of the IAOC did not think the Committee's involvement or lack thereof would expose the Organization to any kind of additional risks. With regard to the rest of the text, the original text was being reinstated in new part (i). New (ii) was the result of one of the International Standards of Auditing to Audit Committees, and would equally be required by the External Auditor to be undertaken by the IAOC. There was a minor change to the originally proposed text in new (iii), and new (iv) was merely a consolidation of different texts from the various sections of the previous text. In 3(d)(vii), the comment was to remove the IAOC's endorsement of the proposed action. Given that appointment of the Director, IOD, was to be endorsed by Coordination Committee, the new proposed text stipulated that the IAOC should assist the Coordination Committee in the process. On the matter of ethics in 3(e), as there was no similar endorsement by the Coordination Committee of the appointment and dismissal of the Ethics Officer, that had been removed.

82. Speaking on behalf of Group B, the Delegation of Switzerland thanked the IAOC for its efforts and the explanations provided on the revised ToR. Although the Group had preferred the previously revised version of the ToR, given the explanation offered by the IAOC, and in the spirit of moving forward with the matter, Group B agreed with the version now being proposed.

83. The Delegation of Lithuania added its thanks to those expressed by Group B, stating that, although it was comfortable with the earlier version, it was happy to accept the new version which had been just been distributed and presented by the Chair of the IAOC.

84. The Delegation of the Russian Federation expressed its gratitude to the Chair and Vice-Chair of the IAOC for the additional explanation which had been provided during the session, as well as to other delegations for the flexibility and understanding they had shown, and affirmed its support of the proposed text.

85. The Delegation of Brazil underlined the important role of the IAOC for the Organization as well as the appreciation of Brazil for the openness of the IAOC towards Member States. The Delegation thanked the Secretariat for having provided answers to the IAOC recommendations. Regarding the Madrid building, the Delegation agreed that the provision of additional information on the conditions of its sale, as recommended by the IAOC, would provide useful inputs to the discussions of the PBC. The Delegation further noted that the self-assessment made by the Committee as described on page 9 of the document indicated areas for improvements in the fields of ethics. The self-assessment also spoke of the need for additional professional level support. The Delegation requested additional information regarding the suggestions made by the IAOC and asked how the Secretariat intended to address the recommendations. Lastly, the Delegation noted that special attention should also be given to serial and possibly frivolous complaints, as reported by the IAOC in Paragraph 21 of the document without prejudice to the Whistleblower Protection Policy.

86. As there were no further comments, the Chair thanked the IAOC for the work carried out in the months prior to the meeting and during the session in helping find solutions that would work for the PBC membership. The Chair also thanked delegations for their engagement and flexibility in finding solutions that worked. The Chair proceeded to read out the decision paragraph, which was adopted.

87. The Program and Budget Committee (PBC):
- a) recommended to the WIPO General Assembly to approve:
 - (i) the proposed amendments to the Terms of Reference of the WIPO Independent Advisory Oversight Committee (IAOC) as amended during the 28th session of the PBC, and attached to this document; and
 - (ii) the proposed amendments to the Internal Oversight Charter contained in Annex II of document WO/PBC/28/3.
 - b) also directed the IAOC to review and propose amendments as appropriate to the WIPO Internal Oversight Charter or the investigation policy, in line with the IAOC Terms of Reference, with the view to provide clarification of targeted timelines in the reporting and investigation processes to ensure cases are addressed in a timely manner, while taking into account UN system-wide best practice and the UN Joint Inspection Unit's report on "Review of Whistleblower Policies and Practices in UN System Organizations" (JIU/REP/2018/4) by the 29th session of the PBC.

ITEM 6 REPORT BY THE EXTERNAL AUDITOR

88. Discussions were based on document WO/PBC/28/4.
89. The Chair introduced the item explaining that the presentation of the Report was in line with standard practice and invited Mr. Subramanian, Director General of the Office of the Comptroller and the Auditor General of India, to present the report by the External Auditor.
90. The External Auditor (represented by Mr. Subramanian) delivered his report, as follows:

"Honorable Chair and Distinguished delegates

"At the outset I would like to convey greetings and compliments from Mr. Rajiv Mehrishi, the Comptroller and Auditor General of India. It is my privilege to present to you today, on his behalf, the results of the external audit of the World Intellectual Property Organization (WIPO) for the financial period ended December 2017. The Report of the External Auditor for the year 2017, giving important audit observations and recommendations, has been presented separately for transmission to the General Assembly.

"The audit of WIPO was assigned to the Comptroller and Auditor General of India for the financial years 2012 to 2017 in terms of approval of WIPO General Assemblies Fortieth (20th Ordinary) Session, Geneva, held in October, 2011. The scope of the audit is in accordance with Regulation 8.10 of the Financial Regulations and the Terms of Reference set out in the Annex II to these regulations.

"The audit was conducted in accordance with the International Standards of Auditing issued by the International Federation of Accountants and adopted by the Panel of External Auditors of the United Nations, its Specialized Agencies and the International Atomic Energy Agency; and in accordance with the Auditing Standards of the International Organization of Supreme Audit Institutions; and Regulation 8.10 of the Financial Regulations of the WIPO.

"We carried out a detailed risk analysis before taking up the audits for the year ended December 2017. A risk-based strategy was formulated to add value to the performance of WIPO while providing independent assurance to the WIPO

Management. Results of the risk analysis formed the basis for our Strategic and Annual Audit Plans.

“Our Audit Report contains 16 recommendations. The recommendations were finalized after obtaining the response of Management on our audit findings. I am happy to report that WIPO has accepted most of our recommendations. Follow-up of open recommendations is an ongoing process and the implementation of the recommendations is being monitored periodically. Based on inputs received from the management on implementation of external audit recommendations, we have closed/settled 36 recommendations this year so far. As on date, there are 37 open recommendations pertaining to previous periods.

“In addition to expressing an opinion on the financial statements of WIPO, our audit coverage included areas on economy, efficiency and effectiveness of financial procedures, the accounting system, internal financial controls and general administration and management of WIPO. The areas covered by us in this cycle of audit were:

- Performance audit of the Madrid System; and
- Compliance audit of the Premises and Maintenance.

“Audit opinion on the 2017 Financial Statements: audit of the financial statements for the financial period 2017 revealed no weaknesses or errors which we considered material to the accuracy, completeness and validity of the financial statements as a whole. Accordingly, we have given an unqualified audit opinion on the WIPO’s financial statements for the financial period ended 31 December 2017.

“I shall now briefly dwell on the significant findings of our audits conducted during the year and our recommendations flowing from them.

“Important Recommendations arising out of Audit of Financial Statements: WIPO signed on January 31, 2018 an act of sale for Madrid Union Building, acquired by WIPO in 1974. The property was held at fair value of 6.2 million Swiss francs, based on a valuation by an independent expert in October 2015. The said property was sold to Rolex Pension Fund, which already owned four of the five blocks of the “Building” and had offered to purchase the remaining block owned by WIPO for CHF 7 million. The sale of Madrid Union Building was effected without competitive bidding, which is a requirement as per the Financial Regulations and Rules. We believe that the circumstances under which the transaction for sale of the Madrid Union building was entered into without following the competitive bidding process should be fully disclosed and explained to the General Assembly. We have recommended that the sale of the Madrid Union Building be placed before the General Assembly in the next series of meetings.

“We observed that three projects financed from the Special Project Reserves were no longer in operation. Their unspent balances were required to be returned to the Reserves from where they were appropriated. We have recommended that WIPO expedite the closures of the Geneva Lake Water, AB Buildings Replacement and Safety and Fire Protection projects, assess their status and expenditure and transfer the remaining balances to the Reserves. It is also recommended that WIPO lay down clear guidelines for project closure, with timelines, for project closure to be effectively monitored.

“Important Recommendations arising out of Audit of The Madrid System: we conducted a performance audit of the Madrid System to assess whether the systems and processes were adequate to meet the objective of providing services to its customers for registering and managing trademarks worldwide.

“We observed that the Madrid System has Contracting Parties pre-dominantly from Europe (47 members) followed by Asia Pacific (22), Africa (21), Middle East (5), Caribbean (3) and one each from Latin America and North America. Out of the 47 Least Developed Countries (LDCs), 24 (51 per cent) are contracting parties. We observed that in April 2016, the Working Group on Legal Development had emphasized the importance of including countries in Latin America and the Gulf Cooperation Council as a strategic focus. We also observed that the International Bureau of WIPO (IB) had not identified key regions for geographical expansion and had also not developed tailored strategies for accession. We have recommended that the Management should formulate a targeted strategy for accession of countries based on regional focus.

“The Common Regulations do not provide any time frame for completing examination of applications for different transactions. We noted that the processing of applications took long time leading to backlog of pending transactions. We also noted that the Program & Budget document 2018/19 has laid down time limit for processing transactions. We recommend that the Management adhere to the time limit defined in the Program & Budget document of 2018/19 for examination and processing of regular applications and further strengthen its efforts to reduce backlogs.

“We observed that 36-41% applications in last 4 years had errors; over 75% of these were due to classification errors and the share of irregular applications processed in more than 4 months’ time had gone up from 62% in 2014 to over 70% in 2017. We have recommended that the Management, analyze the reasons for the errors in the applications and take mitigation measures. In addition, management should translate the Classification Guidelines in other languages.

“We observed that the Customer Service Board established in January 2016 had not formulated customer service strategy, customer service policies, standards and best practices, as required. We also noted that except for customer surveys carried out occasionally, feedback system to invite views and comments from international community was not available. We have, therefore, recommended that the Management establish a well-defined Customer Service Strategy, Standards and best practices supported by an effective e-based quality feedback system, to cater to the needs of customers efficiently. We have also recommended that the Management undertake regular Customer Surveys, as mentioned in Customer Service Charter, for feedback to improve their services.

“We observed that the Quality Control Mechanism is not supported by requisite IT Tools to carry out Quality Control (QC)/ Quality Assurance (QA) processes effectively. We have, therefore, recommended that Management use IT Tools to carry out QC/QA processes effectively and conduct the QC process at the stipulated periodicity.

“We noted that almost one and a half year was taken for the Madrid International Registry Information System (MIRIS) to go live after it was delivered for testing by the developer. We also observed that MIRIS had operational problems since its roll out in March 2016 and that WIPO plans to implement a new Madrid IT Platform in 2018/19. We are, therefore, recommending that the Management perform a detailed analysis of the performance of MIRIS, including any possible failures in accountability, for the lessons learned, and inform the General Assembly.

“Important Recommendations arising out of Audit of Premises and Maintenance: the Compliance Audit of the Premises and Maintenance was conducted in accordance with the International Standards of Supreme Audit Institution (ISSAI) 4000, according to which compliance auditing includes both the aspects of regularity (adherence to formal criteria such as relevant laws, regulations and agreements) and/or propriety

(observance of the general principles governing sound financial management and the conduct of public officials).

“We observed deficiencies in the data relating to fixed assets recorded in the Asset Management Module (AM) of the Administrative Integrated Management System (AIMS). While acknowledging the steps taken by the Management so far, we recommend that the WIPO complete the clean-up of AIMS database to ensure that they represent the actual details of the assets.

“We observed that some works of Art were missing as per physical verification reports of external firms and that risk assessment framework and mitigation strategies for proper management of works of art was not available. We have recommended to WIPO to locate missing work of art and to carry out risk assessment and review existing measures for security/protection for works of art.

“We observed that while WIPO had implemented some enhancements, a number of recommendations of the 2012 expert report for enhancing accessibility of handicapped persons to the (WIPO) campus have not been implemented. We recommend that the WIPO formulate an appropriate plan for implementation of the remaining recommendations of the 2012 expert report for improved physical access to WIPO campus.

“In conclusion, on behalf of the Comptroller and Auditor General of India and all my colleagues who were deputed to conduct the audit of WIPO, I wish to place on record our appreciation for the cooperation and courtesy extended to us by the Director General, the Secretariat and the staff of the WIPO during our audit.

“I would also like to add that we have completed our six years tenure as the external auditor of WIPO. It has been a privilege for us to work as an external auditor and we have found this external audit engagement to be a professionally enriching experience. I congratulate the National Audit Office (NAO), UK for being selected as the next external auditor of WIPO. I wish NAO and their teams success in their audit engagement.

“I thank the Hon. Chair and the distinguished delegates for providing us the opportunity to present our report before you. Thank you.”

91. The Chair of the PBC thanked the External Auditor for the written report and for the previous six years of important work in the Organization. The Chair drew the attention of delegations to the second half of document WO/PBC/28/4 which contained the management responses to some of the points raised.

92. The Delegation of Switzerland, speaking on behalf of Group B, thanked the External Auditor for its report on WIPO's Financial Statements for 2017 as contained in document WO/PBC/28/4. The report had been submitted in a timely manner and it was an important source of information for the PBC. The Group also thanked the Secretariat for its responses to the 16 recommendations made by the External Auditor. Group B noted that the External Auditor had issued an unqualified opinion regarding the audit of WIPO's Financial Statements for 2017 and congratulated the Secretariat for this result. The Group noted, with some concern, that the sale of the Madrid building had not been achieved through a sale on the open market. While the Group believed that a good value had been ultimately secured for the property in view of the property valuations, it considered that it would have been more transparent to open the sale of the property to a competitive bidding process. The Group welcomed the fact that many recommendations were accepted by the Secretariat and looked forward to their timely implementation. Regarding pending recommendations from previous years the Group noted, with satisfaction, that five recommendations had been implemented and could be considered as closed. This left three open recommendations, in relation to which progress was ongoing and substantial work had been done.

93. The Delegation of Lithuania, speaking on behalf of the CEBS Group, thanked the External Auditor for carrying out this duty over the previous six years, for having delivered the report as set out in document WO/PBC/28/4 and for the presentation of the results of the audit exercise. The Group was pleased to note that, with regard to WIPO's Financial Statements for the financial year 2017, the External Auditor had issued an unqualified opinion. The CEBS Group commended the Secretariat for this achievement as well as for its responses to the 16 recommendations made by the External Auditor. It appreciated the fact that the majority of the recommendations were acceptable for the Secretariat and believed that the areas of improvement identified by the External Auditor would enhance the effective functioning of the Organization. The Group welcomed the Secretariat's willingness to implement the recommendations and was pleased to note that only three recommendations from previous years remained in the process of implementation while others had already been implemented or were considered as being closed.

94. The Delegation of India thanked the External Auditor for the report contained in document WO/PBC/28/4, adding that the report was comprehensive, timely and that it made some valuable recommendations with respect to the Madrid System and on the sound financial management of assets of the Organization. The Delegation was pleased to note that WIPO had accepted most of the 16 recommendations and felt positive that the Secretariat would work towards the closure of all recommendations. The Delegation said that the Comptroller and Auditor General of India, as the External Auditor, had a rich experience in undertaking audits of various international organizations and that it had received worldwide praise, maintaining the highest degree of professional standards, competence and worthiness in its work. The Delegation wished to congratulate the National Audit Office of the United Kingdom for its election as the next External Auditor of WIPO.

95. The Delegation of the Russian Federation congratulated the Chair on his election and thanked the External Auditor for his comprehensive report. The Delegation noted the positive report on WIPO's accounts for the financial period ending on December 31, 2017, and was pleased to note that the accounts had been prepared in line with IPSAS. The surplus as well as the 60 per cent increase in income indicated the positive financial outcome of the Organization. The Delegation believed it was necessary to carefully take into account the External Auditor's comments on improved performance, particularly when it came to the inspection periods and the activation of work to ensure performance indicators and project based accounting. In addition, the Delegation said it would be grateful for comments from the Secretariat with regard to the recommendations from the External Auditor on the various unions.

96. The Delegation of Brazil, as this was the first time it took the floor, wished to also congratulate the Chair on his election. The Delegation said that he could count on the Delegation of Brazil's support to the effective work of this Committee. The Delegation first underlined the important role of the IAOC for the Organization as well as the Brazilian appreciation for the openness of the Committee towards Member States. The Delegation thanked the Secretariat for providing answers to the recommendations by the IAOC. Regarding the Madrid building, the Delegation agreed that the provision of additional information on the conditions of its sale, as recommended by the IAOC, would provide useful inputs to the discussions here. The Delegation further noted that, according to the self-assessment by the Committee on page 9 of the document, these were areas for improvement in the field of ethics. The self-assessment also fed the need for additional professional level support. The Delegation requested additional information regarding those suggestions by the IAOC and how the Secretariat wished to address them. Lastly, the Delegation noted that special attention should also be given to petition improvements regarding serial and possibly frivolous complaints, as reported by the IAOC in Paragraph 21 of the document, without prejudice to the whistleblower protection.

97. The Chair thanked the Delegation of Brazil, noting that they would come back to the IAOC report later on because the Chair of the IAOC was not in the room at that moment and that therefore, he would address items 4 and 5 after item 6 with the External Auditors. The Chair said that in regards of the pertinent comments, the Delegation may wish to come back to it, in the next agenda item. With that the Chair turned to the next speakers on his list who were China to be followed by the United States of America.

98. The Delegation of China thanked the External Auditor for his comprehensive report and for the six years of hard efforts. The Delegation appreciated the professionalism and good performance of the External Auditor and hoped that the management team of WIPO would actively implement the reasonable recommendations proposed. The Delegation encouraged the outgoing External Auditor to coordinate better with the new External Auditor so as to improve their work.

99. The Delegation of the United States of America congratulated the Chair on his election. The Delegation supported the statement made by the Delegation of Switzerland on behalf of Group B. The Delegation wished to thank the Comptroller and Auditor General of India for the report and services over the previous six years. The Delegation welcomed the clean audit opinion of the 2017 audited Financial Statements. It considered that the reviews by the External Auditor were an important part of WIPO's oversight structure in ensuring that funds were used in the most efficient and effective manner. The Delegation took note of the External Auditor's recommendations pertaining to the Madrid System, particularly the recommendation related to reducing the number of errors and the amount of time taken to process applications, and encouraged the Secretariat to adopt these recommendations as soon as possible. The Delegation further appreciated the statement on internal controls and wondered if any specific areas of weakness in the internal control system had been identified in 2017. The Delegation also took note of the number of recommendations that WIPO had accepted and trusted that the Secretariat would fully implement these.

100. The Delegation of Japan congratulated the Chair on his election. The Delegation welcomed the fact that the Financial Statements had been appropriately prepared by the Secretariat and that an external audit had been conducted appropriately by the External Auditor. The Delegation appreciated the Secretariat's willingness to consider accepting most of the recommendations made by the External Auditor and looked forward to the Secretariat making continuous improvements to render the Organization more efficient and effective by addressing such reliable recommendations. The Delegation wished to highlight a number of points. Firstly, related to customer service, it had been recommended to the Management in Recommendation 6 that a well-defined customer service strategy as well as standards and best practices, supported by an effective e-based quality feedback system, be established. The Delegation of Japan believed that WIPO should always think about its services from the customer's perspective and looked forward to the Madrid registry customer service professional standards being developed later in 2018. Secondly, the Delegation noted that formulating a long-term strategy on human resource planning for Madrid System had been recommended to the Management under Recommendation 8 and said that this should be done in line with working out an appropriate balance between permanent and flexible personnel resources. According to the External Auditor, the Madrid registry had not made a comprehensive human resources plan in light of the fact that the majority of WIPO expenses in 2017, 229 million Swiss francs, representing 68 per cent of total expenditure, was for personnel. The Delegation of Japan recognized the importance of creating an efficient human resources force at WIPO and strongly supported the External Auditor's recommendation. Thirdly, in regards to the financial sustainability, the Delegation noted Recommendation 9 about reviewing the existing fee structure with a view to making the Madrid Union self-sustaining after having learnt about the accession of new members. The External Auditor had pointed out that the fee structure had not been revised for the previous 20 years, even though the Madrid Union had been operating at a loss, except in 2015. The Delegation of Japan asked Member States to recall the 2017 WIPO Assemblies decision in

respect of the 2018/19 WIPO Program and Budget, namely that each union should have sufficient revenue to cover its own expenses. Therefore, the Delegation wished to give support to Recommendation 9 and welcomed reviewing the fee structure of the Madrid System in order to reach an appropriate way forward.

101. The Delegation of the Republic of Korea expressed its satisfaction at the report of the External Auditor which provided an opportunity to analyze the various aspects of auditing issues. The Delegation said that it expected the Secretariat to fully implement all of the recommendations or at least to try to follow the underlying intent of such recommendations.

102. The Delegation of Switzerland supported the statement delivered on behalf of Group B and wished to make two remarks with regard to two recommendations contained in the report of the External Auditor. With regard to Recommendation 1, the Delegation took note of the reply from the Secretariat which it considered to be satisfactory. Concerning Recommendation 9, the Delegation wished to make the following comments. Firstly, the 2018/19 Program and Budget provided a surplus of some 6 million Swiss francs with no anticipated deficit for the Madrid System. Secondly, the Madrid System indicated a clear, positive trend over previous years as of 2012, as reflected in the document. The Delegation considered that there was no cause for concern or need for specific action in the immediate future, as could clearly be seen from the Secretariat's reply on this topic. The Madrid Working Group was planning to examine the question on taxes in the medium term, as could be seen from its working paper.

103. The Delegation of Mexico congratulated the Chair on his election. The Delegation expressed its gratitude to the External Auditor for the report and took due note of the Auditor's views with respect to the financial accounts 2017. The Delegation wished to pay tribute to the Organization's good financial health and had some specific points to make. Concerning the first of these, the Delegation expressed its concern in light of the specific increase in liabilities in certain areas and the absence of activities to address this. This was something which required action on behalf of the entire membership. The Delegation wished to draw the Committee's attention to the External Auditor's comments in the item on expenditure for rewards and compensation with specific increases seen here in comparison with the 2016 figures. As indicated in paragraphs 47 and 48 of the report, the External Auditor had made reference to a significant amount being awarded. According to the External Auditor, the calculations provided by the Secretariat were not in line with the forecast that had been previously made available. Here, the Delegation wished to ask the Secretariat to heed the External Auditor's request to observe the IPSAS rules with regard to the accounting rules for expenditure in order to ensure better transparency. With that in mind, the Delegation wished to suggest that budgetary periods reflect accurate estimations with regard to the performance element for personnel. Lastly, the Delegation wished to endorse the majority of recommendations from the External Auditor, particularly those related to improving the Organization's transparency. The Delegation was grateful to the Secretariat for accepting and implementing those recommendations.

