

ANNEX II

INFORMAL NOTE OF THE INTERNATIONAL BUREAU ON THE MANAGEMENT OF THE NEW CONSTRUCTION PROJECT IN THE LIGHT OF THE REPORTS BY THE EXTERNAL AUDITOR, RECEIVED BY THE INTERNATIONAL BUREAU ON APRIL 15 AND APRIL 20, 2005

I. INTRODUCTION

1. At the informal session of the Program and Budget Committee held in February 2005, the Secretariat presented the various technical and financial options concerning the new construction (document WO/PBC/IM/05/3). A revised version of this document, incorporating the observations made by the Member States, was prepared for the April 2005 session of the Committee (document WO/PBC/8/INF/1). As explained in these documents, the Secretariat proposes to relaunch the revised construction project in 2006, as described in document WO/PBC/8/INF/1.

2. On April 15, 2005, the Secretariat received from the External Auditor the final version of the *Interim Audit Report Concerning the Project to Construct the New Administrative Building and Conference Room*. On April 20, 2005, the Secretariat also received from the External Auditor the final version of the *Audit Report Detailing the Costs of Construction Relating to the Renovation, Modernization and Expansion of the Former World Meteorological Organization (WMO) Building*.

3. In the light of the two reports and the recommendations made in this context by the External Auditor, the Secretariat informs the Member States that in relation to the re-start of the new construction project, it intends, as a follow-up of the External Auditor's recommendations and in order to complete the project in strict compliance with the established deadlines, costs and quality requirements, to engage the services of external management for the project according to the arrangements described below.

II. A STRENGTHENED EXTERNAL MANAGEMENT

4. In principle, external management can be understood in two ways. According to a first possible scenario, WIPO would be responsible to direct the project and the role of the external management would consist in providing advice and assisting WIPO in monitoring the project's implementation. According to a second possible scenario, WIPO would delegate the direction of the project to external management.

5. In the first scenario, decision-making relating to the direction of the project would remain with the Director of the WIPO Buildings Division who would represent WIPO in its dealings with the architectural and technical management of the project, as well as with the general contractor. In this scenario, the WIPO Project Director would fix the requirements for costs, deadlines and conformity to specifications. He would also be responsible for the project accounts, project documentation and any modifications in the project. The external management would provide expertise on the technical, economic and legal aspects of the project (contract and construction law) without, however, being responsible for its direction. External management would participate in the project management and exercise control over

it through direct reports to the WIPO Contracts Review and Constructions Committee (CRCC).

6. In a second possible scenario, the external management would itself be responsible for directing the project and WIPO would entrust to it, by means of a contract, responsibility for decision-making and supervision. The external management would have to represent WIPO based on precise terms of reference. External management would be responsible for project documentation, project accounts, and any change in the project. WIPO would nevertheless retain decision-making power for the approval of the options presented by the external management, and for fixing requirements in terms of costs, deadlines, and conformity with technical specifications.

7. In the opinion of the External Auditor, there would be no certainty that the first scenario could give sufficient guarantees. The general contractor could, to WIPO's disadvantage, take advantage of possible operational difficulties. The External Auditor does not therefore recommend this solution.

8. According to the External Auditor, the second scenario would have the advantage of providing authority and credibility for the external management so that it can establish its authority over technical engineers and the general contractor. The external management would, however, remain responsible to WIPO, which would retain decision-making power.

9. In view of the above, the Secretariat intends to adopt the recommendation made by the External Auditor (second scenario) and engage the services of an external management company, in accordance with the arrangements described below.

III. THE EXTERNAL MANAGEMENT SELECTION PROCESS

10. The external management (a private company) would be selected by WIPO on the basis of an invitation to tender.

11. The tender specifications would be established on the basis of the recommendations made by the External Auditor. The external management would be responsible to direct the implementation of the project on WIPO's behalf. Through its professional qualifications and experience, it would be responsible to WIPO for cost control (compliance with the budget), meeting deadlines and compliance with quality requirements of the project. It would represent WIPO's interests in relation to all those participating in the project. It would make decisions, with the prior approval of WIPO. It would coordinate all those participating in the project, draw up meeting schedules, and keep the project accounts. It would report regularly to the WIPO Project Director and, periodically, to the CRCC.

12. Private companies responding to the invitation to tender would be required to provide detailed cost quotations for all services involved at a flat rate (not affected by variations in the project's costs). Alternatively, they could be invited to quote prices at an hourly rate, up to a specified maximum amount. This maximum amount would not be exceeded, except in relation to additional services (not included in the original specifications), to be, however, requested and duly accepted by WIPO, on the basis of detailed cost justification.

13. According to the External Auditor, the cost of external management, based on the above specifications, would be between one and a half and two per cent of the cost of construction.

This cost can be absorbed by the budget for Program 31 (New Construction), as detailed in the Proposed Program and Budget for 2006/07.

14. The external management company would be selected by an independent jury comprising representatives of the Member States with, probably, the advice of the *Fondation des immeubles pour les organisations internationales* (FIPOI).

15. In terms of planning, the invitation to tender for external management would be issued before the invitation to tender for a general contractor, so that the external management company selected could assist it in the evaluation of the offers of the general contractors (see Chapter V).

IV. COORDINATION BETWEEN INTERNAL MANAGEMENT AND EXTERNAL PROJECT MANAGEMENT

16. The external management thus selected would work in close cooperation with the internal project management, according to the attached diagram. The diagram was suggested to the Secretariat by the External Auditor.

