

WIPO



WO/PBC/8/5

ORIGINAL: English/français/Español

DATE: June 15, 2005

WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

E

PROGRAM AND BUDGET COMMITTEE

Eighth Session

Geneva, April 27 to 29, 2005

REPORT

prepared by the Secretariat

1. The eighth session of the WIPO Program and Budget Committee, hereinafter referred to as “the Committee,” was held at the headquarters of WIPO from April 27 to 29, 2005.
2. The Program and Budget Committee is composed of the following Member States: Algeria, Argentina, Brazil, Bulgaria, Canada, Chile, China, Colombia, Czech Republic, Ecuador, Egypt, France, Germany, Hungary, India, Italy, Japan, Kenya, Kyrgyzstan, Mexico, Morocco, Netherlands, Nigeria, Oman, Pakistan, Philippines, Republic of Korea, Russian Federation, Senegal, Serbia and Montenegro, Slovenia, South Africa, Spain, Sri Lanka, Switzerland (*ex officio*), Thailand, Ukraine, United Kingdom, United States of America, Venezuela and Zambia (41). The members of the Committee which were represented at this session were the following: Algeria, Argentina, Brazil, Canada, Chile, China, Colombia, Czech Republic, Egypt, France, Germany, Hungary, India, Italy, Japan, Kenya, Kyrgyzstan, Mexico, Morocco, Netherlands, Nigeria, Philippines, Republic of Korea, Russian Federation, Senegal, Serbia and Montenegro, Slovenia, South Africa, Spain, Switzerland (*ex officio*), Ukraine, United Kingdom, United States of America and Zambia (34). In addition, the following States members of WIPO but not members of the Committee were represented as observers: Angola, Australia, Bangladesh, Barbados, Benin, Belarus, Bhutan, Burundi, Côte d’Ivoire, Croatia, Democratic People’s Republic of Korea, Dominican Republic, Iran (Islamic Republic of), Israel, Jamaica, Jordan, Latvia, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Mongolia, Poland, Portugal, Republic of Moldova, Romania, Singapore, Slovak Republic, Turkey and Viet Nam (29). The list of participants is annexed to the present document (Annex I).

3. Discussions were based on documents WO/PBC/8/2 (“Accounts for the 2002-2003 Biennium; Interim Financial Statement for 2004”), WO/PBC/8/3 (“Proposed Program and Budget for 2006/07”), WO/PBC/8/4 (“Internal Audit Charter”), as well as WO/PBC/8/INF/1 (“Options concerning the New Construction”) and WO/PBC/8/INF/2 (“WIPO’s Preliminary Comments on JIU/REP/2005/1 entitled ‘Review of Management and Administration in WIPO: Budget, Oversight and Related Issues’”).
4. The session was opened by Mr. Philippe Petit, Deputy Director General, who welcomed the participants on behalf of the Director General and underlined the importance of this particular session, the 2006/07 budget proposal being a turning point in the budgetary policy of the Organization.
5. The Committee unanimously elected Mr. AHN Jae-Hyun (Republic of Korea) as Chair and Mr. Li-Feng Schrock (Germany) and Ms. Ivana Milovanovic (Serbia and Montenegro) as Vice-Chairs of the Committee. Mrs. Carlotta Graffigna (WIPO Controller) acted as Secretary.
6. The Chair acknowledged with sincere gratitude and humility his election as Chairman of the eighth session of the Program and Budget Committee of WIPO and congratulated the two Vice-Chairs on their election.
7. The Chair invited any observations on the draft agenda contained in document WO/PBC/8/1 Prov. 2. The agenda was adopted as presented.

ACCOUNTS FOR THE 2002-2003 BIENNIUM AND INTERIM FINANCIAL STATEMENT FOR 2004 (AGENDA ITEM 4)

8. Introducing document WO/PBC/8/2 (“Accounts for the 2002-2003 Biennium; Interim Financial Statement for 2004”), the Secretariat said that the Financial Management Report and related Report of the External Auditor for the 2002-2003 biennium had been sent to the Member States in July 2004. It summarized the conclusions of the External Auditor’s Report, that is to say, that compliance with the Financial Regulations and the authority given by the Organization’s governing bodies had been met, and drew the Committee’s attention to the four recommendations included in the report. The Secretariat added that the second part of document WO/PBC/8/2 was an interim financial statement for 2004, presenting the amount of income and expenditure and the result as compared to the revised budget for 2004/05.
9. The Delegation of Switzerland thanked and congratulated the Secretariat on the documentation provided, and considered that the efforts made represented a significant step towards greater transparency, efficiency and a more rational budgetary policy. Concerning document WO/PBC/8/2, the Delegation welcomed the Secretariat’s decision to implement the first two recommendations made by the Auditor. As to the other two recommendations, the Delegation wished that in future the Secretariat would take all necessary measures firstly to limit the payment of advances and, secondly, to organize better, from a legal point of view, the changes to certain contractual obligations binding on WIPO in relation to premises so as to avoid any wasted expense. Concerning the approval of the Financial Management Report 2002-2003, the Delegation requested clarification regarding the request for payment by the general contractor responsible for the work done on the former WMO building, on which the external auditor had issued a reservation.