104. The Secretariat said that all of the management responses to the recommendations were contained in document WO/PBC/28/4. Several of the recommendations had already been implemented and the rest would be implemented in the following few months. The recommendation concerning the Madrid building had been raised by several Delegations and the response there was fairly simple. In compliance with Financial Regulation 4.11 which was the regulation governing investments, the sale of the Madrid building had been recorded and disclosed in the Financial Statements. These had been audited by the External Auditor and would be placed before the upcoming Assemblies, so in fact this recommendation had been implemented. The Secretariat wished to clarify that there was a difference in the interpretation of the Financial Regulations and Rules that were applicable to the sale transaction. The External Auditor had referred to competitive bidding under Regulation 5.11. The Madrid building sale was an investment-related transaction. WIPO's investment policy

as adopted by the Member States the previous year did not permit direct real estate holdings. The Madrid Union building was the only building that was an investment building and this had to therefore be divested, in accordance with the newly adopted investment policy. Therefore, in accordance with the investment policy, the sale of the Madrid building had been transacted. In terms of the question of competitive bidding, WIPO Management was reasonably assured that the sale price obtained was optimal by conducting due diligence of the real estate market. The expertise of two independent enterprises had been sought, CBRE and ADI, this had confirmed that the sale had been concluded at a reasonable value. The real estate prices had been in decline in Geneva over the same period and the property, as the External Auditor had already pointed out, constituted a fifth of a larger property that was held by the entity that had bought it. This entity had proposed 7 million Swiss francs, which compared very favorably to the two price points obtained from two independent valuations of 6.2 million and 5.3 million Swiss francs from, respectively, CBRE and ADI in October 2015 and January 2016. Additional factors that had contributed to the decision included the fact that significant renovation work would have been required by any other entity that would have bought the property in order to comply with norms and standards applicable to real estate in Geneva. The estimated cost of such renovation, as identified in the two external experts' valuation reports, was in the range of 0.9 to 1.2 million Swiss francs, therefore making it less attractive for other buyers. As previously mentioned, the buyer was also the owner of four fifths of the property. This eliminated the need for brokerage and intermediary fees which can amount to up to 3 per cent of the value of the property in Geneva. In conclusion, WIPO Management believed that this was a reasonable price for the building and that it was favorable for the Organization. On the subject of the Madrid registry, the Secretariat explained that there were a number of issues involved, some of these were operational, some of them legal and some of them, of course, budgetary. The Secretariat was grateful to the External Auditor for the very thorough audit undertaken on the Madrid System which had provided a lot of inspiration for how to improve the work. As the Program Manager in charge of the Registry, the Secretariat wished to make two observations. Concerning some of the issues indicated in the External Audit report, the Registry itself had already taken action to implement the recommendations. For instance, the improvement in the customer service and the promotion of the Least Developing Countries (LDCs) in the membership of the Madrid System. The second observation was on fee structure, certainly there was a legal procedure that needed to be respected. In view of the tremendous increase in the Madrid workload as well as increase in demand from the private sector, the Working Group of the Madrid System would, upon the approval by the General Assembly, examine the issue of the fee structure the following year. As of the end of August, there had been an increase of about 18 per cent in international applications as compared to the same period the previous year, meaning that the Madrid System needed more attention in terms of both working improvements and also investments.

105. The External Auditor, in response to the remark made by the Delegation of China, who had spoken of the coordination between the outgoing and incoming External Auditor, said that this process had begun long before. In fact, added the External Auditor, most of the audit reports of the previous five years, as well as all other relevant papers, had been shared with the next auditor and with Management. A teleconference had taken place with the incoming auditor the previous week and contacts with them were ongoing. The handover process was going very smoothly. Concerning the second question related to the findings on the Madrid System and the management response in this respect, the External Auditor wished to thank the Management for the timely response to the various recommendations, adding that it was highly satisfying that action had already been taken on several recommendations related to customer service, on the accession of LDCs, and also, the External Auditor seemed to recall, a promise that the issue of reviewing the fee structure of the Madrid System would be taken up the following year. There had only been one issue on which there had been a slight difference of opinion between the Management and the External Auditor, this related to the sale of the Madrid building. The External Auditor had given careful consideration to Management's response to the recommendation as well as to

the legal opinion given and felt that property management fell under Regulation 5.11 and not under Regulation 4.11. The External Auditor considered that WIPO's investment policy did not cover the sale of property and that the provisions of Regulation 5.11 should be applicable, this implied a competitive bidding process. The External Auditor now understood the response given by the Management and only felt that if there had been a competitive process, maybe the approach adopted would have been validated. The External Auditor, on the subject of the two external experts who had provided an opinion on the valuation of the building, felt that these valuations were slightly dated. One had been done in October 2015 and the other in January 2016, almost two years prior to the sale of the building. One of the valuation experts, while giving his report and in consideration of the volatility in the global financial system, had recommended that the situation and valuation be kept under regular review and that specific marketing advice be obtained at the time of disposal of the property. This was why the External Auditor felt that a competitive bidding process would have been more beneficial. The External Auditor thanked the Chair and the other Distinguished Delegates of the PBC for their support and appreciation which had helped them perform admirably.

106. The Secretariat, on behalf of its team, thanked the External Auditor for the six years of work done together which had been very positive and helped in many ways to achieve continuous improvements in the work carried out. To address the issue about the dated cost estimations, the Secretariat wished to point out that it had contacted ADI and the CBRE to make sure that, in fact, it was in line with what was happening in the local real estate market. The Secretariat had received the information that the real estate market was declining and that it was opportune to make the sale in question.

107. The Chair thanked everyone for the comprehensive discussion and acknowledged that there appeared to be a difference in opinion in terms of how the sale of the Madrid building fell under the regulations. The Chair reminded that the Member States would also have an opportunity, should they wish, to further discuss this matter when the financial report was submitted to the General Assembly. Finally, seeing that there were no further comments, the Chair read out the decision paragraph, which was adopted.

108. The Program and Budget Committee (PBC) 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/28/4).

ITEM 7 ANNUAL REPORT BY THE DIRECTOR OF THE INTERNAL OVERSIGHT DIVISION (IOD)

109. Discussions were based on document WO/PBC/28/5.

110. The Chair opened agenda item 7 and explained that the report was submitted to the PBC and that it provided an overview of the internal oversight activities conducted during the reporting period July 1, 2017, to the 30th of June 2018. The Chair invited the Secretariat to present the Report.

111. The Secretariat presented the Annual Report as included in document WO/PBC/28/5. The IOD Oversight Plan for 2018 had been prepared taking into consideration a number of factors including risk ratings, relevance, country impact, oversight cycle, and feedback received from WIPO Management, Member States and available resources. In line with paragraph 26(a) of the Internal Oversight Charter, prior to its finalization, the draft Oversight workplan was also submitted to the IAOC for its review and advice. At the reporting date, IOD had fully implemented the 2017 Oversight Plan and the implementation of 2018 workplan was on track. During the reporting period, IOD audits and evaluations covered the following key operational areas: management of third party events organized/hosted by WIPO, software asset management, recruitment, language division, travel management,

WIPO's corporate communications activities and their contributions to WIPO's brand and reputation, Regional Bureau for Latin America and the Caribbean, IP and Global Challenges (Program 18), capacity development of Intellectual Property skills and IOD Validation Report of the WIPO Performance Report (WPR) 2016/17. During the reporting period, 40 new cases were registered and 42 cases were closed. As of June 30, 2018, 12 cases were pending. Of the pending cases, five were opened in 2018, six in 2017 and one in 2016. As of July 1, 2017, the average length of time it took for cases to be processed was 7.1 months. Coming to follow-up on oversight recommendations, IOD continued to manage and report on recommendations using the web based Team Central system, which enabled interactive dialogue with Program Managers, their delegates and the External Auditor for an effective follow-up of the implementation of open recommendations. At the date of report, there were 180 open recommendations including 96 of high and 84 of medium priority. IOD recommendations constituted 74 per cent of all open oversight recommendations. The Secretariat mentioned that IOD had initiated and concluded the first phase of its Business Intelligence (BI) Project, enhancing reporting on recommendations and providing management with relevant information on recommendations through the BI dashboards. During the reporting period, two recommendations had been closed without implementation, as management had accepted the related risks. The first of these related to amendments to Staff Regulations proposed by the IAOC, to consider an investigation as a prerequisite for instituting disciplinary proceedings, and the second was a recommendation to automate the staff exit process. It was concluded that given the low rate of departure, the cost of implementation would outweigh the benefit and IOD agreed with this conclusion. In addition to its planned oversight work, IOD continued to provide professional advice, for example, within the Department of Program Planning and Finance about fraud risk prevention activities. In particular, IOD supported the development of an online training on "Avoiding Fraud and Abuse in WIPO", which would be offered to WIPO staff in the second semester of 2018, as well as an ongoing fraud risk assessment exercise. IOD continued interactions with the IAOC, discussing oversight results and benefits from IAOC's valuable advice and support. This helped improve IOD's overall functioning and the quality of its work. IOD maintained good working relations with the External Auditor by having regular meetings on audit, internal controls and risk management issues. IOD had also met the incoming External Auditor from the United Kingdom (UK) National Audit Office in May 2018, and shared the Annual Work Plan, Internal Oversight Charter, Internal Audit strategy, and memoranda on continuous auditing work, amongst others, with a view to ensuring efficient oversight coverage while avoiding potential duplication and oversight fatigue. IOD cooperated closely with the Ombudsperson and the Chief Ethics Officer to ensure good coordination and complementary support. As part of its ongoing effort to better explain and advocate for the internal oversight function, IOD continued to reach out to colleagues within WIPO, through presentations given to new staff in the induction training, the IOD Newsletter, the IOD Dashboard and presentations to directors and senior managers, as and when required. IOD continued to seek feedback from colleagues on the quality of its oversight work, through client satisfaction surveys after each assignment. The analysis of consolidated survey results indicated an average satisfaction rate of 85 per cent for post assignment surveys and 76 per cent for after one-year surveys. The survey results provided IOD the opportunity to assess the impact of its work on improvements in systems, policies/procedures and processes. The additional comments sent by the audited/evaluated units through the surveys helped IOD identify opportunities for improvement. During the reporting period, IOD continued its active and useful collaboration and networking with other UN system Organizations and entities. In particular, IOD actively participated in annual networking meetings of the UN representatives of audit, evaluation and investigation. To discharge its mandate, IOD had been provided with a biennial budget of 5.163 million Swiss francs, which represented 0.73 per cent of WIPO's budget. Overall, the level of human and financial resources had been adequate for IOD to effectively cover the high priority areas as identified in its workplans. Changes in IOD staffing had been effectively managed with a view to minimizing their impact on planned oversight activities. For continued professional development IOD staff attended various training activities to acquire new knowledge,

technical skills and other competencies to increase IOD's operational effectiveness and efficiency in undertaking oversight assignments. On average, each IOD staff members attended 10 days of training which included fraud prevention and detection, investigative research techniques, data analytics, tableau visualization application, cyber security, conflict management, evaluation of science and innovation policies, internal audit quality assessment, auditing procurement, contracts and outsourcing. Having concluded its remarks, the Secretariat wanted to thank delegations for their kind attention and was happy to answer any questions or receive any comments they might have.

112. The Chair thanked the Secretariat for its comprehensive report and opened the floor to questions.

113. The Delegation of Switzerland, speaking on behalf of Group B, expressed its appreciation at the continuous efforts of the Internal Oversight Division in cooperation with the IAOC and the External Auditor to achieve its crucial role of ensuring effective internal controls and efficient use of resources in WIPO. In this regard the Group wished to thank IOD for its annual report contained in document WO/PBC/28/5. The report gave a comprehensive overview of the Organization's functions and the Group considered it as a valuable source of information as well as a point of reference throughout the year. The Group encouraged the Secretariat to implement internal audit recommendations in a timely manner as most of the recommendations were from internal audits and were high or medium priority. Group B welcomed the fact that the various activities had been undertaken by IOD in a positive and independent manner.

114. The Delegation of Lithuania, speaking on behalf of the CEBS Group, highly valued the work of IOD, it believed that it contributed to the continued improvement of the effectiveness and transparency of the Organization. CEBS welcomed the audit and evaluation activities that had taken place that year. The Group noted that IOD had identified 180 open recommendations including 96 of high and 84 of medium priority, and encouraged the Secretariat to work towards their implementation.

115. The Delegation of El Salvador, speaking on behalf of GRULAC, thanked the Chair of IOD for the report submitted as contained in document WO/PBC/28/5 and for the important work that IOD had carried out with its team. GRULAC, referring to the evaluation of the Regional Bureau for the Latin America and Caribbean (LAC), which was mentioned in paragraphs 52 to 55 of the report, especially appreciated the work of the Bureau, which was working on the coordination, organization and carrying out of support activities in favor of the region including the Spanish speaking and English speaking countries. This work had been carried out by the civil servants of the Regional Office very diligently and with a highly professional attitude as well as a great deal of humanity and sensitivity to the special characteristics of concerned Member States which was expressed in the evaluation framework as reflected in paragraphs 52 and 53 of the report. The Group recognized that its work could always be improved and considered that it was necessary to be very positive and to carry out control and supervision activities in any unit within an institution. However, in this case, the Group wished to raise some concerns regarding the evaluation so that they may be taken into account of future work of the IOD, with the aim of improving the control and supervision work within WIPO and ensuring that the results had a positive impact within the Organization. Firstly, the Group wished to point out that the countries of regions supported had actively participated in the evaluation process as presented in the reference document, evaluation 2017-04. However, GRULAC had not been given the opportunity to comment on the preliminary results, only a final report had been presented to the Group with results that could no longer be modified. The Group deemed it important to be involved not only in the information gathering process, but also in later phases since, in the study in question, some of the findings of the evaluation could be based on national internal requirements of each one of the members which could vary significantly from one member to another. Furthermore, some recommendations for improvement in the study suggested an increase in

standardization through protocols which, unfortunately due to the internal processes that each state followed, would represent a major challenge and would not meet the flexibility requirements of the entities evaluated. The Group added that the framework of activities coordinated by the LAC bureau and other relevant units of WIPO, and the results of the management of activities of these units, had been applied to the LAC bureau in the evaluation. GRULAC believed that some of the points made in the recommendations to the bureau needed to be addressed to the responsible units of WIPO or carried to the highest level so that the changes were as uniform and structured as possible in the Organization. The Group did not wish to elaborate further on the points mentioned but reserved the right to direct its concerns in more detail to other instances within WIPO and remained open to possible consultations that could be conducted to address these matters in greater depth.

116. The Delegation of China thanked IOD for the annual report and presentation. The Delegation attached great importance to the work of IOD and considered that transparent and efficient internal oversight was conducive to WIPO in achieving its expected strategic goals and improving management. Over the past year IOD, despite HR constraints, had carried out its role efficiently. The Delegation was, in general, satisfied with the work of IOD over the previous year and expected the Secretariat to actively implement the recommendations. The Delegation noted that, since 2016, IOD had started using the Team Central system to manage and report on recommendations and considered that this was helpful for the follow-up of overdue recommendations. Regarding the 180 overdue recommendations, the Delegation had noted that some of them dated back to 2011 or 2013 and wished to encourage IOD and relevant managers and departments to analyze these overdue recommendations so as to make clear whether or not they were still valid and required implementation. Invalid recommendations should be deleted. Those which were still valid should be given attention and adequate resources so that they could be implemented as soon as possible. Regarding Program 18, IP and Global Challenges, the Sustainable Development Goal (SDG) of 2030, the Delegation noted the importance of the implementation of this initiative and supported the five year strategy of WIPO GREEN. The Delegation hoped that WIPO would provide more resources so that the platform could progress steadily.

117. The Delegation of Morocco, speaking on behalf of the African Group, thanked the Director of IOD for the work carried out and the report, the regional information submitted which, it felt sure, contributed to transparency and better management. Regarding the progress and implementation of recommendations regarding oversight it was mentioned that, at the time of the drawing up of the report under review, there were 180 pending recommendations, of which 96 were deemed to be priority ones and 84 recommendations submitted had a medium degree of priority. It had also been mentioned that the IOD recommendations represented 74 per cent of all pending oversight recommendations. The Group requested clarifications about the circumstances which had led to these pending recommendations and mentioned that one particular priority recommendation had been pending since 2011. The Group asked how the implementation of pending recommendations could be accelerated.

118. The Delegation of Brazil thanked IOD for the report and underlined the importance it attached to the work of IOD. It noted, with satisfaction, that there had been no instances noted that could jeopardize the operational independence of IOD. The Group encouraged IOD to continue its good working relationship with the External Auditor and IAOC, and joined other Member States who had mentioned the need to implement remaining open recommendations. In particular, there was an open IOD recommendation from 2013 regarding the Conference and Language Service which mentioned the need to develop the conference management system. It was understandable that, given the workload of the section, there was a need for adequate resources to allow the Conference and Language Services, who contributed greatly to the work of WIPO and Member States, to operate efficiently. Regarding the evaluation of the LAC bureau, the Annual Report had stressed the

high level of satisfaction of stakeholders and clients with the services provided by the Bureau. The Group supported the statement made by the Delegation of El Salvador on behalf of GRULAC regarding the methodological issues that could be improved. In assessing the evaluation, the Group was of the view that improvements were possible, taking into account that all the regional bureaus of WIPO would be evaluated. Turning to the evaluation of Program 18, IP and Global Challenges, the Delegation wished to mention that the valuation underlying the Program's work could be strengthened by deepening the collaboration with key multilateral international and/or other UN organizations. The Delegation wondered if there were any opportunities identified by the evaluators to strengthen the role of Program 18 on the implementation of the SDGs. While the implementation of the United Nations Sustainable Development Goals was an attribution of WIPO as a whole, said the Group, Program 18 could develop new and most welcome initiatives. An example of this could be something similar to WIPO GREEN, as mentioned by the Distinguished Delegate of China.

119. The Delegation of the Russian Federation was grateful to the IOD Director for the report and the plan for implementation within the period. The Delegation wished to draw attention to the IOD recommendation on enhancing procedures for the selection of staff in order to ensure sustainable improvements and increased transparency in hiring procedures. It hoped that IOD's recommendations would be implemented, in particular those concerning the performance on travel, with due regard for the UN procedures for this category. The Russian Delegation noted, with satisfaction, the IOD's outcomes with regard to the improvement of government procedures for a Results-Based Management system and hoped that this work would continue for the effective implementation of programs and projects and to ensure the effectiveness of expenditure.

120. The Delegation of the United States of America supported the statement made on behalf of Group B, expressed its appreciation for the work of IOD and welcomed the information provided on the Office's activity over the previous year. The Delegation was pleased that IOD was able to complete its 2017 workplan in addition to other responsibilities. It noted that there were three Management Implication Reports (MIRs) issued and said it would appreciate more information about the recommendations on procurement requisitions. The Delegation asked whether Member States had access to these reports on request. Regarding the audit on recruitment, the Delegation welcomed the details on the five recommendations from that audit and wondered if the recommendation scheduled to be implemented in June 2018 had been implemented. The Delegation noted, from the audit of travel management, that there was room for improvement in reducing costs and strengthening effectiveness. The Delegation looked forward to seeing the recommendations from the audit being implemented and encouraged the Secretariat to continue to look for efficiency gains and enhance internal controls in the area of travel management. The Delegation was pleased that the Office had undertaken a self-assessment for best practice in the Institute of Internal Auditing (IIA) Standards and wondered when the next external assessment was scheduled to take place. It requested the Office to confirm that the recommendations from the external assessment of the investigation function had all been implemented. The Delegation thanked the Secretariat and IOD for their efforts to implement and close the audit recommendations. However, it noted that a number of recommendations from 2013, 2014 and 2015 were still open. In this respect, the Delegation said it would appreciate more information about the efforts being made to close those overdue recommendations and to hold managers accountable. The Delegation encouraged the Secretariat to implement open IOD audit recommendations in a timely manner, especially the high priority recommendations which exposed the Organization to significant risks the longer they remained open.

121. The Delegation of Mexico thanked the Director, IOD, for the report submitted and welcomed the recommendations made. The Delegation continued to look, with concern, at the 180 pending recommendations still to be implemented. The Delegation requested further

information from the Secretariat about the recommendation regarding the amendments to the staff statutes as contained in paragraph 75(a) of the report that had been said to have been concluded. The Delegation asked for more information regarding the follow-up of cases of harassment, including sexual harassment, which occurred in the Organization, so as to better understand how these investigations were carried out and if other departments were involved.

122. The Delegation of Japan thanked the Director of IOD for his detailed report which provided a comprehensive overview of IOD's oversight work. The Delegation believed that the Secretariat would take the appropriate steps to address the recommendations made by IOD.

123. The Secretariat (Director, IOD) thanked Member States for their appreciation of the work of IOD which was always very encouraging. The Secretariat welcomed the remarks and some of the issues which had been raised by delegates and proceeded to respond to the questions one by one. Concerning GRULAC's comments on the evaluation of the LAC bureau, the Secretariat appreciated that there was always scope for improvement in the methodology employed in the evaluations and confirmed that IOD strictly followed United Nations Evaluation Group (UNEG) standards and the Organization for Economic Cooperation and Development (OECD) standards for evaluations. In particular, IOD tried to get as much participation as possible from a majority of stakeholders. During the evaluation, 15 Geneva-based permanent missions, eight Intellectual Property Offices, 33 national stakeholders in Colombia, 37 in Mexico and 63 in Trinidad and Tobago, had been contacted. So overall, 33 national stakeholders from 20 countries had responded to the survey appearing in the report. Having said that, coming to recommendations themselves, these were the responsibility of the LAC Bureau which would be addressing them very carefully. So the Secretariat did appreciate that it should involve as many of the stakeholders as possible, but noted that the preparation of the report was time bound with the process. Regarding involvement, the Secretariat actively engaged stakeholders at all stages. In accordance with the procedure described in the Charter and the guidelines and the policies, the draft report was provided to the LAC Bureau for comments and also to give the Bureau the opportunity to point out any gaps in the factual situation as it had been described. Therefore, there was an opportunity when the draft report was prepared for the LAC Bureau to respond on anything which it considered as not being representative. The Secretariat had taken due note of the comments made by the Delegation of China on the IP global challenges WIPO Green activities. Concerning the comments made by the Delegation of the United States of America on the three MIRs, the Secretariat confirmed that it could provide more information on the procurement requisitions separately, on what the issue was and how it had been addressed. The next External Quality Assessment (EQA) for Internal Audit was due in 2019, it followed a five-year cycle. Having said this, IOD also did a self-quality assessment every year as per the standards. IOD had implemented all 13 recommendations from the EQA of the investigation function. The Secretariat said that there was a regular process between IOD and the respective programs through Team Central, adding that one-to-one meetings with all program managers were held twice a year to try and expedite the implementation of recommendations. Additionally, a report was given to the Director General and to the IAOC every quarter. In all the four yearly sessions of the IAOC, the implementation of recommendations was reviewed by the IAOC and respective Program Managers were called to explain any issues and to say how much time it would take to implement these recommendations. So there was a very robust process of follow-up on recommendations. In response to a question asked by the Delegation of the United States of America, the Secretariat confirmed that Member States had access to the MIRs on request. On the question of sexual harassment, the Secretariat informed the Committee that, as far as the receiving of the cases was concerned, such proceedings were strictly governed by the charter and the staff rules adding that anyone in the Organization was free to report cases of workplace harassment and could remain anonymous. In cases of conflict, IOD addressed

matters to the IAOC to seek advice. More information on this topic would be provided to interested delegations after the plenary.

124. The Delegation of Brazil asked for additional evidence about how Program 18 could contribute to the SDGs.

125. The Secretariat confirmed that these details could be provided after the session if this was satisfactory to all.

126. The Chair confirmed that the offer was to come back bilaterally after the meeting.

127. The Delegation of the United States of America asked if Member States had access to the MIRs.

128. The Secretariat confirmed that Member States did have access to these reports and that full MIRs could be provided upon request.

129. The Delegation of Mexico wished to recall its question concerning the role of IOD in terms of following up instances of harassment within the Organization including incidents of sexual harassment and whether these had a relevant role to play in terms of the complaints process.