17. A detailed description of internal project management processes would be produced by the International Bureau prior to the launch of the project. The individual responsibilities of the internal and external project management would also be defined.

18. As shown in the attached diagram, the CRCC would be responsible for the internal supervision of the project. Placed under the authority of the Director General, the Committee has a precise mandate. Under the chairmanship of a Deputy Director General, the Committee comprises several Executive Directors, the Controller, a Director-Advisor to the Office of the Director General, the Legal Counsel and the Director of the Buildings Division. As needs dictate, it would enlist the help of other WIPO staff, in particular from the Procurement and Contracts Service.

19. Subject to agreement by its Council, a FIPOI representative could participate in the meetings of the Committee and provide its experience, expertise and advice. The Committee would meet at regular intervals in order to hear the reports of the WIPO Project Director and the external management. It would take a position on each substantive decision concerning, *inter alia*, the characteristics of the project, costs and deadlines.

20. As shown in the attached diagram, the internal project management would be provided by the Director of the WIPO Buildings Division (WIPO Project Director). Assisted by a small team of staff, he would represent WIPO, and would ensure the correct execution of the work and its compliance with technical specifications. He would hold regular meetings with the external management and would participate in the meetings between the external management and the architect. He would report to the CRCC and refer to it any substantive matters requiring a decision from it.

21. The other operational units of the International Bureau participating in the implementation of the project would essentially be the Procurement and Contracts Service, the Controller, the Legal Counsel and the Finance Division. The Procurement and Contracts Service would be responsible for preparing the invitations to tender and any possible amendments thereto. It would participate in evaluating offers according to the applicable

procedures and submit the contracts for approval to the CRCC, in accordance with WIPO's applicable rules. The Controller would approve the commitments and expenditures relating to the construction project in conformity with WIPO's financial rules, and ensure that all relevant decisions are submitted to the Committee, as well as any decisions which the Controller deems appropriate. (The Controller is a permanent member of the CRCC.) The Legal Counsel would be consulted systematically on the legal phrasing and interpretation of the contracts and any amendments, as well as on any legal questions arising during the implementation of the project.

V. PROCESS FOR THE SELECTION OF THE GENERAL CONTRACTOR

22. Once the external management company has been selected, the Secretariat would launch the tender process for the general contractor. An invitation to express interest would be widely distributed, including by means of the Permanent Missions of the Member States in Geneva. A pre-selection of companies having expressed interest would be made, on the advice of FIPOI and the external management. The companies thus pre-selected would then be invited to submit an offer.

23. The draft contract to be entered by the winning general contractor would be examined in advance by a working group comprising the WIPO Project Director's team, the Controller, the Procurement and Contracts Service and the Legal Counsel. This draft contract would also be approved in advance by the CRCC.

24. The cost to be quoted in the offers should be a flat rate and could, as necessary, be the subject of negotiation with those making the lowest offers, according to the practice of FIPOI.

25. A technical evaluation of the general contractors' offers would be conducted by internal and external management, itself previously selected by means of an invitation to tender.

26. The offers made by potential general contractors would be selected by an independent jury composed of representatives of the Member States, and which would also comprise experts from outside WIPO (in particular, FIPOI).

VI. REVISION AND IMPROVEMENT OF ADMINISTRATIVE PROCEDURES

27. Taking into account the recommendations made by the External Auditor in the two reports referred to above, the Secretariat has also launched a process of revision of its administrative procedures, which includes:

(a) guidelines for the internal coordination of large-scale projects undertaken by WIPO, including in the fields of construction and information technology;

(b) the examination, evaluation and, where necessary, the updating of the internal procedures and practices relating to procurement with the goal of consolidating these into a WIPO manual on procurement. This will cover as a matter of priority:

(i) criteria for issuing limited or international invitations to tender;

(ii) publication modalities and deadlines for invitations to tender;

- (iii) rules for pre-selection, internal and external evaluation criteria, and the definition of specifications;
- (iv) the extent to which a contract concluded with a supplier of goods or services can be amended so as to incorporate additional goods or services without infringing procurement rules;
- (v) the best practices of the other organizations in the United Nations system;
- (c) where necessary, the updating of WIPO's general contract conditions;
- (d) the revision of the text of Regulation 1.6 of the Staff Regulations and Rules, for submission to the next session of the Coordination Committee, not later than September 2005, and, where necessary, the revision of the whole of the WIPO Staff Regulations and Rules;
- (e) an organizational chart showing the current structure of the posts in the Organization's different operational units, and their reporting lines;
- (f) a manual on the rules governing official travel, honoraria for experts and consultants, reimbursement of expenses, and the acceptance of gifts by WIPO employees;
- (g) an evaluation of current registry and archiving policies.

28. The implementation of this revision process is expected to ensure that the requirements highlighted in the External Auditor's reports in terms of coordination, documentation, reliability, and quality of information, and contracting, are fully met.

VII. INFORMATION FOR MEMBER STATES

29. In addition to sessions of the Program and Budget Committee, Member States will be kept regularly informed of the progress of the project. Group Coordinators and/or, where the Member States so desire, an *ad hoc* working group, will be kept informed by the Secretariat of the progress of the project.

VIII. CONCLUSION

30. The Secretariat considers that external management of the kind described in the above paragraphs, working in close liaison with internal project management, as well as close cooperation among the different operational units in the Secretariat according to a pre-established work-flow chart, strict compliance with the financial rules as ensured by the CRCC, and reinforced administrative procedures, in particular in relation to procurement, should guarantee a transparent and effective management of the implementation of the revised project for the new construction.