10. The Delegation of France thanked the Chairman and the Secretariat for amending the agenda so that the accounts for the 2002-2003 biennium could be examined first of all. The Delegation expressed concern as to the development of expenditure and income in general, and to staff expenditure in particular. Referring to the document entitled *Financial Management Report for the 2002-2003 Biennium* (FMR/2002-2003), it emphasized that expenses had risen by around 10 per cent, whereas income had decreased by almost 10 per cent. As to staff expenditure, the Delegation noted that it had continued to increase by more than 16 percent during the biennium and that, since expenditure relating to consultants and the hiring of services had not been included in the amounts indicated, those amounts were not moreover complete. As for termination from service, the Delegation requested clarification regarding the methods used to compensate high ranking employees when they left the Organization by mutual agreement, before retirement age, and expressed the view that the Secretariat should publish the Staff Regulations and Rules on the WIPO site so that everyone could refer to them. The Delegation also raised the issue of the premises rented by WIPO to house the Worldwide Academy, and requested information regarding the expiry date of the lease. In his audit report the External Auditor mentioned the date December 31, 2005, whereas the response from WIPO had indicated that the same premises would be vacated on December 31, 2006. The Delegation asked the Secretariat whether it was sure of recovering the funds committed to adapt the premises to the Academy's needs. As to the sum of 1.14 million Swiss francs, on which the External Auditor had issued a reservation regarding the renovation of the former WMO building, the Delegation associated itself with the Delegation of Switzerland and wished to know why the report on the renovation of the former WMO building, mentioned in the External Auditor's general report, which had been sent to Member States in July 2004 with the Financial Management Report 2002-2003, had been forwarded to Member States only on April 26, 2005.

11. Concerning the 1.4 million Swiss franc amount referred to by the Delegation of Switzerland, the Secretariat stated that it endorsed the reservations made by the External Auditor on this particular point. It explained that the initial claims from the general contractor (for 2.1 million Swiss francs in October 2002, and then for 2.7 million Swiss francs in December 2002) had been rejected by WIPO. Subsequently, the general contractor had revised its claim and lowered it to 1.4 million Swiss francs. That amount was then confirmed by the project's Architect in June 2004. At this point in time, the accounts had already been closed and the audit of the renovation of the WMO building was underway. In September 2004, the general contractor had proposed to reduce its claim further, to 700,000 Swiss francs. The Secretariat considered that the successive variations in the claim made by the general contractor clearly showed that this claim had been unjustified. Consequently, the said claim had not been mentioned at the time of the audit. When the Organization had mentioned the claim to the External Auditor, the audit was nearly finished, and therefore the Auditor had not been able to examine the details of this claim and substantiate it. He had therefore made a reservation regarding the substance of this claim.

12. With regard to the Chambésy premises, the Secretariat stated that, in view of the External Auditor's comments and the amount of the rent, it had decided not to renew the lease. The owner of the premises had been duly informed of this decision. The premises would be vacated in the coming days. The rent had been paid until the end of 2005, but negotiations were currently underway with potential buyers and an agreement was likely to be reached so that the Organization would not have to pay for 2006, and possibly even be reimbursed for part of 2005. The Secretariat added that, in accordance with the recommendations of the External Auditor, negotiations were also underway concerning the

transformations that the Organization had made in the Chambésy building. This was being done in order to avoid expenditure for restoring the premises to their original state.

13. With regard to the comments made by the Delegation of France on personnel expenditure, the Secretariat confirmed that, beginning with the 2006/07 biennium, personnel expenditure would be budgeted for and presented more transparently, to cover regular staff, short-term employees, consultants and staff employed on the basis of special service agreements. In 2002-2003, real expenditure for these four categories of personnel (351.4 million Swiss francs) was nearly identical to the amount budgeted for them in the revised budget for 2002-2003 (351.3 million Swiss francs). In future, the Financial Management Report would be in conformity with this new budget structure, allowing for the provision of more consistent financial information to Member States.

14. The Delegation of France thanked the Secretariat for its explanations. Concerned with the matter of the three million Swiss francs spent on refurbishing the premises occupied by the Academy, the Delegation expressed its desire to have greater clarification regarding the amount which WIPO considered it might recover from the investment made. As to the preparation of the budget for 2006-2007 and the changes in staff expenditure, it wished to know the annual rate of real wage adjustment which had taken place in 2002, 2003 and, if possible, in 2004, in order to adjust staff expenditure more effectively in the next budget.

15. In reply to the question of the Delegation of France concerning the Chambésy building, the Secretariat stated that it was common practice in Geneva that the tenant refurbished premises in order to restore them to the owner in their original state. In accordance with the recommendation of the External Auditor, the Secretariat was exploring options other than the aforementioned one in order to avoid unnecessary costs and to negotiate the best conditions possible for the Organization.

16. The Committee recommended to the Assemblies of Member States of WIPO to approve document WO/PBC/8/2 "Accounts for the 2002-2003 Biennium" at its September 2005 session.

REVISED BUDGET FOR 2004/05 AND PROPOSED 2006/07 PROGRAM AND BUDGET (AGENDA ITEM 5)

17. The Secretariat introduced document WO/PBC/8/3 ("Proposed Program and Budget for 2006/07"). For the coming biennium, and after four biennia of deficit budgets, the Director General was proposing a balanced budget, with no deficit and no surplus, and this, without any increases in the current level of fees under the PCT, Madrid and Hague systems. Reserves were very close to the level targeted by Member States (18 per cent of biennial expenditure). This new budgetary policy would be sustainable in the medium term. In 2006/07, income was expected to grow by 4.4 percent over the current biennium. This was a conservative estimate. A more reliable system to forecast income from the PCT system had been developed by WIPO and was being fine-tuned. PCT income was expected to continue to grow, although at a much more moderate pace than in the 1990s. Madrid income was also expected to grow. The Madrid system represented over 15 per cent of total income. The level of contributions from Member States was at a historically low point (less than seven per cent of total income). Models to forecast income from Madrid and Hague fees would be

developed too. The Joint Inspection Unit (JIU) Report (document JIU/REP/2005/1 entitled, "Review of Management and Administration in WIPO: Budget, Oversight and Related Issues") contained a number of recommendations in respect of PCT fees. The Secretariat welcomed them in that, if these recommendations were adopted, the Secretariat's ability to forecast its income would be improved, and WIPO would be less exposed to exchange rate fluctuation risks. This subject deserved broader consultations with Member States. The proposed budget for 2006/07 was 531 million Swiss francs as compared to a revised budget for 2004/05 of 523 million Swiss francs. The revised budget for 2004/05 represented a reduction of more than 18 per cent over the originally approved budget.