130. The Secretariat proposed to brief the Delegation of Mexico on sexual harassment after the session since this may involve disclosing things which would be better handled after the session. The Secretariat added that, as far as the receiving of cases was concerned, this was strictly governed by the charter so anyone in WIPO was free to report workplace harassment or sexual harassment and the complainant had the choice to remain anonymous. If there was a conflict of interest, IOD would go to the IAOC to seek advice. The procedure as described in the staff rules and in the Oversight Charter was followed.

131. The Delegation of Brazil said it would consult with the IOD Director after the meeting but wished to stress that the evaluation team could not find sufficient evidence to respond to the question of the terms of reference that was to what extent and how Program 18 could contribute to the SDGs. The Delegation recognized that this question had been excluded from the scope of the analysis and should be considered for future evaluation of the review. The Delegation said it would engage with IOD later on so as to explore more on that.

132. The Chair confirmed that there were two issues where some delegations would appreciate further information on specific topics, namely on sexual harassment and Program 18 on SDGs. This information would be provided to interested delegations after the plenary.

133. The Secretariat wished to mention, at the outset and to follow up on the remarks made by the Director of IOD, that the review effort was very much a collaborative one. The Secretariat mentioned that paragraphs 70 and 71 referred to the follow-up of the audit recommendations by Program Managers, adding that the Director General took audit recommendations very seriously and encouraged follow-up on these. Concerning outstanding recommendations, the Secretariat referred to the table at the bottom of page 14 of the report, explaining that, of the 193 recommendations, the Secretariat had closed 90, meaning that 46 per cent of the recommendations which were open at the start had been closed. These had been outpaced by other recommendations which had since been added on. Implementing recommendations, added the Secretariat, sometimes took time because they touched upon policy changes and system changes, this was an aspect that needed to be taken into account. Another aspect to be considered was the fact that some recommendations appeared as high risk or as having a high impact over time. This may give the impression, if considered in absolute terms, that the recommendation was not being acted upon which was not necessarily the case. Recommendations remaining high priority

over a particular time period sometimes remained high even if, moving forward, there had been partial implementation of the recommendations. In other words, recommendations appearing as red should not be considered in absolute terms but interpreted in a relative fashion as many of them had actually moved forward. A third element was the question of the closing criteria. The Secretariat explained that much care was taken in ensuring there was sufficient dialogue with IOD, the External Auditor and others to make sure that the closing criteria were very clear at the outset rather than leave this element open for interpretation. The Delegation of Brazil had raised the question of conference system implementation which was linked to one of the old recommendations. That was actively going on, such recommendations took time to implement. The Secretariat added that there should not be too much concern about the high numbers of outstanding recommendations, these numbers would go up and down. All recommendations were being addressed since all of the IOD's recommendations had been accepted, it was a question of giving the Secretariat the necessary time and space to be able to move them forward. Concerning the question of the MIRs, this was about the controls on the procurement section for procurement requisitions, particularly those with a value under CHF 20,000. The report provided by IOD acknowledged that the Secretariat already had good controls in place which were performed manually by the procurement staff. IOD's suggestion was to automate these controls as much as possible in the Organization's ERP, it was not a matter of non-compliance. This was a typical example of improving the efficiency of the process and of the strengthening of the controls in the Organization's system. It was a development in AIMS which would take a little bit of time. Concerning the question raised by the Delegation of the Russian Federation on travel as described in paragraph 34, the Secretariat wished to turn to Member States for their help. 80 per cent of travel was for third party travelers, meaning that this involved many Member State representatives going to various meetings and Working Groups. The Secretariat had sent a *Note Verbale* out to ask Member States to help respect these deadlines in order to contain costs. And, that it was not about the 20 per cent of WIPO Staff, where measures had been already taken, and the Secretariat was pre-draconian in respecting the "days in advance rule". The Secretariat would be very appreciative if the *Note Verbale* could be passed back to capitals in order to obtain the efficiency savings that was being called for.

134. As there were no further comments, the Chair read out the decision paragraph, which was adopted.

135. The Program and Budget Committee (PBC) took note of the "Annual Report by the Director of the Internal Oversight Division (IOD)" (document WO/PBC/28/5).

ITEM 8 PROGRESS REPORT ON THE IMPLEMENTATION OF THE JOINT INSPECTION UNIT'S (JIU) RECOMMENDATION

136. Discussions were based on document WO/PBC/28/6.

137. The Chair opened agenda item 8, which was the Progress Report on the Implementation of the Joint Inspection Unit's (JIU) recommendations, presented in document WO/PBC/28/6. This document complemented the previous progress reports submitted to the PBC providing Member States with an update of the progress made on the implementation of outstanding recommendations addressed to the WIPO Legislative Bodies resulting from the views of the JIU during the period from 2010 to May 2018. The Chair gave the floor to the Secretariat to introduce item 8.

138. The Secretariat explained that document WO/PBC/28/6 submitted to Member States covered the period 2010 to 2017, providing an overview of the status of the recommendations addressed by the JIU to WIPO's Legislative Bodies. Since the last report submitted to the Member States on the same subject, the JIU had issued nine reports of which seven were relevant to WIPO. The new reports had been signaled in the Progress

Report as such, with the status updates from reports issued in prior years highlighting the change from the previous reporting period. As of mid-May 2018, subject to Member States' endorsement in respect of the recommendations contained in the present report, the Secretariat indicated that there would only be one recommendation addressed to WIPO's Legislative Bodies which would remain outstanding, all other recommendations having been closed. Of course, there would be new recommendations as new reviews came out to report on back to the Member States the following year. The open recommendation related to the 2017 review of donor reporting requirements across the United Nations System had not yet started as it was subject to the launch of the process by the Chief Executives Board (CEB). As of May, 84 per cent of the all the 291 JIU recommendations made since 2010 and relevant to WIPO had been implemented, with a further nine per cent closed, not relevant or not accepted, and six per cent accepted and the process of implementation, with only a final one per cent remaining under consideration. Finally, the Secretariat wished to highlight that, in addition to the monitoring of outstanding JIU recommendations, it continued its work to facilitate and coordinate responses to the JIU's questionnaires, surveys, and interviews in relation to ongoing and new reviews. In line with the JIU's program of work, the Secretariat pointed out that there was a summary table in the document providing the Member States with this information. Eight reports were scheduled to be launched that year with three to be completed from those launched in 2017. In respect of each report, the JIU had provided Terms of Reference for each participating organization for their comments, had requested the completion of an extensive questionnaire, requested interviews to be arranged with responsible staff, and finally, requested comments on the draft of the JIU Report to address any factual inaccuracies. The Secretariat confirmed that it had addressed each review multiple times in different phases in its support of the work that the JIU was doing. The Secretariat finally would provide information on WIPO's high-level views on the report once it was issued to the CEB, for compilation into the final document that was issued to the United Nations General Assembly.

139. The Chair thanked the Secretariat and opened the floor for questions or comments on the presentation or on the report.

140. The Delegation of Switzerland thanked the Chair and took the floor on behalf of Group B. The Delegation welcomed the progress report on the implementation of the JIU recommendations which helped them to understand the progress of the Secretariat's efforts. The Delegation welcomed the fact that, as at mid-May 2018, 84 per cent of all the 291 JIU recommendations made since 2010 and relevant to WIPO had been implemented, with a further nine per cent closed, that is to say not relevant or not accepted, and six per cent accepted and in process of implementation, with only a final one per cent remaining under consideration. The Delegation expected that the JIU recommendations would continue to be implemented as appropriate and expressed its surprise to see that Recommendation 3 of the JIU Report JIU/REP/2012/9 relating to "Lump sum payments in lieu of entitlements" had not been yet accepted. Indeed, the Delegation acknowledged that the Secretariat had undertaken measures to improve efficiencies related to staff travel, and indicated it would appreciate additional explanations as to why adopting this recommendation would not have further contributed to travel cost efficiencies.

141. The Delegation of Lithuania, on behalf of the CEBS group, thanked the Secretariat for preparing document WO/PBC/28/6 which enabled the Member States to monitor the implementation of the JIU's recommendations. The Delegation was pleased to know that 84 per cent of the JIU recommendations relevant to WIPO from the reports of 2010 to 2017 were implemented, along with nine per cent that were considered not relevant or not accepted, only six per cent were accepted and under implementation, and only one per cent which was still remaining under consideration. The Delegation encouraged the Secretariat to continue its work on the remaining recommendations.

142. The Delegation of China thanked the Secretariat for the updated status of the implementation of JIU's recommendations at May 2018. The implementation status was satisfactory for the Delegation of China. The Delegation noted the proposal of the JIU regarding voluntary contributions. The Delegation also noted that voluntary contributions represented only three per cent of the funding of WIPO, which did not face the same challenges that other United Nations organizations were faced with; therefore, it hoped that in the future, the CEB would consider the different needs and different business models of the donors regarding the future establishment of any common standards. The Delegation noted that flexibility was needed from all parties. The Delegation of China encouraged WIPO to provide relevant information to the donors of voluntary contributions. The Delegation also supported the establishment of a time threshold in the travel policy, stating that choosing cheap airlines for long haul flights was more efficient, especially when there were a lot of transfers. For the sake of efficiency of work and travel, the Delegation suggested that it was better to choose direct flights. The Delegation believed that the implementation of the JIU's recommendations was conducive to the work of WIPO and its integration into the United Nations framework. The Delegation of China hoped that WIPO would continue to implement relevant recommendations. The Delegation also supported that the Secretariat continued to offer assessments and reviews of the outstanding recommendations, and noted that in the assessment it should take into consideration the specificity and professionalism of the Organization.

143. The Delegation of Mexico took note of the Secretariat's report and wished to echo and to support the proposals by delegations with regards to the travel policy of the Organization. The Delegation said that the JIU had recommended doing away with first-class air travel system-wide for all staff at the level of the United Nations System. This was a measure that had already been implemented by various agencies. The Delegation of Mexico invited the Secretariat to consider such a practice.

144. The Delegation of the United States of America appreciated this most recent status report regarding WIPO's implementation of JIU recommendations dating back to 2010. The Delegation was pleased to see that WIPO had made strong efforts to address the recommendations and to implement those that were relevant to the Organization. The Delegation noted that the JIU's recommendation on the travel policies in United Nations organizations stated that: "The Legislative Bodies of all United Nations System organizations, if they have not already done so, should abolish first-class travel for all categories of staff and non-staff by January 2019 and permit its use only when business class is not available." The Delegation understood that the Secretariat may have been seeking clarification on whether the intention of the recommendation should also include heads of organizations; therefore, in the meantime, the Delegation proposed removing "and recommendation 2" from the fourth bullet in paragraph 10 of the proposed decision.

145. The Delegation of Brazil joined other delegations in expressing appreciation for the work of the Secretariat in the implementation of the JIU recommendations. Regarding the recommendation from the JIU Report JIU/REP/2014/2, "Review of Management and Administration in WIPO", the Delegation noticed that its status had changed to "implemented" in lieu of "in progress" which was previously there. This recommendation from the JIU pointed that WIPO review its governance framework as well as current practice with a view to strengthening the capacity of the Governing Bodies to guide and monitor the work of the Organization. The Delegation of Brazil specified that the assessment of the recommendation referred to discussions on the constitutional reform process which were held the previous year when the Member States had also agreed that the Secretariat would reinforce outreach efforts to Member States. The Delegation of Brazil noted that the constitutional reform process had not been concluded and that it was still waiting for it to enter into force. Consequently, the Delegation said that it was not really sure that it could agree to consider this recommendation as "implemented", as it was still waiting to be implemented. The Delegation also noted that the JIU's report mentioned not only the constitutional reform

process but also the need for Member States to reach an agreement to put in place an effective system for reporting, monitoring, and evaluating the implementation of the Development Agenda recommendations, and this issue had not been mentioned upon in the Secretariat's report. The Delegation requested additional information in respect of this matter.

146. The Chair invited the Secretariat to respond to some specific questions from the Member States and promised to come back to the United States of America's proposal regarding the first-class travel recommendation which was also raised by other delegations.

147. The Secretariat thanked the Chair and addressed two questions on the travel recommendation. One was the recommendation with regard to first-class travel and the other one was on the issue related to the lump sum payments which dated back a number of years. The Secretariat indicated that it had made previous interventions on this issue, pointing out that, over the years, travel had been one of the most audited areas, six or seven reviews had been done on this subject by various oversight bodies. The Secretariat insisted that it was important to look at the recommendations to assess whether or not they made sense, if they were appropriate or practical, and whether they actually were relevant to the Organization. The Secretariat confirmed that WIPO had been looking at travel holistically in order to ensure that the Organization achieved the best possible cost efficiencies. In this endeavor, the Secretariat pointed out that the Member States had probably noticed that in the previous Program Performance Report (PPR), now called the WIPO Performance Report (WPR), the Organization had reported on efficiencies that were achieved in this area both in terms of the use of the Online Booking Tool (OBT), and the renegotiation of the transaction fees with the travel agency (Carlson Wagonlit). The Secretariat indicated that it had managed to save about two million Swiss francs. In addition, it specified that many of the recommendations mentioned in various oversight and JIU recommendations pertaining to travel had been implemented well in advance of many of WIPO's sister agencies. The Secretariat, as previously indicated, had informed the Member States that WIPO was not looking at travel on a piecemeal basis, but was rather exploring what could make sense within its business environment and what could work best in its cost-efficiency model. The Secretariat noted that if Member States were seeking savings, these two recommendations were quite insignificant in this respect. Regarding first-class travel, the Secretariat confirmed that the recommendation had already been applied to all staff, with the sole exception of the Chief Executive. The Secretariat noted that the report of the JIU was ambiguous as to whether it referred to or did not refer to the Chief Executive. The Secretariat indicated that it had conferred with at least eight other United Nations entities, and that many of them still retained first-class travel for their respective Executive Heads. The Secretariat reported that the JIU report excluded the Secretary General of the United Nations himself, meaning that the SG travelled first-class. The Secretariat confirmed that other organizations also made a difference for their Executive Head as WIPO did, for a number of reasons. The first one was that the Director General of WIPO had a grueling schedule when it came to travel. The Secretariat indicated that the Organization had a duty of care *vis-à-vis* its Executive Head, who sometimes had to visit a number of countries in a very short period of time, had to come back to WIPO premises to carry on with his normal duties, and then had to go back out again on other missions. For example, the Director General was in a Member State country recently, and had to start working three hours after his plane landed, after a 10-12 hour long flight, intervening at a high-level meeting. The Secretariat also pointed out that the Director General of WIPO, unlike many of the other sisters' agencies, did not travel with an *entourage*. As a result, the Organization had a duty to ensure that he had the necessary support as and where he arrived and as and when he left from one destination to the other. The Secretariat further pointed out that first-class travel was fast disappearing, as there were destinations which no longer offered this class of travel, as a result of which the Chief Executive Head would take business class travel in any case. It also explained that the fact that the Director General travelled first class in these instances did not represent a significant cost when looking at the overall cost of travel in the Organization; 70 to 80 per cent of

WIPO's travel cost was in respect of third-party travelers, around 20 to 30 per cent was for staff travel, and out of that, maybe one to two per cent pertained to the Director General's travel cost. Regarding the question on 15 per cent 40 per cent per diem, contained in Recommendation 3 of the JIU/REP/2012/9 "Lump sum payments in lieu of entitlements", the main idea, in order to simplify the process, was to pay a one-off amount rather than think in terms of transactions which had to be dealt with separately. The meaning of the lump sum was to avoid travelers coming back, especially at the senior level, with claims for itemized bills for reimbursement, which would actually go against cost efficiencies. Indeed, the processing cost of these transactions would be more expensive than the money staff members would have spent if they had received a lump sum. The Secretariat further explained that the JIU report actually put forward the recommendation purely on equitable terms. The JIU talked about equity, a spirit of equality, and a basis of fairness, this was the reason for removing the distinction in place, so that the staff who did benefit from the same conditions of travel at the lower levels would not feel penalized. The Secretariat pointed out the fact that DSA of 15 per cent and 40 per cent more than the standard rate still actually existed in the United Nations, it was applied to non-staff. Furthermore, the non-staff included United Nations officials who had been given such a status by the General Assembly or the Security Council, for instance the Chair or Vice-Chair of the International Civil Service Commission, the Chair of the Advisory Committee on Administrative and Budgetary Questions (ACABQ), and the Inspectors of the JIU themselves. The Secretariat reaffirmed that in light of the foregoing, implementing this recommendation would not be in its best business interests. The Secretariat moved on to the question posed by the Delegation of Brazil, concerning Recommendation 1 of the JIU Report JIU/REP/2014/2 "Review of Management and Administration in the World Intellectual Property Organization". The Secretariat explained that the proposal to change the implementation status from "in progress" to "implemented" was stated in the recommendation itself: "The WIPO General Assembly should review the WIPO governance framework as well as current practices with a view to strengthen the capacity of the 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." The Secretariat believed that the General Assembly had, in fact, reviewed, as recommended, the WIPO Governance Framework as well as the current practices with a view to strengthening the capacity of the Governing Bodies. As the Secretariat understood it, this review had been the subject of many deliberations and discussions in this Committee with some mixed results. But one outcome of these discussions was the instruction on the part of WIPO to provide a report on the status of the implementation of the Constitutional Reform process, on its completion, which had been done the previous year, and which was being repeated that year, further to an additional instruction that had been received from the PBC the previous year. The Secretariat stipulated that, looking at what had been done, WIPO had provided this update on the status of the Constitutional Reform process, this would be explained later during the Committee meeting. WIPO had also encouraged Member States to complete their notifications of acceptance of the amendments presented in the Constitutional Reform proposals. Accordingly, in that respect, WIPO had interpreted the recommendation to have been implemented. This was, of course, the limit of what the Secretariat could do. The Secretariat emphasized that it was ultimately up to the Member States, and in particular those Member States that had not yet notified their acceptance of the amendments, that would have ultimately completed the entire Constitutional Reform process, which, as WIPO would elaborate on later, appeared to be still some time away. In view of that, and in view of the action that had already been taken, the Secretariat considered it reasonable to change the status and the assessment of this particular recommendation from "in progress" to "implemented".

148. The Chair thanked the Secretariat for those informative statements and comprehensive explanations and opened the floor again for discussions.

149. The Delegation of the United States of America indicated that it wished to keep its proposal in terms of removing “and 2” from the decision paragraph because the Delegation was seeking clarifications from the JIU itself on how that recommendation should be applied. The Delegation thanked the Secretariat for the explanations but noted that there was still some confusion over what the recommendation was, and how and where it should be applied. The Delegation believed that, for example, the senior officials of the International Labor Organization (ILO), the International Telecommunication Union (ITU), and the World Health Organization (WHO), as well as the Food and Agriculture Organization of the United Nations (FAO), were not travelling first-class, so they may have interpreted the recommendation differently or they may have had that policy in place before the recommendation was proposed by the JIU. The Delegation was seeking clarification from the JIU itself, and still wished to maintain its proposal.

150. The Chair opened the floor to other delegations and asked the Delegation of the United States of America to confirm again that the proposal on the decision paragraph to the 4th bullet point was to remove “and 2”, from the JIU Report JIU/REP/2017/3, as recommendation 2 was the one dealing with first-class travel for agency officials.

151. The Delegation of Brazil thanked the Secretariat for providing an explanation. The Delegation didn't wish to put the burden on the Secretariat, as it was Member States' responsibility to complete the ratification process and to inform WIPO so that it entered into force. The Delegation wished to continue its consultations and suggested to the Chair to leave this item open and to continue later on as there were other issues regarding WIPO's governance framework. For instance, the Delegation indicated that the day's agenda included the review of the Terms of Reference of the IAOC, which formed part of the governance framework of WIPO.

152. Regarding the first-class travel issue, the Chair asked delegations about their satisfaction with the proposal made by the Delegation of the United States of America to remove “and 2” from the decision paragraph relating to recommendations from JIU/REP/2017/3. The Chair then enquired if it was acceptable to the Delegation of Brazil and to the other Member States to delete the welcoming and endorsement of Recommendation 1 of JIU Report JIU/2014/2, which related to the constitutional amendments. Finally, the Chair suggested to agree the rest of the decision in accordance with both delegations' proposals, i.e. to keep item 8 open and to come back to that particular point later during the week, as proposed by the Delegation of Brazil, if that was acceptable for all delegations. The Chair indicated that in case of an agreement, the decision could be gavelled for that particular Recommendation as being welcomed and endorsed as well if this proposal would meet the Member States' satisfaction. The Chair offered to gavel the overall *chapeau* and the bullets where the Delegations had agreed on and to carry on having discussions on those particular recommendations where there were differences of views. The Chair opened the floor for any comments the delegations may have on the proposals and read the revised paragraph of decision as follows:

153. "The Program and Budget Committee (PBC):

- (i) took note of the present report (document WO/PBC/28/6);
 - (ii) welcomed and endorsed the Secretariat's assessment of the status of the implementation of recommendations under:
 - JIU/REP/2017/9 (Recommendations 3 and 6);
 - JIU/REP/2017/7 (Recommendation 7);
 - JIU/REP/2017/6 (Recommendation 6);
 - JIU/REP/2017/3 (Recommendation 1);
 - JIU/REP/2016/7 (Recommendation 8);
 - JIU/REP/2014/9 (Recommendation 3);
 - JIU/REP/2012/9 (Recommendation 3)
- as set out in the present report; and
- (iii) called on the Secretariat to propose assessments for the open recommendations made by the Joint Inspection Unit (JIU) for Member States' consideration."

154. As there was no opposition, the Chair gavelled the above decision. The Chair then suggested to the Secretariat and to the Delegation of Brazil and other interested delegations to take the time to informally further discuss the status of Recommendation 1 of the JIU Report JIU/REP/2014/2, as well as the status of Recommendation 2 of the JIU Report JIU/REP/2017/3 on first-class travel.

155. The following day, the Chair revisited the matter of these two recommendations. He noted that the PBC was not obliged to say anything, but recalled that the Committee had not endorsed the Secretariat's action on those. The Chair recalled that these two JIU recommendations related to first class travel and governance reform, where the PBC had not taken a decision the previous day. He further recalled that he had gavelled all the points where Member States accepted the Secretariat's proposals. The Chair then opened the floor to see whether there were any further developments or comments that delegates wished to make specifically on those two recommendations that were not closed the previous day.

156. The Delegation of El Salvador, speaking in its national capacity, referred to the fourth bullet of the proposed decision, contained in document WO/PBC/28/6, paragraph 10 (ii). The Delegation thanked the Secretariat for the explanations provided with regard to this point and for the transparency given to this topic. Based on the Secretariat's explanations, and specifically the low incidence of that type of journey, the low financial impact among other considerations, and with regard to the efficiency and conditions of travel, the Delegation wished to place on the record that it preferred the wording proposed by the Secretariat. The Delegation further noted that, with regard to this recommendation, the situation had been looked at on a case by case basis, taking into account the interests of Member States as well as the interests of the Organization. The Delegation would continue looking at this and the future discussions which were foreseen on this topic.

157. The Delegation of Belarus considered that the current system had shown its effectiveness, and it therefore supported the continuation of the current system.

158. The Delegation of Brazil stated that it had some issues with the proposed closure of Recommendation 1 on governance under JIU/REP/2014/2, which is why it had requested to keep it open.

159. The Delegation of Morocco, speaking in its national capacity, believed that keeping Recommendation 2 of JIU/REP/2017/3 in the decision was very important, and in view of the

explanations that had been submitted by the Secretariat, the Delegation wished to maintain the proposed decision as submitted by the Secretariat.

160. The Delegation of Tunisia took the opportunity to congratulate the Chair on his chairing of the work of the Committee and the way that the Chair had led the debates on the items. Regarding the current agenda item, the Delegation considered that the explanations and clarifications provided by the Secretariat ensured that the Organization had the most optimal and efficient use of travel for the missions undertaken by the Director General. The Delegation emphasized its belief that WIPO's management of financial resources was excellent in general. Therefore, the Delegation wished to maintain the current system.

161. The Delegation of China noted that it agreed to continue to maintain the existing WIPO policy on travel.

162. The Delegation of Iran commended the Secretariat for the clarification provided. It indicated that it was the preference of the Delegation to accede to the recommendations which are in accordance with the existing practice and procedure. It noted that this existing procedure proved to be sufficient and the recommendation was in line with it. The Delegation supported the recommendation as proposed by the Secretariat.

163. The Delegation of Indonesia, speaking in its national capacity, thanked the Secretariat for its explanation on the existing WIPO policy on travel, and indicated that it was satisfied with the explanation, and considered that it had been shown that the existing policy ensured the most efficient and effective system with regard to travel. The Delegation therefore wished to maintain the existing policy with regard to travel.

164. The Delegation of the United States of America indicated that it was somewhat confused because it had thought that this matter had been decided the previous day, that "and 2" would be taken out of the decision. The concern raised by the Delegation of Brazil on constitutional reform was what remained open and under discussion. As the Delegation had mentioned in its comments the previous day, it appreciated the clarification from the Secretariat. However, the Delegation still wished to receive the clarification from the JIU, as the Recommendation in question affected not only WIPO but also the rest of the UN system. The Delegation wished to ensure that in terms of implementing this recommendation, WIPO would be on the same footing as everyone else.

165. The Chair clarified that he had gavelled what he could the previous day, and if delegations were in a position at that point to agree to endorse the other recommendations then that was fine. He noted that several delegations referred to changes in the travel policy. However, as the Chair understood it, this was not about changing the travel policy, but about whether or not the PBC endorsed the Secretariat's implementation of the recommendation. He further noted that it would be fair to say that the travel policy would remain as it was for now, as the decision did not imply an immediate change to the travel policy. What it implied was that the PBC by consensus could not agree to endorse the Secretariat's continued use of first class for some officials and so therefore, unless all delegations could agree, the decision would remain silent on that point. The Chair indicated that it was well noted in the minutes that several delegations noted that they agreed with the Secretariat's explanation. To make himself clear, the Chair indicated that the current WIPO practice was that no staff member, with the exception of the Director General, travelled first class and that would remain unchanged. The decision or non-decision on that point did not change that. The matter at hand was about whether or not delegations agreed with the Secretariat's response to the JIU report. The Chair considered that the Committee could advance this matter over the following day or so, but from what he had heard from at least one delegation, he felt they were not in a position to endorse the Secretariat's current approach. Accordingly the Chair noted that, for the time being, the Committee could not take that decision. The Chair indicated that he was happy for consultations to continue and discussions to continue as

appropriate. The Chair thanked the Delegation of Brazil for the proposal on the decision related to the governance recommendation, noting that an update would be expected the following day.

166. The Delegation of the United States of America noted that the Chair had clarified what it had been about to say, but it had just wanted to point out that the decision was that the Committee was endorsing and welcoming the assessment of the status of the recommendation.

167. The Chair confirmed that this was his understanding and that it was not about a decision on the travel policy itself.

168. The following day, the Chair reverted to agenda Item 8, and recalled that a decision had been already taken and that the Committee had endorsed a number of actions taken under those recommendations. There were two recommendations that the Committee had not yet decided on. The Chair opened the floor to Delegations to share any developments on this item.

169. The Delegation of Switzerland, speaking on behalf of Group B, informed that it was working on a potential revised decision paragraph, which concerned Recommendation 1 of JIU Report JIU/REP/2014/2, and indicated that it was in contact with the Delegation of Brazil. The Delegation of Switzerland was confident that there would be a satisfactory proposal for everyone on this matter.

170. The Delegation of Brazil concurred with the Delegation of Switzerland and indicated that they were in the process of discussing a decision to address everyone's concern and hoped to reach consensus. The Delegation hoped to report back as soon as possible.

171. The Chair was deeply grateful to those two delegations and indeed to colleagues and others in the room for their active engagement on this topic and thanked all delegations for their efforts in moving forward. It was suggested that a proposal which would meet with the agreement of interested parties should be circulated in the room to be reviewed by the Regional Group Coordinators, as well as all other PBC members. The Chair thanked the Delegations of Switzerland and of Brazil for working on the issue overnight.

172. The next day, following discussions by delegations, the Chair understood that the Committee was then in a position to endorse the Secretariat's assessment of one additional JIU recommendation, namely Recommendation 1 under JIU/REP/2014/2, which referred to the review of WIPO's governance framework.

173. The Delegation of Brazil indicated that consultations with interested delegations were organized on the matter referred to earlier on, and that they were in the position of agreeing on that assessment provided, which included some additional language in the decision paragraph.

174. The Chair read out the proposed decision, as follows: "Without prejudice to Member States' future proposals regarding the review of the WIPO Governance Framework, endorsed the Secretariat's assessment of the status of the implementation of Recommendation 1 under JIU/REP/2014/2." The Chair hoped that the above decision captured the concerns that had been expressed.

175. The Delegation of Brazil appreciated the Chair's efforts and the proposal that the Chair had just read out. The Delegation confirmed that they were in a position to agree on the proposal, considering the caveat that this was without prejudicing future discussions on WIPO governance that might occur during the PBC.

176. The Chair thanked the Delegation of Brazil for its engagement and flexibility.

177. The Delegation of Switzerland thanked the Chair and the Delegation of Brazil for the discussions and added one point on the decision that had just been read out. The Delegation indicated that there was a slight difference with the version which had been proposed by Group B. The Delegation of Switzerland needed to come back to Group B to consult them because the wording being proposed was slightly different.

178. The Chair agreed to give more time to the Delegation of Switzerland, and invited the Secretariat to provide clarifications or comments as to what the Secretariat had proposed, which was a slight change to the wording as proposed by delegations.

179. The Secretariat confirmed that the version that had just been read out by the Chair referred specifically to the "review of" the WIPO Governance Framework and that those were the proposed additional words, in order to keep the text consistent with the text of the actual recommendation. The Secretariat felt that the proposed decision paragraph covered or captured the intent of the original recommendation from the JIU.

180. The Delegation of El Salvador, speaking on behalf of GRULAC, wished to indicate that it supported the inclusions made by the Delegation of Brazil and was in agreement with the proposal as taken up by the Secretariat.

181. The Delegation of Lithuania, speaking on behalf of the CEBS group, said that some of the CEBS Group members expressed their position and might have an issue on governance matters, as this had been already debated in the past and delegates would not like to have it discussed further. But the Delegation would not oppose bringing the discussion forward if any neutral proposals were made.

182. The Chair thanked the delegations for their flexibility, and suggested distributing the related decision in paper copy that could be read out that afternoon, recognizing that one Group needed more time to take a final decision. The Chair would come back to this item that afternoon, and requested that any further comments by delegations should be forwarded to the Secretariat.

183. That afternoon, the Chair reverted to Agenda Item 8, which was the Progress Report on the Implementation of the JIU's recommendations. The decision paragraph had already been read out to delegations. The Chair understood that there was a consensus on the paragraph which he therefore didn't read again. It had been distributed to the delegations in hard copy.

184. The Chair then read out the agreed decision as follows:

"(iii) without prejudice to Member States' future proposals regarding the review of the WIPO governance framework, endorsed the Secretariat's assessment of the status of the implementation of recommendation 1 under JIU/REP/2014/2; and"

185. The Chair subsequently noted that the final and full decision paragraph read as follows:

186. The Program and Budget Committee (PBC):

- (i) took note of the present report (document WO/PBC/28/6);
- (ii) welcomed and endorsed the Secretariat's assessment of the status of the implementation of recommendations under:
 - JIU/REP/2017/9 (Recommendations 3 and 6);
 - JIU/REP/2017/7 (Recommendation 7);
 - JIU/REP/2017/6 (Recommendation 6);
 - JIU/REP/2017/3 (Recommendation 1);
 - JIU/REP/2016/7 (Recommendation 8);
 - JIU/REP/2014/9 (Recommendation 3);
 - JIU/REP/2012/9 (Recommendation 3)as set out in the present report;
- (iii) without prejudice to Member States' future proposals regarding the review of the WIPO governance framework, endorsed the Secretariat's assessment of the status of the implementation of recommendation 1 under JIU/REP/2014/2; and
- (iv) called on the Secretariat to propose assessments for the open recommendations made by the Joint Inspection Unit (JIU) for Member States' consideration."

ITEM 9 WIPO PERFORMANCE REPORT 2016/17

187. Discussions were based on document WO/PBC/28/7.

The Chair explained that the WIPO Performance Report (WPR) for 2016/17 was a self-assessment report of program delivery and the achievement of organizational results for the 2016/17 biennium.

188. The Secretariat explained that the WIPO Performance Report for 2016/17 was a new streamlined report that consolidated the former Financial Management Report (FMR) and the Program Performance Report (PPR). Previously, there had been two separate reports, which had been combined and consolidated providing a comprehensive and transparent assessment of both the financial and programmatic performance of the Organization for the 2016/17 biennium. The WPR had been prepared in accordance with Regulations 2.14 and 2.14 *bis* of the Financial Regulations and Rules (FFRs) approved by the Assemblies in October 2017. The consolidated report eliminated the duplication of information produced in the FMR, the PPR and the Annual Financial Report and Financial Statements, while it ensured no loss of information, thus resulting in improved efficiencies and productivity benefits not only for the Secretariat but also for those who received and read the report. The WPR was still very big and the Secretariat assured that it would continue to make all useful efforts to further streamline it for readability and to improve the presentations. The WPR 2016/17 was an end biennium report which assessed the progress made towards or the achievement of the expected results as measured by the performance indicators and with the resources approved in the Program and Budget 2016/17. As such, the WPR gave a very comprehensive overview of the substantive and financial performance of the Organization. Based on the assessment of the performance data for 2016/17 for each of the program performance indicator evaluations, the Secretariat was happy to share that more than 74 per cent had been fully achieved, six per cent had been partially achieved, 14 per cent had not been achieved and four per cent were not assessable. The Secretariat noted that there were well-justified and documented reasons that would explain the not assessable percentage. Finally, there were 9 performance indicators that had been discontinued which amounted to 2 per cent. In addition, the Secretariat explained that the Internal Oversight

Division (IOD) Validation Report on WIPO Performance Report 2016/17, provided support in ensuring the reliability and authenticity of the WPR for 2016/17. For several biennia WIPO had adopted the best practice of having an independent check and validation of the performance data that was presented to Member States through the WPR, which was a Secretariat management self-accountability tool for Member States to review the performance during a biennium.

189. The Chair opened the floor for questions and comments on the Secretariat's presentation.

190. The Delegation of China thanked the Secretariat for the detailed WIPO Performance Report for 2016/17. The report helped Member States to understand WIPO's work during the past two years and was very useful. The Delegation observed that the Organization had achieved progress during the past two years in realizing the 9 Strategic Goals. As 80 per cent of the performance goals had been completed, this achievement was a great progress. The Delegation also noted that some of the indicators had not been achieved or partially achieved. The Delegation requested the Secretariat to identify the reasons for it and to take effective measures so as to push forward those goals.

191. The Delegation of Lithuania, speaking on behalf of the CEBS Group, expressed its gratitude to the Secretariat for having prepared the WIPO Performance Report for the period 2016/17, document WO/PBC/28/7. The Group noted with satisfaction that the new reporting format avoided duplication in the information provided and was easier to read. The Group was also pleased by the more positive than expected results for the biennium 2016/17 with a surplus of 55.9 million Swiss francs. The Group noted that 74 per cent of the 506 performance indicator evaluations had been fully achieved and congratulated the Secretariat and the whole Organization for this result. The Group welcomed the Secretariat's efforts to implement cost-efficiency measures that contributed to achieving this positive performance. It noted that Member States were fully aware that some indicators were directly influenced by the norm setting activities which fell under the responsibility of the Members States. The Group welcomed the fact that this biennium had represented record years for WIPO's international registration systems which experienced considerable growth for the seventh and eighth consecutive years. Although the growth of Hague applications by 53 per cent was particularly impressive, the PCT system remained however the largest registration system and generated the largest part of financial income for WIPO. The CEBS Group welcomed the fact that almost all performance indicators of the expected results under Program 10 "Transition and Developed Countries" had been fully achieved. The Group praised the excellent work of the Secretariat and also mentioned their satisfaction with the performance of the "WIPO Academy" under Program 11, and "Building Respect for IP" under Program 17, as these programs were of particular interest to Members of the Group. To conclude, the CEBS Group was pleased with the positive results of WIPO's performance during the biennium 2016/17 and congratulated the Secretariat on this achievement.

192. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Secretariat for preparing the comprehensive WIPO Performance Report for 2016/17. The Group highlighted that the new reporting format was very useful. The combination of financial and programmatic performance, together with the alignment of the presentation to the Organization's Program and Budget, allowed Member States to obtain a comprehensive overview while avoiding duplication in the information provided. The streamlined report was therefore a welcome savings and efficiency measure with regards to the use of the Secretariat's resources and the Group encouraged continuing such efforts in the future. Concerning financial performance, Group B welcomed the very positive financial result for the 2016/17 biennium. Indeed, 55.9 million Swiss francs exceeded by 269 per cent the 15.1 million Swiss francs foreseen in the Program and Budget 2016/17. This was a highly positive result for which the Delegation congratulated the Secretariat and the Organization as a whole. The result was largely attributable to the income which had exceeded the expected

levels. This confirmed once again the important nature of WIPO's registration systems, and, in particular, the PCT system, which constituted the financial backbone of the Organization. Group B welcomed the Secretariat's efforts in relation to the Strategic Goals on global IP services and its endeavors in implementing cost-efficiency measures which had played their part in achieving the positive performance. In this context, Group B wished to recall that the main driver for WIPO's revenue was the worldwide demand for IP titles through WIPO's services which in turn depended on the global economy and the quality and timeliness of these services. This implied that continued prudence, caution, and effectiveness in management were the key for continued positive performance in the coming biennia. With respect to programmatic performance, Group B acknowledged that 377 of the 506 performance indicators had been assessed as fully achieved, while 28 had been partially achieved, and 71 not achieved. The 74 per cent of fully achieved performance indicators generally represented a good performance. Group B welcomed the performance under Strategic Goal II, provision of premier global IP services, which was in line with the good results of the Organization overall, and the above average performance under Strategic Goal IV, coordination and development of global IP infrastructure. To further improve performance, Group B encouraged the Secretariat to take, where necessary, measures to meet customer expectations in terms of service quality and timeliness and to ensure the smooth operation of IT systems. Group B was pleased to observe that the activities under these two goals, which were closely connected to the mandate of the Organization, were generally achieving their expected results and performing well. Group B acknowledged that the relatively important percentage of performance indicators that were partially achieved or sometimes not achieved was for Strategic Goal VII, addressing IP in relation to global policy issues. In this context, Group B highlighted that whether or not stakeholders joined WIPO's initiatives, in the end, it was their decision. The Secretariat had, however, taken actions that laid promising grounds for the future of both WIPO Re:Search as well as WIPO GREEN. Regarding the latter, Group B particularly welcomed the achievement of concluding the first two deals during the period under review. The Group further stated that it was conscious that norm-setting required time and was largely dependent on Member States' decisions. The same was true for ratifications of treaties for which it was difficult to accurately predict how long accessions would take and whether they would be achieved. Group B wished to congratulate WIPO for its excellent performance under Strategic Goal VI, Building Respect for IP, where all expected results had been fully achieved. To conclude, Group B acknowledged the positive financial and programmatic performance of WIPO in the biennium 2016/17 and encouraged the Secretariat to continue on this path.

193. The Delegation of the Russian Federation was grateful to the Secretariat for the exhaustive report in the new format. The Delegation was pleased to note the outcomes of the productive work of WIPO over the last biennium and as could be seen in the surplus of a significant number of millions of Swiss francs generated by the Hague and Madrid Systems, the PCT, as well as the WIPO Arbitration and Mediation. The Delegation stated that the Secretariat should undertake further work to increase the performance of its various programs, and shared the position of a number of other delegations to the effect that 74 per cent of the performance indicators had been reached. The Delegation appreciated this result but believed that further work could be done. The Delegation also believed that personnel costs could be cut. In 2016/17, the increase had amounted to 1.8 per cent as compared to the previous biennium with staff costs accounting for 63 per cent of the total overall expenditure. The Delegation welcomed the Secretariat's efforts in increasing the effectiveness of expenditure and the achievements in terms of cost savings that stood at over 34 million Swiss francs, including through optimization of procurement. The Delegation agreed with the proposal to recommend to the WIPO Assembly to take into account the results for the 2016/17 biennium as proposed.

194. The Delegation of the Republic of Korea expressed its gratitude to the Secretariat for preparing the Program Performance Report for the 2016/17 biennium. The Delegation was pleased by the key achievements in the program related to development of a balanced

international normative framework for IP, global IP services, global IP infrastructure, and efficient administrative and financial support structure. In particular, the Delegation took note of the achievement in global IP infrastructure with the launch in 2016 of a new cutting-edge artificial intelligence (AI)-based neural machine translation tool for translating patent documents. The Delegation expected that these tools and services would provide IP users with high-quality translation services and easy access to information on patents and new technologies.

195. The Delegation of Brazil thanked the Secretariat for the preparation of the WPR. The Delegation recognized that, from the perspective of a delegate who had to read a 300 page document, it was indeed much more user-friendly, which facilitated its review. The period of the report had seen the entry into force of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled (Marrakesh VIP Treaty), a major achievement of the Organization and its Member States. The Delegation recognized the continuing positive performance of the registration systems administered by WIPO and their contribution to ensuring a sustainable level of income for the Organization. Furthermore, the Delegation commended the high level of attainment of performance indicator targets which showed the continuous efforts undertaken by WIPO staff. Of course, 74 per cent was a number that could be improved, but still the Delegation was pleased with the high level of achievement. On the other hand, the report continued to present SDG's as restricted mostly to SDG 9. This was a continuation of the concerning trend of the selective nature of the choice of SDGs which was against the spirit of the 2030 Agenda. It was unclear to the Delegation, based on the information available in the report, how WIPO had mainstreamed the SDGs across the Strategic Goals. More information would have been necessary as to how each Program was implementing specific SDGs and their targets. This would have provided more information to Member States to evaluate WIPO's implementation of the SDGs and the assistance provided by the Organization to them. This was, of course, an issue also discussed in the Committee on Development and Intellectual Property (CDIP) and the Delegation did not intend to duplicate the work, but the WPR had the specific information on budget expenditure, which was also important information. Finally, the Delegation observed lower development expenditure as compared to the approved budget. The Delegation then requested the Secretariat to clarify whether the achievement of the biennial targets with lower than budgeted expenditure had been possible because of increased efficiency or was it due to other factors, such as a lack of projects to implement. The Delegation in this context mentioned that the overall budget utilization rate was 98 per cent (page 28), but the Development Agenda projects were far below that mark. The Delegation then requested further clarifications with regard to specific aspects of certain programs. Regarding Program 4, which related to the Intergovernmental Committee (IGC), (page 44) listed the risks of a loss of relevance of normative activities on Genetic Resources (GRs), Traditional Knowledge (TK), and Traditional Cultural Expressions/Folklore (TCEs) at WIPO. While in the last biennium this risk remained at a low to medium level, it was possible that it had increased in the current biennium, taking into account the disappointing results of the discussions on GRs that happened at the 36th Session of the IGC back in June. Regarding Program 8, Development Agenda Coordination, the Delegation noted the decrease of 7.1 per cent in the expenditure of the Program in comparison with the approved budget, and requested an explanation of the reasons behind it. The Delegation was also interested in better understanding the discontinuation of the development of a system to ensure that all technical assistance activities were in compliance with the Development Agenda principles. This information was provided on page 75. Regarding Program 9, the Delegation noted the 24 per cent increase in National IP Strategies adopted by developing countries with the assistance of WIPO. The Delegation was thankful to WIPO for this result, as the adoption of those strategies had the potential of unlocking the benefits of IP in those countries in terms of the production of new products and services and obtaining technology transfers. Regarding Program 20 on External Offices, the Delegation thanked the work undertaken by the WIPO Brazil Office in its support to the Delegation of Brazil in its accession process to the Madrid Protocol. The

accession was under analysis in the Brazilian Congress. Among other activities, the Office in Rio de Janeiro was assisting the Delegation of Brazil's Patents and Trademark Office in its technical preparation, for instance IT systems, and the Delegation was looking forward to continued cooperation with WIPO on the matter. To conclude, the Delegation of Brazil noted that the presented document was a self-assessment by the Secretariat fulfilling a clear function. In light of that, the Delegation requested an amendment to the decision paragraph to follow the practice from the past session of the PBC. The delegation wished to add the following sentence to the decision paragraph: "[...] recognizing its nature as a self-assessment of the Secretariat, recommended that the assemblies of WIPO [...]".

196. The Chair thanked the Delegation of Brazil for its intervention and noted the requested amendment to the decision paragraph.

197. The Delegation of Australia commended WIPO on its strong performance in the 2016/17 biennium which had resulted in a surplus of 55.9 million Swiss francs. The presentation of this financial information in its new streamlined format provided a comprehensive and transparent assessment of WIPO's financial and program performance for the biennium. The Delegation thanked the Secretariat for its work on this document.

198. The Delegation of Japan commended the Secretariat for its hard work in preparing the WPR. According to the financial overview in the WPR for 2016/17, the surplus presented an increase of 42.7 million Swiss francs as compared to the Program and Budget 2016/17, which was mainly due to higher than budgeted fee-based income of 34.1 million Swiss francs and a lower than budgeted expenditure of 8.6 million Swiss francs. The surplus for the biennium amounted to 55.9 million Swiss francs. The Delegation of Japan welcomed the increase in fee-based income and acknowledged that the PCT system income accounted for a large part of the total increase in fee-based income. The Delegation appreciated WIPO's work to reduce expenses and looked for WIPO's continuous efforts in this regard. Regarding performance dashboards by Strategic Goal in 2016/17, of a total of 506 performance indicator evaluations in the Program and Budget 2016/17, 377 indicators, or 74 per cent, had been assessed as fully achieved. In addition, the WPR included, for the first time, biennial performance data for each of the nine Strategic Goals. The Delegation was pleased to see the hard effort made by the Secretariat to implement the Programs. In particular, the Delegation strongly supported WIPO's effort in Program 13 to develop global databases, such as PATENTSCOPE, WIPO CASE, the Global Brand Database, and Global Design Database and the establishment of a WIPO Advanced Technology Applications Center (WIPO ATAC) to undertake research and development in finding ways to use other types of technologies, such as Artificial Intelligence (AI). The Delegation stated that Program 9 "Africa, Asia and the Pacific, Latin America, the Arab Region and Least Developed Countries", Program 30 "SMEs and Entrepreneurship Support", Program 18 "IP and Global Challenges", and Program 25 "Information and Communication Technologies", were essential Programs implemented by WIPO. The Delegation looked forward to improvements of these Programs in the future. It would be necessary for the Secretariat to appropriately address the performance indicators that had been assessed as partially achieved or not achieved when implementing the Program and Budget for the current biennium by applying the lessons learned from the past. In addition, the Delegation suggested that the Secretariat should review whether the initial targets and performance indicators were appropriate, if necessary. The Delegation did not intend to micromanage the Secretariat's work, however, at the same time, the Delegation believed that one of the most important purposes of the report was to always continue to improve the Programs. Therefore, the Delegation hoped that meaningful measures had been adapted to mitigate the issues and that such measures had been appropriately reflected in the Program and Budget 2018/19.