18. The proposed budget for 2006/07 took into account two main recommendations from the JIU: that the budget for the next biennium should be based on the revised budget for the current biennium; and that a comprehensive desk-to-desk assessment of the human and financial resources of WIPO should be undertaken and that, based on the result of this exercise, there might be an adjustment to the budget, to be decided by Member States in 2006. However, the Secretariat did not share the analysis of the JIU inspectors in that it considered that it would not be possible to continue to absorb additional workload in the PCT and Madrid area only through redeployment of available staff. It was not only a quantitative, but also a qualitative issue. In the current biennium the Secretariat had made major efforts to cope with growth in the PCT and Madrid systems through redeployment but in the view of the Secretariat this was not sustainable in the medium term. The Secretariat had therefore proposed six new posts for the PCT sector, and 14 new posts for the Madrid sector. Very specific skills were required in these areas, including language skills in Chinese, Japanese, and Korean for the PCT Sector, and in Spanish for the Madrid system. The revised budget for 2004/05 had brought down the number of posts from 1,004 to 915. This meant the deletion of 89 posts.

19. An adjustment of one million Swiss francs had been made in respect of security requirements to comply with UN standards. A further one million Swiss francs had been budgeted for statutory adjustments to the United Nations salary scale. Also based on the recommendations of the JIU, WIPO had budgeted for the prior approval of Member States a limited amount for promotions and reclassifications (2.5 million Swiss francs for the biennium). This amount had been absorbed through savings in other areas.

20. As regards resources proposed to be devoted to cooperation with developing countries, Chart 7 of document WO/PBC/8/3 clearly showed that they were increasing from 71.7 million in the revised budget for 2004/05 to 73.7 million Swiss francs, in the proposed budget for 2006/07.

21. Program 31 (New Construction) was based on the assumption that the revised project for the new construction would be restarted in 2006 through a commercial bank loan. The cost of the external management of the project had also been budgeted for. WIPO was pleased to see that the JIU had validated the proposal of the Secretariat to restart the new construction through a commercial bank loan, and the economic justification of building *versus* continuing to rent office space.

22. The Secretariat also elaborated on program aspects of the Proposed Program and Budget for 2006/07. The primary challenge facing WIPO in the next biennium was to successfully respond to strong demands for IP assistance from various stakeholders, including the governments of Member States, actual or potential users of the IP system, and the general public. The governments of developing countries and least developed countries (LDCs)

needed enhanced assistance to integrate intellectual property into their national strategies and policies for development. Users were increasingly seeking protection of intellectual property in the global market, quality registration services and equitable accessibility to the intellectual property system. Thanks to public outreach, the general public was receiving more information on the dynamically changing environment surrounding intellectual property and intellectual property systems. Programs had been consolidated and realigned along the five strategic goals established in the medium-term plan. The role of intellectual property for development was cross-cutting, and activities in that respect were foreseen under Strategic Goals 1, 2, 3 and 4. The Secretariat emphasized that programs under Strategic Goal Four (Delivery of Quality Service in Global IP Protection Systems) should continue to be an effective vehicle to provide services to users of intellectual property. Strategic Goal Three (Progressive Development of International IP Law) aimed to adjust and fine-tune the present IP system for not only conventional types of IP but also emerging ones regarding traditional knowledge, folklore and genetic resources. Programs under Strategic Goal One (To Promote an IP Culture) were designed to address emerging needs from the general public and civil society for reliable information to facilitate international debate on intellectual property issues. The overall direction and strategy adopted by the Proposed Program and Budget for 2006/07 was in line with the medium-term vision and strategy of WIPO approved by Member States in 2003. In view of the maturity of the programs and the balanced budget, it also proposed a strategic shift from the expansion of programs towards consolidation, refocusing and sustainability, with a particular emphasis on the quality of program deliverables.

23. The Secretariat also introduced document WO/PBC/8/INF/1 (“Options concerning the New Construction”). The document was an updated and revised version of the document presented to the informal session of the Committee in February 2005. It included information requested by Member States at that informal session on possible financing by the *Fondation des immeubles pour les organisations internationales* (FIPOI); the economic justification of the project; and, a comparison of the net present values of the cost of various financial options. The total cost of the Revised Project was 125.4 million Swiss francs, or a reduction of 65 million Swiss francs compared to the Original Project. Based on the recommendations of the External Auditor, which had been received on April 15, 2005, the Secretariat had decided to entrust the management of the implementation of the project to an external management company. Detailed information on this had been made available to the Committee through an informal note. The text of the note is attached to the present report as Annex II.

24. The Secretariat of WIPO had invited the JIU to present the report entitled “Review of Management and Administration in WIPO – Budget, Oversight and Related Issues” at the present session of the Program and Budget Committee in connection with discussion on agenda item 5. The JIU had accepted the invitation. The Chair had proposed that the presentation of the JIU would take place after the presentation of the Secretariat, before opening the floor to delegations on agenda item 5. The presentation of the JIU Report was given by Inspector Mary Deborah Wynes, Vice-Chairman of the JIU. Inspector Wynes stated that the report was the eighth in a series of reviews of the administration and management of United Nations agencies undertaken by the JIU. This first report on WIPO covered budgetary and financial issues, personnel practices and oversight activities; Part II would be undertaken at a later date. The report contained 12 recommendations designed to strengthen WIPO and bring it more in line with UN common system practices. With respect to budgetary and financial issues, the recommendations included hiring external expertise to conduct a detailed human and financial resources needs assessment of the Organization and freezing the 2006/07 budget at the level of revised budget for 2004/05, pending the outcome of the needs

assessment. The report also addressed the budgetary transfer authority that WIPO already had, but recommended limiting it to five per cent of the smaller amount of the appropriations of the programs concerned. Other recommendations addressed having PCT users pay fees in Swiss francs as opposed to other currencies; having PCT fees paid to WIPO upon filing with national offices; and establishing a mechanism to pay PCT fees on-line. Regarding personnel practices, the JIU believed the Director General should be able to recruit and promote against approved posts at the D-1 level without seeking advice from the Coordination Committee.