199. The Secretariat thanked delegations for their statements in favor of the new WPR format. That had been the result of extensive effort, including an extensive dialogue with the IAOC who had also guided and welcomed this initiative. The Secretariat hoped to be

continuing to improve the reporting as it went forward. Some of the aspects of the report also included dedicated sections on risks as well as sections on looking forward, which were sections dedicated to learning lessons for those indicators which had been either partially or not achieved, after having first assessed the reasons why Program Managers across the Secretariat had been fully engaged in this process to identify what could be improved going forward. As regards the question from the Delegation of Brazil related to under expenditure, or a lower use of resources, while, at the same time, having implemented or achieved the results, the Secretariat noted that there were a number of factors that contributed to managing the program of work with a lower level of expenditure. First of all, the Program and Budget was a biennial budget which had been prepared very much in advance of the period it covered, in fact the Secretariat started the preparation almost three years in advance of the period, and therefore the Secretariat had to make a number of assumptions related to the estimation of costs. Sometimes those assumptions turned out to be conservative and when it came to implement or execute the plan, the Secretariat were better able to negotiate better rates, for example, for contractual arrangements or to get more cost-efficient resources. Therefore, there were a number of different reasons why WIPO could actually undertake the Program of Work and achieve results with lower level of resources. In some other cases, activities had not taken place, but those were, of course, reported to Member States in a transparent and manner. In each Program section of the report, Member States would see explanations of why there were more resources or less resource used for a particular result or activity. As regards to the specific question in Program 8 related to why the performance indicator had been assessed the way it had, the Secretariat clarified that the assessment was not a reflection of the extent to which technical assistance activities took into account the Development Agenda dimension. The Secretariat further explained that the specific target for this indicator was to develop a formal system for tracking how the work of the Organization took into account the Development Agenda recommendations, and that formal system had not yet been developed. That was what was reflected in the performance indicator assessment but it did not mean that the Development Agenda recommendations were not being taken into account in the work of WIPO. Concerning the specific question on overall budget utilization, the Secretariat explained that the budget utilization for Program 8 overall amounted to 93 per cent, which was considered being a fully normal budget utilization and there was no specific explanation of why that budget utilization was lower than 100 per cent other than the realization of some cost efficiencies, for example, for the organization of the CDIP sessions, travel costs, etc. The Secretariat explained it was usual that in some Programs the budget utilization would be lower than 100 per cent, and in other Programs above 100 per cent, as shown in the WPR. Regarding the question of mainstreaming SDGs, the Secretariat informed the Committee that the SDG Coordinator would provide more information, if required, but as a general remark, and as the Delegation of Brazil had also mentioned, discussions were ongoing in the CDIP, and, actually, the Secretariat had provided a very detailed mapping of all WIPO's work to the SDGs, both those to which the Secretariat considered to contribute directly and also to those which it considered to be contributing to indirectly. That detailed mapping actually had been done all the way down to the performance indicators in the WPR. The Secretariat pointed out, however, that the initial mapping to the SDGs had been done for the Program and Budget 2018/19 and that the WIPO Performance Report was looking back at work in 2016/17. The mapping did not exist at that time as it predated the approval of the SDGs. The SDG Coordinator was ready to provide additional clarification if required. The Secretariat then reverted to the question of whether the Secretariat had reduced the number of activities in Program 8. It clarified that the budget had been estimated two years ago or more and actual implementation had been based on the requests by Member States. That was one of the core principles of the Development Agenda. Therefore the simple answer to the questions was that the Secretariat had not received so many project proposals from Member States. Some projects had been proposed but WIPO had not been able to implement them. One such example was the Conference on IP, the event was discussed, but Members States didn't agree yet on implementation modalities. And there were many such examples which needed a strong commitment from Members States.

200. The following day, the Chair reopened the floor to delegations with regard to the Delegation of Brazil's proposed amendment to the decision paragraph.

201. The Delegation of Lithuania, speaking on behalf of the CEBS Group, felt comfortable with the previous version of the decision as well and did not see an added value to the suggestion from Brazil. The Group, however, didn't want to oppose the amendment if it comforted Brazil and other delegations.

202. The Delegation of El Salvador, speaking on behalf of GRULAC, supported the inclusion of the wording proposed by Brazil.

203. The Delegation of Italy congratulated the Chair for his appointment and stated that it had no objection to accepting the proposed amendment to the decision paragraph as it was the same wording as had been included by the PBC in 2016.

204. The Delegation of France requested the floor regarding a detail, which was unrelated to the discussion on the proposed decision paragraph, in the document in Annex IV. Note 2 of that Annex, which related to the Lisbon Union and Contribution Financed Unions, mentioned the deficit of the Lisbon Union in the 2016/17 biennium with an amount of 75,000 Swiss francs. The Delegation pointed out that the amount was not in line with the deficit of the Lisbon Union which appeared in the table just above. The Delegation requested the Secretariat to realign those numbers so that the deficit that appeared there corresponded to the deficit mentioned in the table.

205. The Secretariat clarified that the footnote in Annex IV made reference to 75,550 Swiss francs as being the deficit of the Lisbon Union in the biennium 2016/17. That corresponded to the deficit prior to the restatement of the financial results for 2016, following the adoption of IPSAS 39. After the restatement of the financial result for 2016, the total restated biennial deficit of the Lisbon Union amounted to 56,157 Swiss francs. The figures would be corrected accordingly in future relevant reporting.

206. The Chair then read the proposed decision paragraph for document WO/PBC28/7, the WIPO Performance Report:

207. The Program Budget Committee (PBC) having reviewed the "WIPO Performance Report WPR 2016/17" (document WO/PBC/28/7), and recognizing its nature as a self-assessment of the Secretariat, recommended that the Assemblies of WIPO note the positive financial and programmatic performance of the Organization in the biennium 2016/17.

208. The Chair then gavelled the decision and closed agenda item 9.

ITEM 10 INTERNAL OVERSIGHT DIVISION (IOD) VALIDATION REPORT OF THE WIPO PERFORMANCE REPORT 2016/17

209. Discussions were based on document WO/PBC/28/8.

210. The Chair opened agenda item 10 and invited the Secretariat to present the item.

211. The Secretariat, introduced the item explaining that WIPO assessed the performance of its Programs annually, based on an approved performance framework through a Program Performance Report (PPR). It was noted that the Program Performance Report (PPR) for that year had been restructured to include more comprehensive financial and performance information and had been renamed the "WIPO Performance Report" (WPR). As requested by the Member States, IOD had performed an independent validation of the WPR based on a random selection of one Performance Indicator (PI) per Program. It was noted that the validation exercise contributed towards further enhancing accountability for results within the

Organization and was the fifth independent validation of the WPR conducted by IOD. The Secretariat explained that the objectives of the validation were to provide an independent verification of the reliability and authenticity of performance information contained in the 2016/17 WPR; follow-up on the implementation status of recommendations of the previous validation report through documentary and other corroborative evidence; and to make recommendations, where applicable, to strengthen the performance framework. It was further explained that the scope and methodology consisted of assessing Performance Data (PD) for one randomly selected PI from each Program, as reported in the 2016/17 WPR. The Secretariat noted that a total of 31 Programs had been reviewed and that IOD had also assessed the accuracy of the Traffic Light System (TLS) used to report on the achievement of the target set for each Performance Indicator and conducted a survey of 121 Program Managers, alternates, and other staff responsible for reporting on program performance. The key positive outcomes of the validation exercise could be summarized as follows: 28 Programs (90 per cent) had collected and submitted relevant and valuable data, representing a slight improvement as compared with the 2014/15 biennium where 27 Programs had submitted relevant and useful information; 25 Programs (81 per cent) had collected and submitted accurate and verifiable data in comparison to 23 Programs in 2014/15; and 26 Programs (84 per cent) had efficiently collected data that was also easily accessible and reported in a timely manner, as compared to 21 Programs in 2014/2015. Finally, the number of Programs that had reported an accurate self-assessment of their TLS increased from 25 (81 per cent) in 2014/15 to 26 (84 per cent) in the 2016/17 biennium. The Secretariat then noted some key achievements relating to program performance management and the Results Based Management (RBM) framework during the 2016/17 biennium, which could be summarized as follows: the reporting format had been simplified and streamlined; efforts had continued to improve the alignment of resources with organizational Expected Results (ERs); and good progress had been made to further institutionalize the RBM framework at WIPO. In the continuous effort to streamline the RBM framework, it was noted that the number of ERs had been reduced from 60 in the 2012/13 biennium to 38 in the 2014/15 biennium and had remained stable at 39 ERs during the 2016/17 biennium. It was further noted that training opportunities for both the biennial and annual planning had included briefing sessions, hands-on user training in the Enterprise Performance Management (EPM) system, walk-in support clinics, and individual training sessions. The Secretariat explained that a customized workforce planning form had been integrated into the EPM biennial planning application in order to facilitate a more comprehensive and holistic approach to WIPO's overall planning and that the EPM module used to monitor and report on workplan activities had been linked to the risk management process in order to further integrate risk management into the RBM framework. A gender marker had also been introduced in the annual workplanning process as part of the continuous effort to integrate gender mainstreaming in the organizational RBM framework. The Secretariat noted that there was scope for further improvements in the following areas: seven Programs could further improve the clarity, transparency and sufficiency of performance data used to report on respective PIs; six Programs could further improve on the accuracy and verifiability of their data; and five Programs could improve efficiency in collecting data and take measures to enhance the existing reporting processes, adding that the formulation of some Programs' PIs could also be improved to effectively measure and report on these, thus impacting the accuracy of their TLS. The Secretariat informed the Committee that the results of the survey showed that a majority of respondents felt that RBM was done in a participatory and constructive manner, therefore making it useful, and that the framework was appropriate and relevant to WIPO's strategic goals, as well as useful for accountability to Member States. That year's survey had also included a question on impact indicators, to which 17 per cent of survey participants reported that around half of their PIs were impact-focused, thereby measuring the long-term effect produced by their program(s). It was noted, however, that around 54 per cent of survey participants reported that less than 20 per cent or none of their PIs measured impact. Sixty-nine per cent of the comments made in the survey highlighted opportunities to further enhance the RBM framework, including, amongst others, the need to continue to enhance and address the design and

quality of PIs, clarify the ownership of PIs, and address difficulties in measuring results in a relatively short cycle when implementing normative activities and in some capacity building activities.

212. In drawing some conclusions the Secretariat observed that, overall, the validation exercise had reaffirmed continuous improvements in the Organization's RBM framework, noting that more performance data had met the assessment criteria and the method used to record achievements had improved as compared to the prior validation exercise. The survey results highlighted the need to continue to provide technical guidance to Programs and, in particular, assistance in developing SMART indicators as well as appropriate tools to capture relevant data to report on indicators, which would help ensure that the RBM framework was valuable for monitoring progress, intended success and decision-making for Programs. The Secretariat stated that IOD's review had included identifying opportunities to further enhance indicators and/or tools and processes in place to capture relevant data to report on these indicators. It was noted that particular emphasis had been placed on indicators that partially or did not meet the validation criteria during the validation process, resulting in two recommendations. Recommendation 1: WIPO Programs 9, 10 and 30, should work with PPBD to assess their respective PIs with a view to: (i) identifying and addressing the root causes of difficulties in effectively measuring performance data for these indicators; and (ii) approaching other Programs with similar indicators to obtain advice and good practices with respect to the methods used to measure these indicators. Recommendation 2: the Economics and Statistics Division (Program 16) and the Communications Division (Program 19) should regularly review and validate the data on the number of visitors to Global Innovation Index websites so as to enhance the efficiency of the collection and transmission method, as well as the timeliness and clarity of the data reported at year-end. Staff members in the Economics and Statistics Division could be provided with the appropriate training in the use of analytics tools to enable autonomous compilation, analyses and reporting on the PIs.

213. Concerning the follow-up on past recommendations, the Secretariat noted that no recommendations from the validation of the 2014/15 report were still open to date, however, one recommendation from the validation of the 2012/13 report was still open, namely to "Develop a procedure to ensure that the staff handover process amongst Programs includes adequate briefing and status update on all the program performance measures to be owned or managed by the incumbents." It was further noted that measures were being taken to implement and close this recommendation by the end of that year. Having concluded his remarks, the Secretariat was pleased to answer any questions or receive any comments.

214. The Delegation of Switzerland, speaking on behalf of Group B, welcomed the validation report by the Internal Oversight Division. It was noted that such an independent validation of the WIPO Performance Report was good practice, which the Group appreciated and found very helpful. The validation report showed that WIPO's results-based management framework worked well and was owned and appreciated by Program Managers who, in their majority, found it appropriate and relevant. The Group welcomed the efforts of the Secretariat to continuously improve the quality of performance indicators and related data, noting that the validation report showed that these efforts had produced results. The Group further noted that 90 per cent of Programs had collected relevant performance data and 81 per cent had submitted accurate and verifiable data, which represented a slight increase as compared to the previous biennium. The Group recognized that significant progress had been achieved in terms of the efficient and timely collection of performance data and that the accuracy of Programs' self-assessments had improved. Group B acknowledged that, for some Programs, there was still room for improvements in terms of clarity, transparency, and efficiency on the one hand, and accuracy and verifiability of the performance data on the other hand, as well as looking at the efficient collection of such data and the related reporting procedures. It was observed that for the majority of Programs, progress still needed to be made in moving towards outcome-oriented indicators, which would contribute to strengthening the sustainability of WIPO's work and its impact in the long

run. The Group encouraged the Secretariat to further work on these aspects, including through providing Programs with the necessary technical assistance to continuously enhance their knowledge of the performance management system. Group B noted and welcomed that the system as a whole worked well. Finally, the Group took note, with satisfaction, that most recommendations from previous validations had been fully implemented, and it encouraged the Secretariat to continue work on implementing the only remaining outstanding recommendation by the end of that year.

215. The delegation of Lithuania, speaking on behalf of the CEBS Group, thanked the Internal Oversight Division for providing the Validation Report of the WIPO Performance Report 2016/17, which was set out in document WO/PBC/28/8, and welcomed the efforts made by the Secretariat to improve the accuracy, efficiency and timeliness of the collection of data that had produced better results in comparison with previous biennia. The Group was pleased to note that all but one recommendation from previous validations had been fully implemented and encouraged the Secretariat to accomplish the implementation of the remaining recommendation. In the same vein, the CEBS Group expected the timely implementation of recommendations made during the validation process under review. Against this backdrop, the CEBS Group welcomed, with satisfaction, the good functioning of the system.

216. As there were no further comments, the Chair read out the decision paragraph, which was adopted.

217. The Program and Budget Committee (PBC) took note of the IOD Validation Report of the WIPO Performance Report for 2016/17 (document WO/PBC/28/8).

ITEM 11 ANNUAL FINANCIAL REPORT AND FINANCIAL STATEMENTS 2017

218. Discussions were based on document WO/PBC/28/9.

219. The Chair introduced the item explaining the requirement, under Regulation 8.11 of the Financial Regulations and Rules, for the PBC to examine the Financial Statements as given in the Annual Report.

220. The Secretariat stated Annual Financial Statements for 2017 included the Annual Financial Report and the Financial Statements for the year ended December 31, 2017. The Financial Statements had been prepared in accordance with the International Public Sector Accounting Standards, or IPSAS, and had received an unqualified financial report. The financial report provided a discussion and analysis of the results for the year and gave a detailed explanation of the constituent parts of the Financial Statements themselves referred to as "Overview of the Financial Statements" on page 5 of the English version. The statements themselves were followed by a number of tables which were not obligatory for IPSAS compliance but which provided useful information such as the first two tables in Annexes 1 and 2 which provided details of the financial position and the financial performance of the Organization by business unit. The Organization's result for 2017 showed a surplus of 18.6 million Swiss francs with total revenue of 413.5 million Swiss francs and total expenses of 394.8 million Swiss francs. This could be compared to a restated surplus of 37.3 million Swiss francs for 2016 with a total revenue of 387.7 million Swiss francs with total expenses of 350.5 million Swiss francs. Total revenue in 2017 was up by 25.8 million Swiss francs, or 6.6%, on the 2016 figure. The Organization's net assets consisting of its reserves and Working Capital Funds, had increased from a restated figure of 149.4 million Swiss francs in 2016 to 202.7 million Swiss francs as of December 31, 2017. These references to restated numbers resulted from the adoption, by the Organization, of IPSAS 39 with effect from January 2017, one year ahead of its obligatory implementation date. Unlike IPSAS 25, the standard WIPO had previously applied with regards to employee benefits, IPSAS 39 did not permit the method of recognizing actuarial gains and losses

arising from an ASHI liability and so WIPO had been obliged to change its accounting policy accordingly. This meant the restatement of the net assets of 2015 and 2016 of the Organization for presentation in the Financial Statements. Previously unrecognized actuarial losses relating to WIPO's ASHI liability were now recognized in the statement of financial position and explained why the net assets previously reported for 2016, 311.3 million Swiss francs, were now shown as 149.4 million Swiss francs. The ASHI liability of 154.3 million Swiss francs previously reported for 2016 had increased as a result of the implementation of IPSAS 39 and now amounted to a restated liability of 320.9 million Swiss francs. The ASHI liability as of December 31, 2017, had actually decreased when compared with its restated 2016 balance. This was a decrease of 16.5 million Swiss francs. The liability was calculated by an independent actuary and, following a project to apply consistent actuarial applications across the UN system, this year they had actually made several adjustments most notably with regard to the mortality tables being used. Staff turnover statistics had also been applied and they had the effects of reducing the ASHI liability. Funds continued to be set aside to finance ASHI with those funds remaining after payments were made from the 6 per cent charge on personnel costs being added on an annual basis. As of December 31, 2017, the total balance of the funds set aside for ASHI was 124.4 million Swiss francs representing 40.9 per cent of the ASHI liability at December 31, 2017.

221. The Delegation of Switzerland, speaking on behalf of Group B, welcomed the positive financial result for 2017. Group B noted that WIPO had realized a good financial performance for the sixth consecutive year. As already highlighted, prudence was important to ensure the Organization would continue its positive performance in coming years. The Group understood that the important net decrease in cash resulted from the implementation of WIPO's investment policy. In this respect, the Group would follow developments attentively. Group B noted that the table on Page 73 referred to "net assets" and "restated assets", and that it did not have the working funds and capital funds for each union unlike the financial statements for 2016 and prior years. The Group asked for clarifications on the use of terms such as "net assets" and "restated assets." Finally, Group B took note that WIPO's net assets were restated from 311 million to 149 million Swiss francs due to the implementation of IPSAS 39. The Group welcomed the timely introduction of the IPSAS 39 standard by WIPO one year ahead of the required deadline.

222. The Delegation of Lithuania, speaking on behalf of the CEBS Group, noted with satisfaction the positive financial result for 2017 which showed a surplus of 18.6 million Swiss francs as well as total revenue of 413.5 million Swiss francs. That had increased by 6.6 per cent compared to 2016. Furthermore, it took good note that the Financial Report and Financial Statements were prepared in accordance with IPSAS, though the impact of adjustments related to the new methodology resulted in a net reduction of the surplus by 31.8 million Swiss francs in comparison with the result for 2017 prepared on a modified accrual basis. The Group highly welcomed the introduction of the IPSAS 39 Standard by WIPO one year ahead of the required deadline. CEBS was pleased to note the surplus recorded for the sixth consecutive year, making WIPO's financial performance sound and stable. However, it was important to ensure that the positive trend continued in the future.

223. The Delegation of Brazil thanked the Secretariat for preparing the document in a user-friendly version. This, said the Delegation, demonstrated the open and transparent style of management of the Organization. The Delegation noted, with satisfaction, that WIPO continued to maintain a healthy financial situation reflected in the surplus made and increase in net assets by 35% in comparison with 2016. These positive results were in line with those attained in previous years and were enabled by a sustainable demand for WIPO's fees from Global Protection systems coupled with a prudent management of expenditure. In the last year, the yearly record number of global filings for patents and trademarks had been accompanied by a rising number of international application filings in the PCT and Madrid Systems with the corresponding increase in the fee income from users, hence the record income by WIPO which, in 2017, amounted to over 400 million Swiss francs for the first time

in its history. The policy on investments also guaranteed that the primary objectives of WIPO were reached. Concerning the forecast of future PCT income, the Delegation considered that the positive trend observed over the previous ten years should continue. The predicted increase in the surplus of the PCT could be put into good use by providing fee reductions for specific stakeholders, as proposed by Brazil in the PCT Working Group regarding a fee reduction for universities. This would be an effective way of increasing patent activity by universities who provided valuable research in technology. It would also provide a strong incentive to the attainment of expected results in the current biennium. The proposal would also be in line with the strategic goals, underlining the cross-cutting and positive effect for the Organization and its Member States. In this sense, the Delegation again urged delegations to approve the proposal of a PCT fee reduction for universities at the next session of the PCT Working Group.

224. The Delegation of the United States of America supported the statement made by Group B and welcomed the presentation of the 2017 Financial Report and Financial Statements. The Delegation was pleased to see that the 2017 Financial Statements for WIPO had once again been prepared in compliance with IPSAS and was also pleased to note that WIPO continued to set aside funding for the future financing of after-service employee benefit liabilities. This, considered the Delegation, was an important step in covering an unfunded liability. The Delegation supported the question raised by Group B regarding the terminology used and the ability to easily see the reserve fund balances. Although this was a detailed point, the ability to carefully review the finances of each union was a central responsibility of each member of that Union. For this reason, the PCT, Madrid, Hague, and Lisbon Agreements each provided for the Union of the members of each of these agreements to have its own budget. The Delegation understood that WIPO's Financial Rules and Regulations also provided for a separate account for each reserve fund. To help members better monitor these accounts, the Delegation requested some assistance with making the labeling clear, as WIPO had done for many years by having a line showing the reserves for each union.

225. The Delegation of the Republic of Korea was pleased to see WIPO's rising income trend over the years. Recalling that WIPO's finances significantly relied on PCT system fees, which represented about 72 percent of total income in 2017, the Delegation believed it would be in WIPO's best interest to enhance the customer service-related capacity of the PCT application procedure so as to maintain a sound financial status.

226. The Secretariat said that the main point raised was that mentioned by the Delegations of Switzerland and the United States of America in connection with the disclosure relating to "net assets" and "restated net assets" in the segment table on page 73. That change was basically made from the previous year when reference had been made to the reserves and working capital funds to enhance the consistency across the financial statements. The frequent reference to net assets in the statements had brought about the change to this table to improve the consistency with that nomenclature. However, on page 61, there was a detailed breakdown of net assets and the first paragraph under the table showed exactly what net assets were comprised of. The different sorts of reserves, accumulated surpluses, the special projects reserve, the revaluation reserve, and working capital funds, were shown there. Those reserves and working capital funds made up what was referred to as net assets. The Secretariat added that, going back to the segment table on page 73 and the reference to net assets, it would be possible to add "reserves and working capital funds" in brackets if it made things clearer in the future.

227. As there were no further comments, the Chair read out the decision paragraph, which was adopted.

228. The Program and Budget Committee (PBC) recommended to the General Assembly and other Assemblies of the Member States of WIPO to approve the “Annual Financial Report and Financial Statements 2017” (document WO/PBC/28/9).

ITEM 12 STATUS OF THE PAYMENT OF CONTRIBUTIONS AND WORKING CAPITAL FUNDS AS AT JUNE 30, 2018

229. Discussions were based on document WO/PBC/28/10.

230. The Chair opened agenda item 12 “Status of the Payment of Contributions and Working Capital Funds as at June 30, 2018”. Document WO/PBC/28/10 showed the status of the payment of contributions and working capital funds as at June 30, 2018, and provided details of the status of contributions and of arrears since 2008. In addition, the Secretariat would make an oral update for payments received since June 30, 2018. The Status of Payment of Contributions document contained information concerning the arrears in annual contributions and payments towards the working capital funds as at June 30, 2018. The annexes contained information regarding the Unitary Contribution System and the Status of Contributions and Working Capital Funds for the 2016/17 biennium.

231. The Secretariat explained that, during the consolidation of the reporting through the WIPO Performance Report, certain changes had been made and some information from the Financial Management Report in respect of contributions was now included in the contributions document. In particular, the annexes of the document contained information regarding the Unitary Contribution System and the status of contributions and working capital funds for the 2016/17 biennium. The Secretariat added that it was standard practice to provide an oral update, since the time the document had been prepared, on June 30, in respect of further contributions received from Member States. These were the following: Burkina Faso 1,424 Swiss francs, Cabo Verde 8,319 Swiss francs, France 299,538 Swiss francs, Gabon 2,532 Swiss francs, Honduras 8,688 Swiss francs, Iceland 22,789 Swiss francs, Indonesia 45,579 Swiss francs, Lithuania 11,395 Swiss francs, Mali 22 Swiss francs, Niger 22 Swiss francs, Peru 11,395 Swiss francs, Senegal 149 Swiss francs, and Trinidad and Tobago 5,697 Swiss francs .

232. As there were no further comments, the Chair read out the decision paragraph, which was adopted.

233. The Program and Budget Committee took note of the “Status of the Payment of Contributions and Working Capital Funds as at June 30, 2018” (document WO/PBC/28/10).

ITEM 13 ANNUAL REPORT ON HUMAN RESOURCES

234. Discussions were based on document WO/PBC/28/INF/1.

235. The Chair introduced this agenda item by explaining that the document WO/PBC/28/INF.1, the Annual report on Human Resources, was being submitted to the PBC for information purposes in accordance with the decision taken by the PBC at its September 2012 session and invited the Director of the Human Resources Management Department to present the report.

236. The Secretariat stated that this report covered the period from July 2017 to June 2018 and would be presented to the Coordination Committee at its next session during the Assemblies of WIPO Member States. It mentioned that the report covered two main items, namely staff matters that were required to be reported to the Coordination Committee and others of interest to Member States. It added that, for the first time, a new Human Resources brochure, containing data and statistics on the Organization’s workforce, had

been made available to Member States and that the Annual Report should be read in conjunction with this Brochure. The Secretariat highlighted that the workforce had not significantly changed from the previous reporting period, with its core component of regular staff representing around 70 per cent of the workforce, whilst its flexible component represented around 30 per cent, thus enabling the Organization to respond to fluctuations in the demand for its services. The Secretariat also mentioned that productivity had continued to increase in the delivery of WIPO services, as illustrated by the productivity in the PCT and Madrid Systems, even as staff costs had decreased to 60 percent of overall organizational expenditure in 2017, down from 65 per cent in 2016. The Secretariat added that the Organization remained committed to improving diversity and that 118 Member States were now represented in its workforce, whilst gender balance stood at 54 per cent women overall, and 46 per cent men. It emphasized that the Organization continued to focus on increasing female representation at the managerial and senior levels. The Secretariat also mentioned that the Organization's outreach efforts in partnership with Member States were beginning to yield results, with an increase in the number of job applicants from unrepresented Member States and an increase in the ratio of female to male candidates. The Secretariat underlined that the Organization ensured the promotion of a respectful and harmonious workplace for staff, free from harassment, through the establishment of relevant policies, the conduct of training and learning to raise awareness, and active engagement with staff. Such efforts had been undertaken in close coordination with United Nations system-wide initiatives in this regard. The Secretariat also stated that WIPO continued to make efforts to remain an attractive employer of choice by making important investments in staff training, in development and also by having recently enhanced its rewards and recognition program which aimed to reinforce WIPO's core values, namely delivering excellence, working as one, innovation, and acting responsibly. Furthermore, new flexible working arrangements would be put in place in 2019, in order to provide an enabling environment for effective time management towards increased productivity and efficiency and enhanced work/life balance for staff members. The Secretariat mentioned that the Organization intended to establish a skills inventory for staff in the following year, which would constitute an important element towards staff development. The Secretariat stated that its efforts to remain an attractive employer of choice for highly qualified staff from all parts of the world had been challenged in the last biennium by a series of deteriorations in conditions of service for professional staff. It added that it was currently facing a large number of appeal cases from its professional staff as a result of this deterioration in the conditions of service and that this was an area that the Secretariat needed to pay close attention to, so that it could continue to deliver excellent and future-oriented services.

237. The Delegation of Lithuania, speaking on behalf of the CEBS Group, thanked the Secretariat for the preparation and the presentation of the report. The Group mentioned that human resources were the backbone of the Organization and their good administration was key to the effectiveness of the performance of the Organization. While not neglecting a merit-based approach in the recruitment process that aimed to ensure efficiency, competence and integrity of staff, the Group stated that it paid great importance to ensuring balanced geographical representation in the Secretariat. In this regard, it commended the Human Resources Management Department for its outreach efforts towards non-represented Member States and underrepresented regions, among which was the CEBS Group, in order to raise awareness about career opportunities in WIPO and stimulate interest amongst high-quality applicants. The Group was pleased that after such outreach missions, a number of applicants from such countries had increased substantially and also noted the gradual improvement of geographical diversity in the Secretariat.

238. The Delegation of Iran (Islamic Republic of) congratulated the Chair for his deserved election and thanked the Secretariat for the comprehensive report on Human Resources, stating that it attached great importance to the issue of human resources as it directly related to the functioning of the Organization. With regard to geographical representation, it recognized that the gaps among different geographical groups had been narrowed, but was

of the view that more needed to be done in the future to narrow the current gaps even further. The Delegation also extended its support to the efforts made by the Secretariat to promote a peaceful and harmonious workplace for all staff without any discrimination.

239. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Secretariat for preparing the Annual Report on Human Resources, which was provided to this session for information purposes. The Group welcomed the report's continuous improvement, which had established its role as a key source of information to Member States. Taking into account the nature of the Organization, the Group stated that effective human resources were critical to achieve its mandates and objectives and that this fact was also reflected in the percentage of personnel costs in all expenditures of the Organization. From this perspective, appropriate administration of human resources was important. The Group also understood that convergence of the recognition of WIPO as a global service provider in a fast-changing environment and the demand of cost containment from Member States was very challenging. Moreover, as a member of the United Nations Common System, it also expected the Organization to closely follow the guidance of the International Civil Service Commission on issues such as salary levels, compensation packages and reward programs. However, it added that discussions on these issues were best held at the next session of the Coordination Committee. With respect to recruitment, it reiterated the importance of basing recruitment processes on merit and on the highest standards of efficiency, competence and integrity, taking into account the very technical nature of WIPO and the reality of the services that were provided. This overarching principle was essential in order to achieve the unique mandate of the Organization, even in the context of the United Nations. With this in mind, the Group also appreciated the ongoing efforts undertaken by the Secretariat towards greater geographical diversity of its staff and improved gender balance.

240. The Delegation of China thanked the Secretariat for the annual report and commended the Secretariat's efforts and active results in the areas of geographical representation, gender equality, recruitment, and in the improvement of the working environment. The Delegation stated that the Global IP Service System of the Organization was expanding and the demand for its services was also rapidly growing. It was of the view that the Secretariat could formulate reasonable human resource planning from a long-term perspective so as to satisfy the business demand that was increasing and to promote sustainable development and the competitiveness of the Organization.

241. The Delegation of the Republic of Korea extended its appreciation to the Secretariat for preparing the Annual Report on Human Resources. Considering that human resources were one of the most important resources of the Organization and the most highlighted issue among Member States, the information contained in the report was very useful in proceedings with ongoing discussions regarding geographical distribution. It stressed that the core mission of WIPO was to provide global IP services, which in turn provided financial resources to this Organization. Therefore, the Organization's personnel and material resources had to be managed in a way which enabled this mission to be carried out efficiently and effectively. In this regard, it stated that geographical distribution had to be discussed by the Coordination Committee taking into consideration the development of WIPO's global IP services in a user-friendly environment.

242. The Delegation of Thailand congratulated the Chair on his election. The Delegation expressed its appreciation to the Secretariat for the report and particularly the Secretariat's continuing efforts to improve geographical representation. It was pleased to learn that there had now been applications from other countries, although Thailand was one of the countries not yet represented in the Organization. It looked forward to the next report of the Secretariat on this issue.

243. The Delegation of Japan appreciated the fact that the Secretariat had been continuing activities and initiatives involving human resources. Appropriately managing human

resources was essential to ensuring sound organizational administration. In light of the fact that personnel costs of the Organization accounted for approximately two-thirds of its annual expenditure, the Delegation stated that the Secretariat should continue to improve the management of human resources, provide valuable services to users, meet the needs of Management and staff at WIPO, as well as all of the IP stakeholders. The core mission of WIPO was to provide better services to users and the financial foundation of this Organization was supported by the revenue generated from its global IP services. Accordingly, it stated that geographical diversity of WIPO staff should be considered by taking into account the geographical distribution of international applications, registrations, users, and languages used in international applications or registrations, in addition to the individual ability of candidates.

244. The Delegation of India expressed its appreciation to the Secretariat for the detailed Annual Report on Human Resources. It also stated that the HR Brochure on WIPO's workforce was informative and a useful reference document. The Delegation appreciated the Secretariat's efforts towards achieving gender balance and proportional geographical distribution of its workforce. However, it was of the view that there still remained a lot of work to be done to narrow the gap in geographical distribution in the Organization, but said that it was positive that the Secretariat would work towards further narrowing this gap.

245. The Delegation of the United States of America appreciated the informative report and was pleased that WIPO continued to make progress in the areas of gender parity and staff development and learning. It stressed the paramount focus of the United Nations Charter on selecting candidates based on merit and competence. However, it also encouraged the Organization to develop comprehensive diversity, recruitment, and workforce planning strategies that addressed gender equality and geographic representation. The Delegation took note of the Secretariat's programs and outreach initiatives to improve geographical distribution and gender parity in the Organization and encouraged the Secretariat to continue these efforts. The Delegation noted the changes made to the Organization's rewards and recognition program, and requested the Secretariat to confirm whether a staff member who received an underperformance or associated rating would also be eligible to receive a financial reward under the new Organizational Performance Reward. The Delegation also noted that an exceedingly small number of staff had been rated as underperforming and wondered whether this was the norm at the Organization. The Delegation stated its concern about financial awards or bonuses being given to staff, other than for individual merit or performance. According to the Delegation, awards should be given only to outstanding performers, as otherwise, the awards would begin to lose their significance and could be perceived by staff as an entitlement, which would be contrary to the fundamental principle of rewarding individual performance. The Delegation was pleased that the Secretariat was implementing measures to combat sexual harassment and stated that it was concerned by the pervasive problem of harassment in the United Nations System, including sexual harassment. Harassment in all its forms undermined the mission of United Nations organizations and compromised the wellbeing of staff members. More details were requested by the Delegation about the awareness raising measures that the Secretariat planned to undertake. The Delegation looked forward to the Secretariat's review of its existing systems and anti-harassment related policies. It also noted that in the WIPO Staff Health and Performance Survey, the results highlighted several areas of concern and requested the Secretariat to provide more information about those. The Delegation wished to know where tables 20 and table 21 were located, if it was in the document WO/CC/74/5 related to internal justice cases, or in the HR Report itself. The Delegation wished to know where: (i) it could locate the data related to internal justice cases, and; (ii) whether it could have the total amount of administrative fixed costs for cases examined by the WIPO Appeal Board and by the International Labor Organization (ILO) over the last five years, and; (iii) if the costs had increased, whether the Secretariat had an idea as to the reason for the increase.

246. The Delegation of Morocco thanked the Secretariat for the presentation of the report and its preparation which it found to be rich in information. It commended the initiatives undertaken by the Secretariat, including awareness-raising, in order to improve geographic representation. The Delegation considered that it was of the utmost importance to take all necessary steps in order to progressively increase representation, particularly from Member States that were currently underrepresented from its region. The Delegation mentioned that this was already underscored in its opening statement and covered posts and members of staff in general pursuant to the principle of fair geographical distribution as one of WIPO's major objectives as provided for by Article 9 of the WIPO Convention. It encouraged the Secretariat to pursue its efforts to ensure gender equality.

247. The Delegation of the Russian Federation expressed its gratitude to the Secretariat for the preparation of the Annual Report on Human Resources and for the publication of the HR Brochure, which reflected the major role played by staff in the Organization's development. It welcomed the conclusions as to the increased productivity and efficiency of staff as well as the reduced staffing costs from 65 per cent in 2016 to 60 per cent in 2017. It was pleased by the information of improving geographical representation within the workforce. However, it was necessary to continue to work on improving the representation from different regions, including the CEBS Group, Eastern Europe, and Eurasia.

248. The Delegation of Mexico took note of the Annual Report on Human Resources and the HR Brochure shared by the Secretariat. It noted that the HR Brochure provided useful information and a clear understanding of the general Organization-wide situation with regard to geographical representation and gender balance. The Delegation commended the Secretariat's efforts in this regard through its involvement in the United Nation System-Wide Action Plan (UN-SWAP) and EMERGE and called on all involved to continue with efforts towards meeting the gender parity guidelines and to ensure that this was the case at the institutional level. The Delegation requested clarifications on staff costs which, according to the Annual Report on Human Resources, had been reduced by 5 per cent whilst at the same time it was indicated in the Financial Statements that overall staff costs had increased. With respect to the reporting of cases of harassment and particularly sexual harassment, it took note of the fact that there had only been one formal case of sexual harassment, albeit with no information about the number of informal incidents within the Organization. The Delegation felt that it was important to ensure confidential communication channels to enable the staff to report complaints, safe in the knowledge that there would be no reprisals. It also stated that it was important for the Secretariat to undertake a survey to hear the concerns and needs of staff on this topic and, as other organizations had done, it appealed for a review of procedures in order to avoid instances of this type through mandatory training as well as awareness-raising. The Delegation mentioned that it was absolutely essential for staff to be aware of the fact that this type of attitude would not be tolerated. The Delegation suggested that work on such topics be jointly undertaken by the Ethics Office, the Ombudsman and Human Resources and commended the work undertaken in conjunction with other United Nations organizations in this regard.

249. The Secretariat thanked the delegations for their useful comments, which would help the Secretariat in its work going forward. With regard to the question on the Rewards and Recognition Program, the Secretariat clarified that rewards were not awarded to staff that had underperformed and that, in fact, for most of the rewards, there was a requirement for the staff to have achieved the highest category of performance assessment. With respect to the low level of underperformance reported, the Secretariat acknowledged that this was an issue and that it was not just in this Organization that managers tended to underreport the instances in which staff should perform at a higher level. The Secretariat added that one of the reasons was the very elaborate legal procedures that were available to staff to object to ratings of underperformance and that the Human Resources Management Department attempted to intervene to ensure that underperformance was addressed early on. However, when these interventions were not effective and when performance was rated as

unsatisfactory, staff regularly resorted to legal procedures to reverse negative performance reports. On sexual harassment, the Secretariat stated that it was part of the Senior Level Working Group of the High Level Committee on Management (HLCM) and that it had provided direct support to this effort in through senior WIPO representatives. The Secretariat mentioned that what emerged from that joint United Nations effort would be taken on board and that it had already started to develop a mandatory training package for staff, which would be rolled out in late 2018. With respect to the query from the Delegation of Mexico on the number of cases reported, the Secretariat clarified that the number reported was accurate and that when cases were resolved informally, they were not reported. It added that the resolution of such cases of sexual harassment and other types of harassment were worked on jointly by Human Resources, the Ethics Office, the Ombudsman, the Social Welfare Unit and others units. With respect to the query from the Delegation of Mexico on staff costs, the Secretariat explained that the periods covered by the Annual Report on Human Resources and the financial statements were different. It stated that the Annual Financial Statements were the statement of record of the financial situation and the expenditure of the Organization covering the period from January 1 to December 31. The Annual Report on Human Resources covered the period from July 1, 2017, to June 30, 2018.

250. The Delegation of the United States of America apologized if it missed it out. The Delegation stated that it did ask the question about the survey result, the WIPO Staff Health and Performance Survey. There was a note in the document about several areas of concern and the Delegation was just curious if it could have more information on that as well.

251. With respect to the query from the Delegation of the United States of America on the Staff Health and Performance Survey, the Secretariat mentioned that the staff well-being survey was conducted in coordination with Webster University. The survey highlighted that certain categories of staff, such as temporary staff and those who had been doing the same work over many years, were more prone to experiencing stress. However, the Secretariat was of the view that these results were not unusual and were commonly observed in United Nations organizations. It added that the Organization would be participating in the upcoming United Nations-wide survey on sexual harassment.

252. The Chair thanked the Secretariat for the presentation of the Annual Report on Human Resources and for providing this information. Just as a sidebar, the Chair explained that, regarding the very precise questions on the location of two tables, from the Delegation of the United States, as it was not clear where the tables were in the report, that the Secretariat informed that tables 20 and 21 were in the Human Resources Shaping WIPO's Future brochure, which delegations could find at the back of the room.

ITEM 14 AFTER SERVICE HEALTH INSURANCE (ASHI) LIABILITY

253. Discussions were based on document WO/PBC/28/11.

254. The Chair opened agenda item 14, the After-Service Health Insurance (ASHI) liability. The relevant document WO/PBC/28/11 complemented previous progress reports submitted to the PBC providing Member States with an update of the progress made on the work of the Working Group on ASHI for increasing efficiency and in attaining the costs of the After-Service Health Insurance Liability.

255. The Secretariat's presentation had been prepared following the decision taken by the PBC at its 26th Session that the Secretariat should continue to participate in the Working Group on ASHI established by the High-Level Committee on Management of the Chief Executive Board. The ASHI Working Group last reported on its work to the 71st session of the General Assembly and had a mandate to complete its work in 2018. A final report of the Working Group would be submitted by the Secretary General to the General Assembly at its 73rd session. Since 2017, the Working Group had focused its efforts on developing

collective agreements with third party administrators, analyzing access to national health insurance schemes of Member States and considering other potential cost containment measures. Details of the current status of this work were given in the document. The Secretariat would be happy to take any questions.

256. The Delegation of Lithuania, speaking on behalf of the CEBS Group, extended its thanks to the Secretariat for preparing and presenting the document. The Group noted that WIPO's total ASHI liability for 2017 had slightly decreased to a total amount of 304.4 million Swiss francs, mainly due to a change in actuarial assumptions. Again, the Group welcomed the timely introduction of the IPSAS 39 standard by WIPO and noted that this introduction resulted in a significantly higher amount for ASHI liabilities for 2016. However, the introduction of the IPSAS standard for employee benefits would ensure better transparency and comparability within the UN system. The CEBS Group paid great importance to tackling of ASHI liabilities, particularly bearing in mind the good financial situation of WIPO. Liabilities represented significant amounts, thus the Group considered it was advisable to reduce them as soon as possible or at least gradually.

257. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Secretariat for preparing the document WO/PBC/28/11 on After-Service Health Insurance (ASHI) Liability. The Group welcomed the introduction of IPSAS 39 one year ahead of the required deadline for implementation. Although the introduction had resulted in a significantly higher amount for ASHI liabilities for 2016 with a restated total liability of 320.9 million Swiss francs instead of 154.3 million Swiss francs, it was a welcome step since it would allow for increased transparency and comparability among United Nations organizations. On a related note, the Group welcomed that WIPO applied the common actuarial assumption issued by the Taskforce on Accounting Standards of the Finance and Budget Network, earlier that year, in its 2017 Financial Statements. Here, too, the Group welcomed the harmonization across United Nations agencies. Group B noted that WIPO's total ASHI Liability for 2017 had somewhat decreased to a total amount of 304.4 million Swiss francs. It understood that this had also resulted from a change in underlying actuarial assumptions, which led to an important point that the Group wished to make, namely that, while streamlined presentation of figures and harmonized actuarial assumptions were welcome transparency measures, the real issue WIPO faced, that of ASHI Liabilities, should not be forgotten whatever the exact figure on the books may be. This remained very important and constituted a significant challenge for WIPO, it was a very real liability that had to be tackled with real measures that went beyond the streamlining of accounting. Given the size of the liability, this could not be done overnight, the issue required continued attention and should progressively but decisively be tackled, especially given WIPO's good financial results. The Group recalled the measures taken and presented to the PBC in previous sessions, as outlined in paragraphs 7 and 8 of the document under discussion, and called upon the Secretariat to continue to work to progressively and decisively reduce the ASHI liability.

258. The Delegation of Mexico was thankful for the information shared that morning. The Delegation said that it continued to be concerned at the fact that there were no specific measures to offset ASHI liabilities and echoed the concern voiced by the two regions that had spoken previously. The Delegation suggested that the Secretariat explore proposals that might make it possible to increase ASHI reserves, adding that it was necessary to take a gradual approach to mitigating the risk incurred with regard to this liability and bearing in mind the good figures reflected by the surplus generated by the Organization until then.

259. The Secretariat thanked delegations for the points raised, adding that it was interesting to see that a couple of delegations had spoken about the financing of ASHI given the Organization's good financial position. This was something that the Secretariat would definitely bring into its in-house discussions. Returning to the point of specific proposals to

try and contain the growth of this liability, the Secretariat said that it was very much waiting for the results of the Working Group and its final report.

260. As there were no further comments, the Chair read out the decision paragraph, which was adopted.

261. The Program and Budget Committee (PBC) recommended to the Assemblies of WIPO, each as far as it is concerned, to request the Secretariat to continue to participate in the Finance and Budget Network's ASHI Working Group and to monitor any specific proposals to be made by the Secretary-General to the United Nations General Assembly at its 73rd session.

ITEM 15 STATUS OF THE CONSTITUTIONAL REFORM PROCESS

262. Discussions were based on document WO/PBC/28/12.

263. The Chair introduced Agenda item 15, and document WO/PBC/28/12, entitled Status of the Constitutional Reform Process, for consideration. This document referred in particular to the implementation of the 1999 and 2003 amendments. The Chair passed the floor to the Secretariat to introduce the document.