25. Because these recommendations impacted on the budget, including resources and priorities, the JIU had included a provision that the Director General should report back to the General Assembly on their implementation. These recommendations ranged from freezing contractual employment until the needs assessment was completed; discontinuing the practice of transferring positions with posts; discontinuing personal promotions; establishing a comprehensive human resources strategy; having post reclassifications approved via the budget process; and suspending direct recruitment pending a review of other contractual arrangements. With respect to oversight issues, recommendations ranged from creating a D-level post for the head of internal oversight; enhancing the staffing of the Oversight Division; elaborating audit and evaluation plans; and, establishing a follow-up system for oversight recommendations.

26. The JIU representative further stated that document WO/PBC/8/INF/2 (“WIPO’s Preliminary Comments on JIU/REP/2005/1 entitled ‘Review of Management and Administration in WIPO: Budget, Oversight and Related Issues’”) demonstrated that WIPO was in agreement with many of the recommendations in the JIU Report. In the opinion of the JIU, however, the comments that had been made went beyond the substance of its report by including a section on the JIU’s internal procedures. This should not have been included, and the facts did not reflect the correct situation: the JIU Report had indeed gone through collective wisdom procedures; it was a report of the Unit; it had been sent to WIPO by Inspector Wynes in her capacity as the Vice-Chairman and Acting Chairman of the JIU, as the Chairman was away at that time. Finally, the JIU expressed the view that it was important that Member States of international organizations exercise their board-of-directors function by taking an active and robust role in the program and budget process. The JIU hoped Member States would continue to be involved in various activities affecting the budget and oversight, in particular, the headquarters review. Finally, the JIU asked that the Program and Budget Committee accept, modify or reject each of the recommendations in its report, as it was well aware that taking note technically has no meaning and no force of action. By accepting, modifying or rejecting the recommendations, Member States would be providing clear guidance to WIPO on what it should or should not do in the areas identified in its report.

27. The Delegation of Colombia requested the Chairman of the meeting to provide clarification and guidance as to the form which the JIU report would take, and what type of decision was expected from the member States serving on the Program and Budget Committee regarding the direction which discussions on the report would take.

28. The President of the Staff Association had requested to make a statement to the Committee in relation to the JIU Report. The Chair submitted the request to the Committee, which had no objection. The text of the statement made by the President of the WIPO Staff Association to the Committee is annexed to the present report (Annex III).

29. In response to a request for clarification by the Delegation of Colombia, the Legal Counsel of WIPO explained that the Program and Budget Committee is a subsidiary body

within the governance structure of WIPO. It is not a treaty organ or a governing body. Therefore, the Program and Budget Committee only makes recommendations to its parent body, which is the General Assembly. The JIU recommendations were addressed, some to the Director General, some to the General Assembly, some to the Coordination Committee, and some to the PCT Assembly. There was no recommendation addressed to the Program and Budget Committee. Therefore, the most this Committee could do would be to make a recommendation to the General Assembly, or to any of the parent bodies, but the Committee itself was not competent to take any final decisions on the JIU Report.

30. The Delegation of Nigeria requested copies of the statement made by the President of the WIPO Staff Association. The Secretariat clarified that it was itself not in receipt of the statement of the Staff Association President and could not therefore take charge of making it available.

31. The Delegation of Italy, speaking on behalf of Group B, thanked the Secretariat, in particular, the Controller and her team, for the work done, the comprehensive and timely set of documents, including the updated versions of those already discussed in the February 2005 informal session of the Committee. Group B welcomed them as they represented a significant step in the pursuit of a more transparent, efficient and streamlined budget policy for WIPO. It also applauded the cooperation established by the Secretariat with the JIU, and was pleased to see that some recommendations of the JIU had already been incorporated in the documents. It encouraged the Secretariat to pursue this cooperation to ensure that the JIU recommendations would be implemented, and supported the continuation of this joint effort in the future. As for the 2004/05 revised budget, Group B welcomed the fact that the financial situation had eased and that a fee increase in the current biennium would not be necessary. The deficit had been reduced further, some cost saving measures had been introduced and the reserves remained at a high level. The postponement of the new construction had given the Secretariat significant room to maneuver in coping with the financial difficulties created by the over-estimation of income.

32. Concerning the Proposed Program and Budget for 2006/07, it commended the Secretariat for its new budgetary policy within a results-based management approach, and welcomed the fact that the Secretariat had proposed a balanced budget after four consecutive biennia of deficits and had not proposed a fee increase. It noted that the reserves were on target, that a predictable forecasting model had been developed for the PCT, and that a similar model was being developed for the Madrid system. The timely adoption of some JIU recommendations, in particular, the performance of a comprehensive desk-to-desk needs assessment of the human and financial resources by an independent external expert, was important, as was the tackling of traditional and new priorities. Group B wanted to see the establishment of an audit committee, following best practices in other international organizations. Such an audit committee should consist of delegates of Member States, as well as representatives of the Secretariat. External expertise, such as the External Auditor, could also be part of it. The most urgent tasks of this Committee would be to manage the desk-to-desk review, strengthen the internal audit function, and oversee an external investigation on the recent allegations of fraud. Group B considered that some aspects of the budget document still needed discussion and clarification. Regarding human resources policies, all relevant JIU recommendations should be fully implemented before exercising the flexibility requested by the Secretariat for the PCT and Madrid systems (establishment of 20 new posts).