264. The Secretariat stated that at its 26th session, the Committee discussed the topic of the Constitutional Reform Process, and in particular the status of implementation of the 1999 and 2003 amendments, for which the Secretariat prepared a presentation. Thereafter, the Committee requested the Secretariat to report back to the 28th Session of the PBC on the status of implementation of the amendments. Accordingly, document WO/PBC/28/12 addressed the Status of the Constitutional Reform Process at WIPO and provided relevant updates on its progress. As noted in the document, the 1999 amendment to the WIPO Convention would limit the number of mandates of Directors General to two fixed terms of six years each. The 2003 amendments to the WIPO Convention and to other WIPO-administered treaties would: (i) abolish the WIPO Conference; (ii) formalize the Unitary Contribution System and the changes in contribution classes that had already been in practice since 1994; and (iii) establish annual rather than biennial ordinary sessions of the WIPO General Assembly and of the other Assemblies of the Unions administered by WIPO. The Secretariat recalled that none of these amendments had entered into force because the Director General had not yet received the requisite number of notifications of acceptance of the amendments from WIPO Member States. Since the presentation on the Constitutional Reform Process during the 26th session of the PBC, the Director General had received four additional notifications of acceptance with respect to the 1999 and/or 2003 amendments, bringing the total number of notifications received to 53 out of the 129 needed for the 1999 amendments, and 19 out of the 135 needed for the 2003 package of amendments. The status of the Constitutional Reform Process, as reflected in document WO/PBC/28/12, was thereby proposed to be taken note of by the Program and Budget Committee.

265. The Chair opened the floor to Members States for questions.

266. The Delegation of Switzerland, speaking on behalf of Group B, thanked the Secretariat for the update provided in document WO/PBC/28/12. The Delegation welcomed the efforts of the Secretariat in reaching out to Member States in order to advance ratification of the 1999 and 2003 Constitutional Reform Package. This had resulted in four additional ratifications, yet there was still a long way from reaching the required numbers for both packages. Group B wished to encourage all Member States to continue their efforts in order to reach the required number of acceptances, to bring key texts of this Organization in line with the operational functioning decided by Member States in 1999 and 2003.

267. The Delegation of Lithuania, speaking on behalf of the CEBS group, extended its thanks to the Secretariat for providing an updated status of the Constitutional Reform Process as set out in document WO/PBC/28/12. The Delegation noted that, in the meantime, there had been four additional ratifications, yet the majority of Member States had to advance their ratification processes in order to have a sufficient number of ratifications to allow both 1999 and 2003 Constitutional Reform Packages to enter into force.

268. The Delegation of Brazil thanked the Secretariat for providing this document and welcomed the outreach efforts to date. The Delegation encouraged the Secretariat to continue its outreach efforts which had already produced encouraging results. The number of four additional notifications of acceptance of the amendments might be still a long way to reach the minimum level required for their entry into force. Nevertheless, it would represent around 7 per cent of additional ratifications compared with the earlier number; therefore it was important that the Secretariat continued its process of outreach. The Delegation also noted that Member States had reported that their national ratification process of the amendments was in progress, so perhaps it would be useful to revert back at the next session to provide an update of this information, if not too cumbersome, as this might spark a new interest by Member States. The Delegation believed it was important as 20 years from the approval of the Constitutional Reform Process, the Delegation had at least a perspective of its entry into force.

269. The Chair proposed, along the lines of Brazil's suggestion, to come back to this issue at a future session of the PBC.

270. The Secretariat thanked the delegations for expressing their support for its efforts to obtain additional notifications of acceptance. In response to the specific request from the Delegation of Brazil, the Secretariat noted that it would be pleased to keep this important issue on the agenda and would be happy to provide a further update at the September Session of the PBC in 2019. This would give the Secretariat more time to collect information and provide further updates on this issue.

271. The Chair proposed a decision paragraph in line with Brazil's suggestion, which was to come back to this issue at the PBC Session in September 2019, i.e. the second PBC session in that year. From the Chair's perspective, that was preferable as the first session would have a busy agenda because of the first reading of the biennial budget.

272. The Chair prepared the wording of the amended decision and read it out to the delegates as follows:

273. The Program and Budget Committee (PBC) took note of the status of the Constitutional Reform Process (document WO/PBC/28/12), and requested the Secretariat to update the PBC on the status of the process at its 30th Session in September 2019.

274. As there were no further interventions, the Chair gavelled this final decision paragraph.

ITEM 16 METHODOLOGY FOR ALLOCATION OF INCOME AND EXPENDITURE BY UNION

275. Discussion were Based on documents WO/PBC/25/16 and WO/PBC/27/13.

276. The Chair then moved to agenda item 16, Review of Allocation Methodology for the Income and Budget by Union. There were two documents under this agenda item: document WO/PBC/25/16, Review of Allocation Methodology for the Income and Budget by Union, a document prepared by the Secretariat; and document WO/PBC/27/13, a Proposal submitted

by the Delegation of the United States of America. The Chair reminded delegations that at the 57th meetings of the General Assemblies of the Member States of WIPO, the General Assembly, “noted that the allocation methodology for the income and budget by union is a cross-cutting topic and decided that the PBC will continue the discussions on the methodology on the allocation of income and expenditure by unions in its future sessions based on relevant documents and other proposals by Member States” (paragraph 89 of the General Report of last year's General Assemblies, document A/57/12). The Chair then invited the authors of those documents to make any contextual comments or to introduce the documents. The Chair then requested the Secretariat to introduce document WO/PBC/25/16 and then the Delegation of the United States of America to make any comments on their proposal.

277. The Secretariat stated that the presentation of the Union view of the income and expenditure of the Organization required that the income and expenditure of the Organization be allocated to the unions based on an allocation methodology. It noted that the current methodology for the allocation of income and expenditure to the unions, as described in Annex III of the Program and Budget 2018/19 had been in use since 2007. Compared with previous biennia, and as per past practice, the calculations for the Program and Budget 2018/19 had been refined in such cases where a better estimation and a better tracking of expenditure had been enabled by the newly introduced ERP and EPM systems. The Secretariat recalled that the WIPO General Assembly in October 2015 “requested the Secretariat to conduct a study on potential alternatives for an allocation methodology for the income and budget by Union for consideration at the 25th session of the PBC”. Accordingly, the Secretariat had undertaken a comprehensive review, presented in document WO/PBC/25/16, analyzing the existing methodology and identifying potential improvements, refinement opportunities, and alternatives for the allocation of income and expenditure to unions. The review was based on a thorough analysis of the underlying cost allocation principles and of the activities carried out by WIPO's programs, taking into account the underlying regulatory framework. The 25th session of the PBC in 2016, has considered this document. In addition, in 2017, at the 27th session of the PBC, a discussion paper submitted by the Delegation of the United States of America had been received.

278. The Delegation of the United States of America reminded the PBC that document WO/PBC/27/13 had been submitted to the Committee in 2017 and noted that the document was rather self-explanatory. The Delegation added it welcomed the opportunity to continue the discussions on allocation methodology for the income and budget by union at the present session of the PBC as mandated by the General Assembly in document A/57/12 referred to by the Chair. The Delegation appreciated WIPO's strong financial performance and its strong financial position. It remained very concerned, however, about the financial imbalance among its fee-financed unions. The Delegation appreciated the Director General's remarks at the opening of the present session, specifically addressing that imbalance and the risk posed by it to the Organization. The Delegation stated that as noted in the General Assembly decision in 2017, the methodology for allocation of income and budget by union was a cross-cutting topic and the General Assembly had decided that the PBC would continue the discussion in its future sessions. In addition, the 2017 WIPO Assembly's decision approving the Program and Budget for 2018/19 noted that the fee-financed unions with a projected deficit should examine measures in accordance with their treaties to address that deficit. The two unions with projected deficits, namely the Lisbon Union and the Hague Union, had convened Working Groups in 2018 but did not take concrete actions to address their projected deficits. The Lisbon Working Group had considered its deficit but had taken action that would only enhance that deficit by adopting certain fee reductions. The Working Group nonetheless agreed to continue discussions about options for its financial sustainability. The Hague Union Working Group had not even included consideration of its deficit on its agenda. Noticing this omission, the United States of America had added the item by submitting a discussion paper on the need to address the Hague deficit. The Hague Working Group had an initial discussion on this topic but had not

taken a decision. The Delegation further noted, for the sake of completeness, that the other fee-funded unions also had held Working Group meetings in 2018 with agendas prepared by the International Bureau. The Madrid Working Group did not have the consideration of its fees on the agenda, but the United States of America had proposed adding the item by submitting a discussion paper. The Delegation noted that the External Auditor of WIPO in Recommendation 9 highlighted the need to review the Madrid fees as they have not been examined in the past 20 years. The Delegation continued by thanking the Secretariat for its assurances that the Madrid Working Group would examine its fee structure in 2019. The PCT Working Group had included the discussion of fees under several of its agenda items, including the future development of the PCT System, the pilot project on the netting of certain PCT fees, and fee reductions for applicants from certain countries. No decisions had been taken, but serious discussions of PCT fees would continue. The Delegation believed that the International Bureau had a vital role to play in putting discussion of fees before the membership of WIPO's fee-funded unions as it was preparing the draft agendas and working documents for consideration by the Working Groups as it knew when fee adjustments were needed based on changed practices and circumstances. The Delegation therefore requested the International Bureau to assist members of WIPO's fee-funded unions in reaching decisions on fees that would promote the financial sustainability of all the fee-funded systems. The Delegation continued explaining that the reason why it was making such an issue of this was because it believed that WIPO's current budget methodology had encouraged overreliance on a single system, namely the PCT System, at the expense of developing the health of WIPO's other fee-funded systems and their ability to contribute to the overall Organization. This had enabled WIPO's fee-funded unions with deficits to remain in deficit without taking any action as had just been witnessed over the past year since the last discussion on this topic. The Delegation noted that each of WIPO's four existing fee-funded registration systems, the PCT, Madrid, Hague and Lisbon, had a governing treaty currently in force that provided for five key elements. The union shall have a budget, the budget shall include the income and expenses of the union and its contribution to the common expenses. The share of the union in such common expenses shall be paid in proportion to the interest of the union that the union has in them. And, the fees shall be so fixed that the revenue should under normal circumstances be sufficient to cover the expenses of the International Bureau, and lastly, the budget needs to be coordinated with the other unions. The Delegation stated that WIPO's application of the capacity to pay principle had perpetuated two things. Firstly, it had allowed unions in deficit to pay nothing towards common expenses, and secondly, the PCT system continually was funding a disproportionate share of WIPO's common expenses since it consistently was generating large surpluses. According to the simple calculation done by the Delegation, using table 11 in Annex III in the Program and Budget 2018/19, the PCT union was funding 88 per cent of all WIPO activities outside of the four registration systems, or indirect costs, indirect union costs, and it was funding a full 91 per cent of the administrative costs of these activities. For the financial health of the Organization, the United States of America believed that all fee-funded unions should be financially self-sufficient and be able to contribute more fairly to the common expenses of the Organization. By doing so, more funds could be made available to strengthen and grow WIPO's rich and varied programming, including its development-related expenditure. The Delegation believed that a discussion on the budget allocation methodology was important for all WIPO unions and for all WIPO Member States. In discussions to date, some common ground had been found. It was clear that all WIPO Members supported transparency in the budget of all unions. Members supported the principle that fee-funded unions that were in deficit should address their deficits. That was included in the WIPO Assembly's decision last year. The Delegation therefore believed that with the assistance of the International Bureau, WIPO Members could agree to adjustments that would bring more balance among WIPO's fee-funded unions in the longer term and compliance with the treaty obligations of all union members. These adjustments might include adjustments to the budget allocation methodology, which included reserves and working capital fund targets, projected biennial reserves, revenues, and surpluses, as well as the fee structure and levels, which were the province of the unions. The United States of

America strongly believed that WIPO's financial outlook should not depend on a single system to support the bulk of the entire Organization. Lastly, the Delegation requested the International Bureau to make a detailed presentation on the allocation methodology being applied in the Program and Budget 2020/21.

279. The Delegation of France first congratulated the Chair on his election, it was very pleased to see him heading the work. The Delegation noted that the work of the Committee was progressing very fast, and it therefore requested for the agenda item to be postponed to a later date to have more time to consult and prepare its statements.

280. The Chair took good note of the request by the Delegation of France for more time to consider the agenda item and closed the morning session.

281. After closing item 9, the Chair reopened agenda item 16, the methodology for allocation of income and expenditure by union. The Chair stated that consultations were continuing and that he didn't intend taking a decision that day and opened the floor for comments.

282. The Delegation of Australia stated that it supported open, informed and constructive discussions on ways to address some of the imbalances in WIPO's funding and better secure the long-term financial health and sustainability of WIPO, particularly for unions such as Lisbon. Australia continued to hold the view that the Lisbon Union needed to consider a suite of measures for achieving financial self-sustainability in the future rather than rely on funding from other WIPO unions. The Delegation was disappointed that no recommendations had been made at the recent Lisbon Working Group to address financial sustainability. It thanked the Delegation of the United States of America for its work in preparing its proposal and looked forward to productive discussions on the way forward.

283. The Delegation of Sweden stated that ideally each system should be self-financed and that a transparent accounting system therefore was of utmost importance so that the economic development of each system could be easily followed. The Delegation also expressed its support for the statement made by the Delegation of the United States of America.

284. The Delegation of Italy stated that it had taken full note of the documents submitted under this item by the WIPO Secretariat and by the Delegation of the United States of America. The Delegation recalled that this very same topic had already been thoroughly discussed in 2015, 2016 and 2017, during both PBC sessions and in some cases also at the Assemblies where it had already expressed its position on the matter. Its views had not changed since then. The Delegation stated that it failed to understand the added value of departing from the present allocation methodology and the capacity to pay principle which according to the Delegation was still fit for purpose, allowing the Organization to fulfill its international mandate. It noted that, firstly, WIPO was an overall financially sound institution as had been discussed on previous days, with a healthy surplus in 2017 and a positive trend with regard to increase of its revenues. In fact, 2017 had been another record year for IP filings. Secondly, WIPO was a single Organization with a single budget. The principle of solidarity among all WIPO unions was key to the Delegation in order for WIPO to be able to promote the protection of IP throughout the world, through cooperation among states, according to Article 3 of the WIPO Convention of 1967. The Delegation highlighted the importance of allocating adequate financial and human resources to allow WIPO to carry out activities to efficiently promote all global IP systems, including carrying out awareness raising initiatives among relevant stakeholders, in different geographical areas. It considered more and more the global IP systems managed by WIPO to be a key tool to support innovation and economic development at local level, in particular with regard to micro and small companies so as to foster their competitiveness on the national and international markets. It was particularly important also to facilitate the accession of developing countries and LDCs

to the global IP systems, in order to reach a more balanced and wider geographical representation in line with the overall goals of these systems, and in particular, taking into consideration Strategic Goals 2 and 3 with a view to fostering WIPO's contribution to the achievement of the UN SDG's. The Delegation believed that this could be achieved in a fair manner only by keeping the present methodology unchanged. It agreed that the allocation methodology was a cross-cutting topic being the reason why any change might have a wide impact on the Organization as a whole, with negative consequences especially for geographical regions where IP still needed to be promoted and developed efficiently. The Delegation concluded by stating that changing the current allocation methodology could negatively impact the overall functioning of WIPO as a UN specialized agency.

285. The Delegation of the Russian Federation reiterated its position previously expressed at the WIPO General Assemblies on behalf of the countries of Central Asia and Eastern Europe and also in its national capacity. The Delegation supported the necessity for having an appropriate methodology for the Program and Budget and a detailed analysis of this through investment, publications and other sources of information. It also underlined the importance of ongoing support for the principles of WIPO and having a single appropriate budget system for the whole Organization. The Delegation considered that a review of the methodology would lead to integration of the effectiveness of the work of the international system and also the protection of IP at a global level.

286. The Delegation of Switzerland believed that the current method for the allocation of income and expenditure by union was adequate and was providing sufficient details. There was therefore no reason to modify the method. Switzerland explained that it believed that the allocation methodology was giving detailed guidance and allowed the allocation of expenditure by union in a transparent, equitable and fair way. This was a pragmatic approach which was appropriate for WIPO consisting of not allocating additional expenditure to sectors that by their nature did not go along the lines of generating profit. Changing methods would put in question all activity that did not generate a profit by allocating a negative figure and this would be the case for the majority of activities within the Organization. The Delegation further noted that it was clear that the large majority of revenues for the Organization was coming from the PCT. It was therefore normal and appropriate that this could be used to finance important activities within WIPO. WIPO was an organization that carried out a broad range of activities such as the patent registration system, trademarks, industrial designs and geographical indications, capacity building activities and technical assistance, awareness raising on IP rights and the promotion of knowledge in that area, for example, via the WIPO Academy, and of course regulatory development in which important work currently was underway, particularly in the area of industrial designs, genetic resources, traditional knowledge and folklore and copyright. Member States had the responsibility and the obligation to promote the appropriate conditions for WIPO to be able to enact these activities and, in doing so, a fundamental principle had to be borne in mind. The Delegation believed that the unitary approach to WIPO's budget was crucial and that this principle should not be questioned as it was the very foundation for the correct functioning of the Organization. The Delegation noted that many of the activities it had mentioned did not generate a profit. Indeed, the majority could be classified as being in deficit. It was the unitary approach under the current methodology that enabled the Organization to carry out these activities, whether or not they were generating a profit or were in deficit. Switzerland was convinced that the whole range of activities carried out by WIPO was important. Of course, Member States had different priorities and stronger or weaker interests in different activities. However, this did not prevent all of these activities to be legitimate, and as such requiring the necessary financial resources to be achieved. The current allocation methodology was a means to ensure exactly that. The solution had been proven over time to be useful and to be transparent. "The better was sometimes the enemy of the good, let's stay with the good." The Delegation stated that the Organization should remain with the good. The Delegation reminded the Committee that its position and comments had also been provided previously in detail during various sessions of the PBC

and of the Assemblies since 2015. At those meetings, in-depth highly complex technical discussions had taken place in plenary, in informals, in small groups and in bilaterals and sometimes very late into the night. The result was well-known. There was no consensus to change the current methodology. The Delegation noted that not all delegations shared its opinion and that divergent viewpoints existed on certain fundamental aspects with regard to the operation of the Organization. It therefore wished to respond to certain points raised by delegations during the discussions in the present session of the PBC. The Delegation took note that the Working Group on Contribution Financed Unions in previous years had been discussing the necessity for an eventual review of their contributions. These were the competent bodies to discuss the matter. With regard to the Madrid Union, the Delegation referred to its statement made under agenda item 6 where it highlighted that the operational results of the Madrid Union were showing a positive trend in line with the trend in recent years and that a surplus was predicted for the Program and Budget 2018/19. Regarding the statement made by the Delegation of the United States of America, and in particular the quoted provisions of the treaty texts of the unions, the Delegation of Switzerland observed that some of those provisions were included in the 2003 Assemblies decision on the adoption of the constitutional reform. The Assemblies decided to amend certain provisions regarding financing. The Delegation requested a confirmation from the Secretariat on this point. The Delegation, in this context, further noted that as discussed under item 15 on constitutional reform, delegations were unanimous in their desire for these modifications and changes, which reflected a longstanding practice of the Organization, to be finally formalized. The Delegation then referred to a proposal made earlier in the day by the Delegation of the United States of America requesting a presentation by the Secretariat on the allocation methodology during the 29th session of the PBC. In order to move forward on that subject, the Delegation requested the Chair for more time for formal or informal consultations.

287. The Delegation of Japan referred to the decision adopted on the WIPO Program and Budget 2018/19 at the 2017 WIPO Assembly namely that each union should have revenue sufficient to cover its own expenses. It was therefore essential to allocate the budget in a transparent and fair manner.

288. The Delegation of Iran (the Islamic Republic of) noted that the current methodology for allocation of income and expenditure to the unions had been in use since 2007. It recalled the stable and progressive financial situation of the Organization and mentioned that the functioning of WIPO was based on the principle of solidarity for the Organization as a whole. The Delegation was of the view that the allocation methodology should not run counter to the principles of the Organization and concurred with the views of other delegations that transparency was an important tool for management purposes to optimize the use of resources and to increase efficiency. The Delegation stated that no one could challenge that principle. Meanwhile, it should not serve as a means to jeopardize the fundamental principles of the Organization and the guiding principles of the WIPO Convention. The Delegation further noted that any changes in the methodology would not bring any financial advantage. Rather, it would have a negative impact on the overall purpose of the Organization which was to promote the protection of IP throughout the world. In concluding, the Delegation stated that any new proposal should contribute to narrowing a specific gap or address particular problems. The Delegation, however, did not see any problem in the current allocation methodology and was therefore not yet convinced of the necessity or added value to modify the current methodology for allocation of income and expenditure by unions.

289. The Delegation of France recalled that the conversations with regard to the methodology for the allocation of income and expenditure by union were not new. It noted that the discussions had required considerable time and energy since 2015, both on the part of the Member States and on the part of the Secretariat. The Delegation wished to start its intervention by giving a quick overview of those discussions. In 2015, the subject had been put on the table at the PBC and at the Assemblies because certain delegations wanted to

discriminate against a particular union and put an end to solidarity among other unions. Again in 2015, the Assemblies finally reached consensus, consisting of recalling the importance of “the effective management and effective transparency in the presentation of WIPO's Program and Budget.” In 2016, during the 25th session of the PBC, and during the subsequent Assemblies, the Secretariat provided the Member States with numerous options with regard to modifications of the methodology. The establishment of these options had been particularly cumbersome for the Secretariat. The result however had been clear. All envisaged scenarios, without exception, would aggravate the budgetary issues within the Organization rather than resolving them. In 2017, the conversations had continued. The Delegation of the United States of America had presented the document to the PBC again. The document spoke for itself and illustrated the vision that that country had with regard to WIPO as a United Nations Agency. The French Delegation, together with many other delegations, had also set out its vision. Finally, the Assemblies had only been able to agree on the fact that the methodology was a cross-cutting matter. No consensus had been reached on any other aspect of the matter. Therefore, no consensus on substance had been achieved since 2015. The Delegation then quoted “Insanity consists of doing the same thing again and again and expecting a different outcome” and stated that those words were finding their place in the current context as they were the words of a patent examiner, a certain Albert Einstein. The Delegation stated that the intelligence and wisdom of those words invited to not continuously and eternally reproduce the current discussion when the outcome was known to all. Given, however, that the most recent Assemblies had so decided, the Committee should continue the discussions on the subject within the current PBC. The Delegation continued its statement by recalling France's position on the topic and noted that changing the methodology for allocation of income and expenditure by union would not be appropriate. Indeed the financial results recorded by WIPO were good, even excellent, 56 million Swiss francs surplus on an IPSAS basis. The Delegation quoted a French proverb which said that one should not change a winning team. The Delegation was of the view that this applied perfectly to the situation at hand and asked why on earth one would envisage amending the methodology which allowed the Organization to record such results. That would be absurd and all the more absurd given that thanks to the work of the Secretariat the Committee had already seen the fact that such modifications would aggravate budgetary problems within the Organization rather than resolving them. The Delegation stated that no one could truly seek to implement a reform within the Organization which would aggravate problems rather than resolving them. Not only would that be absurd, it would be sabotage. Regarding the requirements for effective management and effective transparency in the implementation and presentation of the WIPO Program and Budget, the Delegation recalled that all Members were attached to that and that this requirement was fully satisfied and met by the current methodology. Anything to the contrary remained to be shown. The Delegation then stated that it wished to respect the instructions given to it by the President of the French Republic a few days previously during his statement to all ambassadors of the French Republic throughout the world. The President, in that statement, had invited all ambassadors to share the French vision of the world. The French vision of the world at WIPO was based on the unitary principle and principles of solidarity which made WIPO an agency of the United Nations. The Delegation then recalled that it had used the image of a tree, last year, in its explanations. The Delegation wished to further expand on that image by imagining a living body consisting of a certain number of organs, muscles, i.e. a certain number of components which functioned together for a common objective. Among these organs, there was a digestive system, there was a respiratory system. The Delegation questioned what would happen if the digestive system or if the lungs suddenly decided to no longer provide the oxygen and nutrients to the rest of the body necessary for its activities. It stated that the answer was well known. In a living body, the good digestion of nutrients and oxygen was the essential condition required for vitality. WIPO was a body and the good internal distribution of the resources that it generated was the *sine qua non* condition for survival of the body. The unitary solidarity approach was an essential element to achieve the fundamental objective of WIPO “Promoting the protection of IP throughout the world, ensuring administrative cooperation between unions” as per Article 3 of the WIPO

Convention. The Delegation concluded by stating, as it had already stated at the last Assemblies, that it would not accept that the unitary function of the Organization and, particularly, the taking on of expenditures by certain countries and unions according to their capacity to pay should be questioned as this would question the cooperation for developing countries and a cornerstone of WIPO.

290. The Delegation of Indonesia, speaking in its national capacity, stated that, in principle, it supported the discussion on transparency on budget as well as allocation methodology. The Delegation also had no objection to the transparency of WIPO's presentation of the Program and Budget. However, the Delegation wished to highlight that the discussion on whether or not the allocation methodology in the Organization should be changed should reflect the fact that WIPO was an intergovernmental organization and not a for-profit organization. The Delegation also wished to highlight that any discussion under this agenda item should also always reflect Article 3 of the WIPO Convention, which some delegations had already touched upon, and that the objectives of the Organization included ensuring administrative cooperation among the unions. The Delegation hoped that discussion under the agenda item would arrive to a conclusion that would not bring any negative impact on the overall functioning of the Organization to promote the protection of IP.

291. The Delegation of Brazil wished to join other delegations in expressing skepticism over the need of changing the current allocation methodology. It stated that in past sessions it had already expressed some cautionary notes on the discussion on the topic. This did not mean, however, that the issue of the deficit of financing should not be tackled. All of the finance articles of the relevant treaties gave a clear mandate to set fees at a level sufficient to cover the expenses of the union. This had been effectively discussed the previous year during the General Assembly and Member States had reached a decision on the matter, which mandated the fee financed unions with a projected biennial deficit to examine measures in accordance with their own treaty to address the issue. It was the view of the Delegation that the issue had already been addressed by the current decision of the General Assembly.

292. The Delegation of the United States of America wished to respond to some of the previous comments that appeared to the Delegation to be in the nature of scare tactics by suggesting that the requirement for unions to adhere to their treaties and have income sufficient to cover their expenses would somehow affect the PCT funds that were made available to implement the full array of WIPO's programs and technical assistance. The Delegation stated that this was an incorrect reading of its objectives and clearly was not part of any paper proposal made by the Delegation. Those services would continue in full strength and in fact, the modifications the Delegation were suggesting, were simply to recommend that the fee-funded unions, other than the PCT, should make their equitable contributions to the overall suite of activities that WIPO was engaging in. With regard to the principle of insanity and a body that had various organs, the Delegation stated that right now WIPO had a body that was very healthy, but some of its limbs appeared to be damaged. Those were unions which did not currently have a capacity to pay anything towards the Organization, its indirect costs. It would be insanity to ignore these damaged body parts. In conclusion, the Delegation stated that the principle of solidarity in its view included respect for the treaty obligations by each of the Member States.

293. The Delegation of Lithuania, speaking on behalf of the CEBS Group, mentioned that the Group had talked about the allocation methodology question during its coordination meeting. The members of the CEBS group felt comfortable about how the system was working now and they were not willing to have additional discussions on possible modifications. The CEBS group felt comfortable with how the current system was working.

294. The Delegation of China believed that as the most important global IP organization, WIPO's mission was to promote innovation and creativity for the economic, social and

cultural development of all countries through a balanced and effective international IP system. Therefore, in studying and planning the Organization's expenditure model, Member States should not only consider the present income, surplus and deficit of the IP registration systems but should also look at it from a strategic perspective and make decisions for the best way forward for the optimal development of the systems. The Delegation stated that looking back in history, the PCT System had also experienced an initial development and strengthening process, and so were other systems, especially the Hague System. Presently, the System was entering into a rapid development phase. If the existing resource allocation methodology were to be abruptly changed, the financial burden on the System would be increased and its development hampered bringing about adverse impact for IP users. The Delegation therefore believed that, given the current situation, any change to the existing income and expenditure allocation methodology should be prudent. It would need to be fully studied and should consider comprehensively all the impacts before taking a decision.

295. The Chair stated that he was conscious that there had been one question from the Delegation of Switzerland to the Secretariat and invited the Delegation to repeat its question.

296. The Delegation of Switzerland stated that it had referred to the constitutional reform process of 2003 and had noted that there were certain provisions quoted by the Delegation of the United States of America which had formed part of the decision of the 2003 WIPO General Assembly on constitutional reform and that the WIPO Assembly had decided to modify those provisions. The Delegation had requested the Secretariat to confirm that this was indeed the case.

297. The Secretariat stated that if it was not mistaken, the relevant treaty provision to which the Delegation of Switzerland was referring related to the Madrid Agreement. It sought confirmation from the Delegation on whether this was the case.

298. The Delegation of Switzerland confirmed that that was one possible example.

299. The Secretariat analogized that the Delegation was referring to provisions on finances in the relevant treaties and whether or not they were amended as part of the constitutional reform process. It confirmed that taking the Madrid Agreement as an example, the amendments to Article 12.1, in particular, were adopted to correspond specifically to the relevant amendments of the Paris and Berne Conventions, i.e. Article 16.1 of the Paris Convention and Article 25.1 of the Berne Convention, in respect of the requirement that the income and expenses of the Union shall be reflected in the budget of the Organization in a fair and transparent manner. The explanations in the accompanying notes made the purpose of those amendments very clear. They were predicated first and foremost on the corresponding amendment to Article 11 on finances in the WIPO Convention, which also made very clear that the budget of the Organization shall present the income and expenses of the Organization and the unions administered by the Organization in a fair and transparent manner. The revisions did not continue to the remainder of the provisions on finance and in particular the provisions that, as relevant, suggested that the fees of particular unions shall be sufficient to cover the expenses of those unions. The Secretariat wished to note that this was also borne out in practice and in the Financial Regulations and Rules which Member States had adopted and approved, and which required that the proposed Program and Budget should cover estimates for income and expenditure for the financial period to which it relate of a consolidated form for the Organization, as well as separately for each Union.

300. The Chair stated that he was not going to summarize the various views and that it would be safe to say that there was no consensus on a number of points. He then adjourned agenda item 16 to give delegations more time to consult.

301. The Chair returned to agenda item 16 on the methodology for allocation of income and expenditure by Union. He stated that there had been a full and active discussion on the topic the previous day and that a number of delegations had been very engaged and had

stated their positions. There had also been a lot of engagement overnight on the issue. Delegations had been talking to each other and discussions were continuing. The Chair therefore did not want to propose a substantive debate but wished to open the floor for any comments.

302. The Delegation of the United States of America stated that for the sake of transparency it wished to inform the Committee that it had drafted proposed decision language for agenda item 16 and had shared it with interested delegations as well as the regional coordinators. The proposal would be sent by the Group B Coordinator to other regional coordinators and the Delegation looked forward to discussions so that a positive decision on this agenda item could be arrived at.

303. The Chair encouraged further consultation on the topic and adjourned the agenda item.

304. The Chair returned to Agenda Item 16 on the methodology for allocation of income and expenditure by Union and noted that a proposed decision paragraph had been circulated. The Chair was of the understanding that the proposal was the result of discussions held that afternoon amongst a broad group of PBC members with a strong interest in the issue. The Chair then proceeded to read the proposed decision paragraph for agenda item 16:

305. The Program and Budget Committee (PBC):

- (i) noted the 2017 GA decision in Document A/57/12, paragraphs 88 and 89, and held a corresponding discussion, taking into account Documents WO/PBC/25/16 and WO/PBC/27/13 as well as the statements of Member States;
- (ii) noted that there was no consensus on the matters discussed under the current Agenda Item; and
- (iii) decided to request the Secretariat to give during the 29th session of the PBC an oral explanation of the draft proposed Program and Budget 2020/21 and the allocation methodology for the income and expenditure by Union used.

306. The Chair stated that while some delegations might have preferred a different decision, the proposal might be a decision that perhaps had the most chance of attracting consensus. The Chair reiterated that delegations should take as much time to consider the proposal as required but also mentioned that a number of delegations had indicated that in the interest of efficiency it would be preferable to conclude that evening. The Chair then opened the floor for comments.

307. The Delegation of the United States of America thanked those Delegations that had helped draft the decision and stated that the decision noted that there currently was no consensus on the budget allocation methodology. The Delegation believed that it was very unfortunate that this decision had been necessary. It stated that delegations had successfully negotiated but what had been negotiated was a decision that said that there was no agreement, neither on continuing, nor on changing the current methodology. The United States of America had signaled its displeasure with the current budget allocation methodology since 2015. The Delegation had shown flexibility in noting that changes would not need to occur immediately. It had not insisted on proportional allocation of direct and indirect expenditure but had noted that a gradual increase in shared expenses could be achieved over the long term. However, unfortunately, the Delegation had not seen any similar flexibility shown by other Member States who continued to insist that no changes be made to the application of the existing budget methodology. The Delegation further stated that the United States of America could not support the application of a budget allocation methodology that resulted in WIPO fee-financed unions paying nothing towards the common

expenses of the Organization. It could therefore not approve a budget that would mean a violation of the provisions of the WIPO Convention and the treaties of the fee-financed unions all of which would require cooperation and payment of the common expenses by all of the fee-financed unions. The Delegation expressed its displeasure once more with those unions with projected deficits that were not taking concrete steps in their working groups to examine measures to address their deficits. The Delegation stood prepared to negotiate for the full time allotted for the present PBC session rather than closing it prematurely. However, due to the inflexibility of other Delegations it was not possible to make progress in the discussion. One group of Member States was insisting that nothing would change because this methodology had been in use for a number of years despite its flaws. The Delegation pointed out that the methodology had never been intended to allow certain WIPO fee-funded unions to act irresponsibly, neglect their obligations and get a free ride while claiming that they were an integral part of the Organization. The Delegation hoped that the International Bureau would propose a draft budget that showed a contribution by all fee-funded unions to the common expenses.

308. The Delegation of Switzerland thanked all delegations for their constructive and very effective work on this topic. It wished to indicate that the current method was applicable for the budget preparation unless it had been changed.

309. The Delegation of France supported the statement delivered by Switzerland and expressed its significant disappointment at various delegations' continued insistence on changing the methodology for budget allocation which had worked well for many years and for which the down side remained to be demonstrated.

310. The Chair asked whether any other delegations wished to take the floor.

311. The Delegation of France apologized for taking the floor again but wished to add something to the statement it had just delivered. The Delegation wished to have recorded in the report that France found it very surprising that it was in 2018 only that the Delegation who wished to change the allocation methodology had requested for a presentation on the topic, despite the fact that discussions had been ongoing since 2015. Generally there was a need to understand a modification before a modification would take place. The Delegation of France would therefore have expected such a request to have come earlier and stated that the fact it had come only now said a lot about the debate itself.

312. The Chair reassured delegations that all statements would be reflected in the meeting report. He then observed that there seemed to be no objections on the proposed decision paragraph which was read one last time:

313. The Program and Budget Committee (PBC):

- (i) noted the 2017 GA decision in document A/57/12, para 88 and 89, and held a corresponding discussion, taking into account documents WO/PBC/25/16 and WO/PBC/27/13 as well as the statements of Member States;
- (ii) noted that there was no consensus on the matters discussed under the current agenda item; and
- (iii) decided to request the Secretariat to give during the 29th session of the PBC an oral explanation of the draft proposed Program and Budget 2020/21 and the allocation methodology for the income and expenditure by Union used.

314. The Chair then gavelled the decision and thanked those delegations, in particular, that had worked very hard to find acceptable language and expressed his gratitude for delegations' flexibility which had enabled the PBC in the interest of efficiency to move the meeting towards its conclusion.

ITEM 17 SUPPLEMENTARY CAPITAL MASTER PLAN PROJECTS

315. Discussions were based on document WO/PBC/28/13.

316. The Chair announced the commencement of agenda item 17, Supplementary Capital Master Plan (CMP) Projects, under which two supplementary CMP projects were proposed relating to cloud migration and future opportunities for premises infrastructure enhancements. The Chair handed the floor to the Secretariat to present document WO/PBC/28/13 and mentioned that delegations required further time to consult the document.

317. The Secretariat thanked the Chair and recalled that the Assemblies of the Member States of WIPO in 2017: (i) approved from the Contribution-financed Unions, PCT Union and Madrid Union Reserves the funding of the projects presented in the CMP 2018-2027 for the biennium 2018/19 in document A/57/9 amounting to a total of 25.5 million Swiss francs; (ii) noted that the 2014/15 biennial surplus of the Madrid Union was not fully utilized for the CMP projects 2018/19 and decided to earmark the remaining balance amounting to 1.1 million Swiss francs for future CMP 2018-27 cross-cutting projects that would benefit all Unions. It was understood that the decision was taken on a one-time *ad-hoc* basis; and (iii) noted that those decisions were without prejudice to the discussions referred to in paragraph 2 of the document presented to the Assemblies. Furthermore, the Secretariat stated that the CMP 2018-2027 was a living document which included a long-range plan of which the initial projects had been approved the previous year. The Secretariat emphasized the need for recognizing new opportunities that emerged for the Organization as it undertook its work during any given biennium. The Secretariat had identified, in the course of 2018, opportunities that may be classified into two different categories. The first category arose from the rapidly evolving IT environment and landscape, particularly, the shift towards the adoption of cloud technology which would enable the Organization to remain agile and adapt to a changing external environment, thereby providing cost efficient services to its stakeholders and users. The establishment of a long-term capability to utilize cloud services was expected to result in considerable efficiency gains in the medium and long-term, greater organizational resilience, improved security of information assets and systems, and increased diversity of service providers, thereby reducing long-term risks. The Secretariat further explained that the second category of opportunities in the document stemmed from real estate market opportunities to consolidate the WIPO campus, ensuring that it remained fit for purpose and supported business continuity. Projects in both categories would be cross-cutting to the benefit of all Unions of the Organization, whilst the cost of those elements those were directly attributable to specific Unions, would be allocated to specific Unions. The Secretariat stated that document WO/PBC/28/13 presented to the PBC provided: (i) a proposal for two high-priority cloud technology projects, with an estimated cost of approximately 3.0 million Swiss francs; and (ii) the context and need, as mentioned by the Chair, for future projects related to premises and infrastructure which would require further work and study to be undertaken by the Secretariat, to inform concrete proposals for the PBC discussions in 2019. The Secretariat explained that the document provided all the relevant information to facilitate Member States in reaching a decision, including an update on the status of approved CMP projects and other special projects financed from the Reserves, as well as relevant financial information in accordance with the Revised Policy related to Reserves. The Secretariat concluded that the project proposals contained in the document were fully compliant with the principles contained in the Revised Policy related to the Reserves of the Organization.

318. The Chair thanked the Secretariat for the comprehensive overview and opened the floor for any immediate questions or comments.

319. The Delegation of Lithuania, speaking on behalf of the (CEBS) Group, noted that both proposed projects relating to cloud migration attempted to ensure better and more secure

services as well as the efficient use of resources. In this context, the CEBS Group expressed its support for the approval of the funding of the two supplementary CMP projects from the WIPO Reserves. The CEBS Group took note that the Secretariat had provided some analysis on future enhancements opportunities for premises and infrastructure, including the offering of key services to WIPO employees that would be a means of ensuring better employment conditions for young families, particularly women.

320. The Delegation of Switzerland, speaking on behalf of Group B, welcomed the objectives behind the proposal for the supplementary CMP projects and quoted that the “establishment of a long-term capability for WIPO to utilize cloud service providers and migration of legacy applications” and “migration of email to the cloud” aimed at optimizing costs, increasing agility and flexibility, improving service delivery to stakeholders, as well as enhancing resilience and business continuity. Group B was of the view that continuous and forward-looking investment in a modern infrastructure that responded to the specific needs of the Organization was key in ensuring that WIPO would be able to continue to deliver high quality services in the future, while using its resources efficiently and realizing savings where possible. Group B noted the ongoing analysis conducted by the Secretariat in terms of needs regarding buildings and options regarding services to staff. Group B expressed its support for the approval of the projects as proposed in document WO/PBC/28/13.

321. The Delegation of the United States of America supported the proposed two high-priority cloud technology projects given the expected resulting benefits and efficiencies. The Delegation stated that their approval of those two projects was without prejudice to their position on the budget allocation methodology for future CMP projects. The Delegation referred to paragraph 6 of the document and indicated that it had not been accustomed to the terminology, specifically in reference to the 0.9 million Swiss francs in the Special Projects Reserve which were no longer required and therefore would be returned to Accumulated Surpluses. The Delegation therefore requested clarifications as to which Reserves the unused amount had been returned to. The Delegation also welcomed more information in relation to paragraph 33 concerning the expected increase in the rental costs by 94% as of 2020.

322. The Secretariat explained that the expected rental increase referred to in paragraph 33, was due to the fact that the rented premises had recently been acquired by a new owner, and an assessment of the state of the building would be undertaken. Certain building renovations would be required to comply with local regulations and requirements applicable in Switzerland, particularly, the Canton of Geneva. The rental amount had been negotiated to remain at the current level for the upcoming year, permitting the Secretariat to understand the future options offered by the new ownership, conduct market surveys to assess market opportunities and consider other available opportunities. Regarding the question on terminology, the Secretariat recalled the discussions held and explanations provided the previous day and referred to page 23 of the English version of the Annual Financial Statements, which states the net assets of the Organization in Statement 1 of the Statement of Financial Position. The net assets comprised multiple components of which the Accumulated Surpluses were the year on year surpluses which had been accumulated resulting from income exceeding expenditure. Thus, the terminology had been aligned to the financial accounting terminology and as previously mentioned, the net assets were the Reserves and the Working Capital Funds (RWCF) of the Organization.

323. The Chair thanked the Secretariat for the clarifications and reopened the floor to delegations for any responses. Seeing that there were no further requests for the floor, the Chair read out the decision paragraph, which was adopted.

324. The Program and Budget Committee recommended to the Assemblies of WIPO, each as far as it is concerned, to approve, from the WIPO Reserves, the funding of the two supplementary CMP Projects amounting to a total of 3.0 million

Swiss francs, and to take note of the future opportunities for premises infrastructure enhancements.

ITEM 18 CLOSING OF THE SESSION

325. The Chair introduced the final item which was the closure of the session. There were no formal steps to take under this item, as all decisions had been gavelled under the various Agenda items. For clarity, the Chair pointed out that all decisions that were listed in document WO/PBC/28/14 Prov. would be updated by the Secretariat with the last two decisions which had been taken, i.e. the decisions under item 16 and under item 2. That document, once updated, would form the basis for the report of the PBC to the General Assembly. The document would also be posted electronically in all of the WIPO languages and would be sent to Group Coordinators. The Chair thanked the delegates for their active engagement in various topics that week, which had helped the Committee to move through the agenda items in a speedy, rapid and efficient fashion. The Chair thanked the interpreters, the technicians, the conference staff, the colleagues and the Secretariat's team, and looked forward to working with them again over the coming year or so.

326. Speaking on behalf of GRULAC, the Delegation of El Salvador congratulated the two Vice-Chairs on their appointment and for efficiently leading the meeting, managing time and promoting understanding among diverging positions. GRULAC also thanked all members who had enriched the discussions with their proposals and contributions, as it felt that important decisions had been taken concerning many items which had been on the meeting's agenda. GRULAC also expressed its thanks to the Secretariat for organizing the meeting, and to all the participating WIPO bodies represented in the session for their valuable presentations and explanations that had fed into the decisions taken. In closing, GRULAC thanked the WIPO Conference Services and translation team for their valuable support throughout the meeting.

327. The Delegation of Lithuania, speaking on behalf of the CEBS Group, thanked the Chair for ably guiding the discussions during the session, and expressed thanks to the WIPO Secretariat for its commitment to the Committee's work, and to the IAOC and IOD for carrying on their highly important mission for the healthy functioning of the Organization. The CEBS Group valued the work carried out by the External Auditor of India during the previous six years and wished the incoming External Auditor of the United Kingdom every success in that function. The CEBS Group expressed its thanks to the interpreters and staff of the Conference Services for their tireless efforts in ensuring excellent working conditions for the delegates. Lastly, the CEBS Group thanked all delegations for working effectively during the session, and for all meaningful discussions held while reviewing a number of documents and adopting important decisions.

328. The Delegation of Switzerland, speaking on behalf of Group B, congratulated the Chair for efficiently and effectively leading the session throughout the week, citing the speed at which work had been carried out, a marked difference from some recently past PBC sessions. Group B felt that the Chair's stellar guidance had contributed to a first class journey to positive outcomes, and thanked the Secretariat for its availability and hard work before and during the session, as well as the interpreters and the Conference Services for their usual support and professionalism.

329. The Delegation of Indonesia, speaking on behalf of the Asia and Pacific Group, congratulated the two Vice-Chairs on their elections, and thanked the Chair for ably guiding the session to an early conclusion, which would better help the Geneva-based delegates of WIPO to prepare for the General Assembly. The Asia and Pacific Group expressed its thanks to the Regional Coordinators for the flexibility shown in the meeting, and to the

Secretariat, the Conference Services, the Interpreters, the Office of the Legal Counsel, the IAOC, the IOD, and the External Auditor, for their excellent reports.

330. Taking the floor on behalf of the African Group, the Delegation of Morocco thanked the Chair for the praiseworthy efforts in presiding over the session, and for the highly effective and professional guidance shown which allowed the Committee to make quick progress. The Group congratulated the incoming Vice-Chairs on their elections, expressed thanks to the interpreters for facilitating communication and commended the Secretariat for efforts deployed before and during the week which had certainly contributed to the good proceedings. The Group acknowledged the merit of its fellow delegates who had spared no efforts in order to make progress with the Committee's work. The Group welcomed the situation of the budget and its outcome, believed that the session had seen some fruitful debates and eagerly awaited an opportunity to capitalize on the achievements made for the following session. The Group also thanked the Regional Coordinators for their tireless efforts.

331. The Delegation of China stated that under the leadership of the Chair, the session had been highly efficient and conducted in a professional manner, and congratulated the Vice-Chairs on their election. The Delegation also commended the Member States on displaying flexibility during the session, which had enabled the Committee to reach consensus on most of the agenda items, establishing a good foundation for the General Assembly of 2018. The Delegation expressed its gratitude to the Conference Services and to the Interpreters for their efforts.

332. The Chair thanked the Committee for its comments, added his best wishes to those traveling back to capitals and expressed the hope of seeing and collaborating with the delegates during the Assemblies or at the PBC the following year. The session was closed.

[Annex follows]

ANNEX : LISTE DES PARTICIPANTS / LIST OF PARTICIPANTS

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in the alphabetical order of the names in French of States)*

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[End of Annex and of document]