33. It sought clarification concerning the 41 per cent increase in proposed Program 2 (External Coordination). It wished to be kept abreast of progress in the discussions between the Secretariat and the JIU to implement the recommendations. It also sought clarification on the evolution of standard costs for salaries. Concerning the new construction, Group B welcomed document WO/PBC/8/INF/1 since it clarified the different financial alternatives using investment appraisal techniques, as requested by Group B in the February 2005 session. It noted with satisfaction that resumption of the new construction project would enable the Organization to accommodate its entire staff in one location without having to rent supplementary premises. Group B had received the External Auditor's reports on the construction projects only the day before the meeting and had not had the opportunity to review them fully. Nonetheless Group B hoped that the independent expert foreseen by the Secretariat would finalize its report on the costs and financial engineering of the operation before a final decision was taken. It took note of the JIU's statement that the option of a commercial bank loan was the most appropriate one presented. It sought clarification on the interest rate applicable to this loan and on whether, in the implementation of the project, WIPO would implement the recommendations of the External Auditor. It believed continuous and strong cooperation between the Secretariat and Member States was also necessary to ensure the timely and correct implementation of the 2006/07 budget, especially with regard to the JIU recommendations on the desk-to-desk needs assessment and the reinforcement of oversight activities. It considered that more frequent meetings of the Committee would be useful.

34. The Delegation of the Czech Republic, speaking on behalf of the Group of Central European and Baltic States, appreciated very much the work of the Secretariat in preparation of the documents which set down in a comprehensive manner various aspects of the Proposed Program and Budget for 2006/07 and of the new construction. It was aware of the huge amount of work which had been accomplished and was grateful for it. Regarding the new construction, based on document WO/PBC/8/INF/1 and the data provided by the Secretariat, it had come to the conclusion that the restart of the new construction project was economically justified. It understood that the only technical option on the table was the revised project. It considered that the best of the proposed financial options was a commercial bank loan, provided that the conditions of the loan remain unchanged. It supported the view of the Secretariat and of the JIU that the commercial bank loan was the most prudent and financially advantageous option available to the Organization. It appreciated the work of the Secretariat, which had found means to reduce expenditures in view of the income shortfall. It welcomed the new budgetary policy introduced in document WO/PBC/8/3, which did not increase the current level of fees payable by users of the PCT, Madrid and Hague systems. It also looked forward to the announced new model for forecasting levels of demand and income for the PCT system and was confident that this new model would contribute to the stability of WIPO's future financial situation. In conclusion, the Group associated itself with all pillars of the 2006/07 budget: income growth of 4.4 per cent; a balanced budget, with no deficit and no fee increases; reserves on target; almost the same level of employment as in the current biennium; administrative efficiency and a construction project carried out according to the revised project and financed by a loan from a commercial bank. It considered that all programs had been drafted carefully and reflected the mandate of WIPO and the interest of its Member States. Members of the Group appreciated the proposed Program 7, which contributed to strengthening awareness of the usefulness of IP protection, the exchange of views among experts, and knowledge on IP, thus improving and harmonizing IP protection in the region. It also appreciated and welcomed other programs which would contribute to the international discussion and the educational process on IP, such as the programs on public outreach and communication, external coordination, public policy,

IP enforcement, the WIPO Worldwide Academy, and the challenging program of the strategic use of IP for development. As for the goal of progressive development of international IP law, it considered that, in the framework of the program on patent law, a more ambitious goal could be identified in order to achieve substantive progress in the future. It also supported simplification within the framework of the PCT and looked forward to further qualitative improvement of PCT system services through the most effective use of information technology. It favored finding a solution to simplify communication within the Madrid system and ensure the expeditious exchange of information on trademarks without an increase in costs. It was persuaded that the proposed programs would contribute to the achievement of the strategic goals of the Organization.

35. The Delegation of Morocco, speaking on behalf of the African Group, thanked the International Bureau for the efforts made to produce the documents being examined at the current Committee session. The African Group wished, at that stage, to enquire with the Secretariat as to the reasons for the reduction, in relation to the revised budget for 2004-2005, in the funding allocated to Programs 6 and 8 concerning respectively Africa, the Arab countries, the Asia-Pacific region, the countries of Latin America and the Caribbean, the LDCs, and the modernization of intellectual property institutions. The latter program had been reduced by 40%, whereas the areas in question were a major priority for the majority of developing countries.

36. The Delegation of China stated it appreciated the Secretariat's positive response to the Member States' request to carry out a series of cost saving measures after the September 2004 session of the General Assembly. It was very pleased to see that this series of measures had achieved preliminary results and hoped that the Secretariat would continue to carry out similar measures to improve further the administrative work and efficient financial management of the Organization on this basis. It welcomed the Organization's efforts to make the programs clearer. It expressed its concern over the 12.9 per cent decrease in financial resources for Program 6 (Africa, Arab, Asia and the Pacific, Latin America and the Caribbean Countries, LDCs) as compared to the current biennium. It hoped the Committee would pay more attention to the needs of the developing countries and LDCs. It expressed regret that all documents had not been provided in Chinese for the Intergovernmental Committee on IP and Genetic Resources, Traditional Knowledge and Folklore, the Standing Committee on the Law of Patents, and the Intersessional Intergovernmental Meeting on a Development Agenda for WIPO. This had affected the discussion and participation of the stakeholders, including governmental organizations, intergovernmental organizations and non-governmental organizations. It noted that, in the preparation of documents for this Committee, the Chinese version has been provided and appreciated the Secretariat's efforts in this aspect.

37. The Delegation of Moldova, speaking on behalf of the Central Asian, Caucasus and Eastern European Countries, expressed its support for the Proposed Program and Budget for 2006/07. It asked for clarifications on Program 7 (Certain Countries in Europe and Asia) and stated that the Group was concerned that the untimely presentation of documents in Russian had made it difficult for its members to prepare for the meeting.

38. The Delegation of Benin, speaking on behalf of the LDCs, thanked the WIPO Director General for his initiatives in support of LDCs and congratulated the Secretariat on the quality of the documentation provided. The group of LDCs wished, however, to obtain clarification regarding the concerns expressed by the African Group.

39. The Delegation of Colombia thanked the International Bureau for preparing the exhaustive document WO/PBC/8/3, which contained a large number of significant elements in relation to the program and budget. It associated itself with the comments made by the African Group and the Delegation of China, whereby clarification had been requested concerning the reduction of almost 6 million Swiss francs in the budget for Program 6.
40. The Delegation of Serbia and Montenegro welcomed the new approach of document WO/PBC/8/3 consisting in regrouping programs by Strategic Goals. It asked for guidance on how certain countries in Europe and Asia could more efficiently use programs other than Program 7, and supported the proposal of Group B for the Committee to have more frequent meetings. Concerning Program 7, it commended the work already done by the Secretariat in cooperation with other organizations and institutions in European and Euro-Asian territory in the course of the previous biennium and asked the Secretariat to continue this kind of cooperation. This region had a very good framework for intellectual property but more emphasis needed to be given to the economic impact of the IP system. It welcomed the JIU Report; however, as stressed in WIPO's reply to this report, it reminded the Committee that WIPO has specificity among other UN system organizations. For this reason, certain JIU recommendations needed to be adjusted to reflect that specificity. As regards the new construction project, it supported the proposal presented by WIPO to use a commercial bank loan to finance the revised project.
41. The Delegation of Ukraine acknowledged the Secretariat's new budgetary strategy and policies, expressed concern over the decrease in resources under Program 7 and indicated its readiness to support the new proposals if it would be advantageous to the budget and the Organization. Clarifications were sought with regard to the planning of future activities under Program 7.
42. Speaking on behalf of the African Group, the Delegation of Morocco thanked the Director General, Dr. Kamil Idris, for his initiatives which had expanded intellectual property horizons to the benefit of a large number of players, including developing countries, established a strategy for action based *inter alia* on the promotion of intellectual property culture as an important facet of the advent of economic, cultural and social development, and encouraged the contribution made by intellectual property mechanisms to the achievement of the Millennium Development Goals. The African Group also thanked the Secretariat for the efforts made in preparing the documents provided. Regarding the revised budget for 2004-2005, the Group noted that significant reductions had appeared in the main programs relating to the management of resources and information technologies, while smaller reductions relating to the other programs had been fairly distributed. The African Group reiterated the importance which it attached to the program of cooperation for development and the activities of the WIPO Worldwide Academy. It wished to pay tribute to the Secretariat for the effectiveness of the tight budgetary policy which it had pursued and which had enabled considerable savings to be made in particular in terms of operating expenses. The African Group supported the strategic direction followed by WIPO and also the five strategic objectives and priority areas, as well as the grouping together of 31 programs, as defined in document WO/PBC/8/3, since those strategic objectives and priority areas were such as to meet the concerns of Member States in relation to intellectual property and to guarantee both the promotion of those objectives and areas, and also the increased involvement of the parties concerned in the Organization's work. The African Group considered the program and budget proposed for the 2006-2007 biennium to be acceptable and balanced, since it contained an encouraging series of financial parameters, in the case in question an overall increase in income of 4.4 per cent on 2004-2005, due largely to a scheduled increase in the

number of PCT applications in 2006-2007; the absence of both a deficit and of an increase in fees; the reserves held at the level approved by the Member States; and the program and budget which were part of the objectives for the future vision and strategic direction of WIPO in the medium term for the period 2006-2009. They were based on the amount of the revised budget for the 2004-2005 biennium and took into account the recommendations of the United Nations Joint Inspection Unit, in its report entitled "Review of Management and Administration in WIPO - Budget, Oversight and Related Issues", as well as observations on the comments made by member countries at the informal session of the Program and Budget Committee in February 2005. The African Group noted with satisfaction the content of Program 06, the aim of which was to help developing countries, including LDCs, to incorporate intellectual property considerations in their policies and strategies, and national and regional development action plans, and to optimize their intellectual property infrastructure in the cause of sustainable economic, social and cultural development.

43. The African Group referred to its increased interest in the activities of the WIPO Worldwide Academy and in cooperation for development, in particular the technical assistance program and the program relating to traditional knowledge, traditional cultural expressions and genetic resources. The Group added that the budgetary situation or unforeseen deficits could not justify a lack of ambition on WIPO's part in fields which were so crucial for African countries. During the last Assemblies, the Member States had committed the Organization to an action plan for development and the African Group had emphasized the essential need to attach particular attention to the above subjects and the participation of African experts in WIPO meetings. It had been considered important to have a system of predictable income so that in future the enforcement of a budget could not be affected by an unforeseen deficit. At the time the budget was adopted for a biennium, the Secretariat should be able to provide the Member States with information on the possible variations in income so that the Member States could take that into account in the allocation and choice of programs. Finally, the importance attached to the need for a solid financial base for WIPO allowed it to operate in the best possible manner and to implement services and action programs, in accordance with the expectations and aspirations of the Member States. The *modus operandi* of such programs should be examined so as to take into consideration the results of the intersession intergovernmental meetings relating to a WIPO action plan for development. As to the new construction project, the African Group expressed its support for the option which consisted in funding the project by means of a loan from a commercial bank. The choice was based on the following considerations: the argument put forward by the International Bureau in document WO/PBC/8/INF/1, based mainly on a range of financial benefits and on the basis of global economic arguments, as mentioned in the description of Program 31 in document WO/PBC/8/3; the legal compliance of that option with the provisions of the Convention establishing WIPO, as stipulated in paragraph 13 of document WO/PBC/IM/05/3 examined at the informal session in February 2005; the essential need to benefit from the investments already made in the project and the existence of a precedent represented by the Madrid Union building in 1975. However, the Group stated that it would be of great benefit to WIPO to envisage in future the possibility of having a conference room available, since that decision had been taken by the Member States in 2002. In general terms, the African Group expressed its support for the proposed budget, without prejudice to possible subsequent discussions during the General Assemblies, and in the hope that an upward revision of Programs 6 and 8 could take place so as to take into consideration the concerns expressed by the African Group.

44. The Delegation of the Russian Federation associated itself with the statement made by its Group Coordinator and commended the Secretariat for its efforts in putting together the

Proposed Program and Budget for 2006/07, noting its improved quality. The Delegation was of the view that the budget proposal for 2006/07 was justified, and that the Organization should have the possibility to readjust it in the course of the biennium. The structure of the Program and Budget for 2006/07 was centered around the notion of intellectual property as an important tool for economic, social and cultural development, and it would help achieve the Organization's goals and priorities. The Delegation expressed some concern with regard to the fact that some programs' performance indicators did not enable sufficient quantitative measurements. It also expressed concern with regard to the resources for Program 7. Also, the Delegation requested more information on the relationship between Program 7 on the one hand, and Programs 3, 10 and 11, on the other. On the revised project for the new construction, the Delegation was of the view that the commercial bank loan option was the most appropriate one. At the same time, it wished to know the timeframe for completion of the project and the modalities of securing a bank loan. Regarding the JIU Report, the Delegation was pleased to see the incorporation of some of the recommendations of the JIU in the Proposed Program and Budget for 2006/07, and wished to be informed on their implementation.

45. The Delegation of Benin, speaking on behalf of the LDCs, expressed its satisfaction concerning the documents provided. Concerning the revised budget for 2004-2005, and more particularly the WIPO Program of Cooperation for Development (Program 06), the group of LDCs expressed regret at the reduction in resources for the program, since the availability of sufficient resources for the program should remain a priority for the group of LDCs. Those countries did not wish the program to suffer from any reduction in relation to the amount initially allocated. The LDCs reiterated their request to be supported in the efforts they made to meet the development challenges which they faced. The Group invited its bilateral and multilateral development partners to continue their support for the activities, projects and programs set up in support of LDCs, in order to ensure an optimum level of funding for the activities conducted, which had proved to be relevant and represented an asset which should be continuously maintained. On the subject of the proposals made by the International Bureau for the financial year 2006-2007, the group of LDCs welcomed the initiative of the Director General to present a balanced budget, testifying to the considerable efforts made by the Secretariat to generate savings. The group of LDCs expressed its support for a balanced budget policy in the medium term. As to the resources allocated to cooperation for development for the 2006-2007 biennium, the Group noted with satisfaction that within an essentially stable budget, the resources allocated to cooperation should nevertheless be increased, albeit by a small amount. Regarding the new construction, the group of LDCs expressed its full support for the proposal to resume the project and the option which consisted in funding the project by means of a loan from a commercial bank. The report by the United Nations Joint Inspection Unit in February 2005, which supported that proposal, strengthened the position of LDCs, i.e. the Secretariat proposal was considered to be economically justified and sufficiently detailed, and any delay in resuming the project would be to the detriment of the Organization's financial interests. Continuing with comments on the report, the group of LDCs noted that the vast majority of recommendations had been accepted by the WIPO Director General in a spirit of cooperation and openness. The Group said that it would take a stance on some of those recommendations when they were submitted by the Secretariat for consideration by the competent statutory bodies. In conclusion, the LDCs recommended the adoption of the proposed program and budget for the 2006-2007 biennium and the resumption of the new construction project as of the beginning of 2006.

46. The Delegation of Zambia associated itself with the statements made by the Delegation of Morocco on behalf of the African Group and the Delegation of Benin on behalf of the

Least Developed Countries (LDCs). The Delegation pointed out that this was a critical moment for all WIPO Member States to reinvigorate their efforts to strengthen capacity for the developing countries, in particular LDCs, in order that they would benefit from intellectual property in their development. This was consistent with the strategic vision of WIPO. The countries of Africa, and LDCs in particular, needed more assistance from the international community in order to utilize effectively intellectual property as a tool for development. A draft program and budget should be a blueprint of WIPO's strategic program implementation driven by the Member States over the biennium, bearing in mind the initial discussions which had taken place on the WIPO Development Agenda earlier in the month. At that meeting, many delegations, both from developed and developing countries, had supported the general direction on enforcing and reorienting WIPO programs so as to have a clear and meaningful link between intellectual property and development. Programs should be more participatory and driven by Member States. Their implementation should be made in a transparent manner. In view of these principles, the Delegation welcomed the overall strategy of the Proposed Program and Budget for 2006/07, which set development objectives up front, serving as an indication of the Director General's strong and continued commitment to development goals. Program execution should continue to be effective and result-oriented. At the same time, the Delegation expressed concern about the reduction in resources available for technical assistance programs which was due, in part, to declining fee income. While the Delegation noted the sincere efforts made to allocate more resources to programs related to cooperation with developing countries (Chart 7), it wished to see more resources made available in order for WIPO to help developing countries in the area of intellectual property to be equipped with appropriate and sufficient resources to respond to strong demands for capacity building. New strategies were needed to make it possible for WIPO to encourage more countries and stakeholders to participate financially in programs and contribute more extra-budgetary funds for capacity building. The Delegation of Zambia welcomed the principle of a balanced budget with a more reliable system of income projection. However, there should not be a shrinking budget since demands for intellectual property were increasing. If the proposed balanced budget approach ended up with a static balance in the medium term by continuously curtailing expenditure, WIPO would be handicapped and would be unable to meet its global challenges. In this respect, the Delegation wished to highlight the possible need for an increase in fees in the medium term to provide the Organization with more flexibility, while the Secretariat continued the current review and rationalization of administrative policies and practices. The Delegation welcomed an approach of clearly realigning programs with Strategic Goals and took due note of many programs, particularly Strategic Goals 1 and 2, that addressed the needs of countries in connection with the WIPO Development Agenda. The Delegation supported these programs, without prejudice to the outcome of the Development Agenda discussions at two more sessions of the Intersessional Intergovernmental Meeting. The Delegation thought the budget should be subject to a further review, to integrate the outcome of the Development Agenda after the final meeting of the Intersessional Intergovernmental Meeting this summer. On the issue of WIPO reform, the Delegation commended the Secretariat for its forward-looking and transparent approach and encouraged the Secretariat to continue its agenda of reform. Furthermore, the Delegation stressed the importance of the programs on cooperation for development and the WIPO Worldwide Academy and was of the view that these programs deserved more funding because they assisted in the understanding of intellectual property and its improved use for development. The Academy training program had made much progress, but needed further consolidation and improvement. Since its establishment, the Academy had educated many professionals on the use of intellectual property, as well as the public at large. This was important not only for developing countries but also for developed countries members of WIPO because, unless intellectual property was well understood, its contribution

to development might not be adequately appreciated by the people. The Delegation felt WIPO had made significant progress in fostering a broader understanding of the value of intellectual property across all levels of society, targeting policy-makers, users and potential users of the intellectual property system, as well as the general public. WIPO had increased its efforts in sensitizing young people to the value of intellectual property and the need to appreciate it through a series of publications, films and multimedia products. These efforts would be enhanced significantly with the launch later this year of a series of intellectual property curriculum materials for schools. The celebration of World Intellectual Property Day on April 26, 2005, had been a major success. The Delegation also acknowledged the importance of the prompt and effective response of technical assistance provided by the Organization in the area of enforcement. A seminar hosted in Lesotho for English-speaking African countries had been helpful. The seminar included a practical legal training session, and a panel discussion on formulating national and regional enforcement strategies in the region. Such seminars and meetings had helped by allowing LDCs to pool their resources and share experiences. However, as indicated on earlier occasions, enforcement had to be related to the development interests of the respective regions.

47. The Delegation of Kyrgyzstan associated itself with the statement of the Delegation of the Republic of Moldova on behalf of the region. It expressed concern over a lower budget provision for Program 7. The Delegation indicated that it had worked closely with WIPO and that further cooperation would greatly enhance the economic development in countries. The Delegation expressed its support for the Proposed Program and Budget for 2006/07 and the project of the new construction.

48. The Delegation of Egypt associated itself with the statement made by the Delegation of Morocco on behalf of the African Group. It hoped to see a better financial situation for the Organization so that it could continue to carry out its many activities benefiting developing countries.

49. The Delegation of the United Kingdom associated itself with the statement made by the Delegation of Italy on behalf of Group B. It welcomed WIPO's efforts to bring the budget in line with strategic goals and commended the Secretariat for an improved layout and format and a more results-based approach. As WIPO developed mainstream results-based management principles throughout the Organization, the Delegation looked forward to seeing further fine-tuning of performance indicators, with more specific, measurable, agreed, realistic and time-related objectives. It looked to the Director General to demonstrate engagement, commitment and leadership on implementing results-based management in order to move WIPO towards a more performance-oriented culture. Results-based management demanded among other things clearly defined responsibilities and authorities for all staff as well as performance assessment and career development linked to performance. A comprehensive human resource strategy as recommended by the JIU would be a welcome development in this direction. In regard to comments raised by the Staff Association on this issue, the Delegation looked forward to hearing the JIU's response to the concerns raised by the representative. It also looked forward to strengthening the working relationship between WIPO and its Member States and considered the on-going review of internal oversight in WIPO as a useful first step. In reference to Recommendation 2 of the JIU Report which advised Member States of the General Assembly to approve an initial 2006/07 budget at the level of the revised budget for 2004/05 pending the outcome of the needs assessment, the Delegation supported this advice not only in the light of the needs assessment, but also in the context of the on-going discussions in WIPO on the Development Agenda. The Delegation saw the coming biennium as an interim period for WIPO which would allow time for the

Organization to refocus its emphasis on a more needs-based, development-orientated agenda. Furthermore, the Delegation welcomed the JIU Report on budget, oversight and related issues under its review of management and administration in WIPO. It noted the preliminary comments made by the Secretariat and commended the constructive attitude taken towards the review. It expressed its trust that the Secretariat would continue in the same manner for the remainder of the review process.

50. While extending its support for all the recommendations set out in the JIU Report, the Delegation made the following comments or reservations. On Recommendation 1, the Delegation hoped that WIPO would work with the JIU to establish best practice for the needs assessment. This would ensure that any tender in process would clearly address WIPO's needs for the assessment. There was a clear governance role in this exercise for the Member States. The Delegation welcomed the principle proposed in Recommendation 4, while at the same time questioning whether this was consistent with standard practice in the UN common system and whether such transfers should also require the approval of the governing bodies. The Delegation welcomed Recommendation 5, on the understanding that its intention was to help to simplify the PCT fee process and bring it into line with the Madrid system. It also wished to hear the Secretariat's understanding of this recommendation. On Recommendation 7, the Delegation noted the Secretariat's reservations. However, it welcomed a legal opinion on whether article 13.1 of the WIPO Convention might be an appropriate route to implementing this recommendation. On oversight, the Delegation strongly supported the JIU comment that Member States should exercise their board-of-directors function by taking an active and robust role in both the program and the budget processes. The Delegation welcomed more regular governing body meetings such as that of the Program and Budget Committee, seen to help the Member States perform more effective roles in this regard. The Delegation also supported Recommendations 11 and 12.

51. The Delegation of Canada fully supported the statement made by the Delegation of Italy on behalf of Group B. It also welcomed in particular that the Secretariat was proposing a balanced budget, no fee increase, maintenance of adequate reserves, improved forecasting for PCT income, and support for some of the JIU recommendations. The Delegation wished to associate itself with the statement by the Delegation of the United Kingdom with respect to results-based budgeting. The Delegation considered the JIU Report and its recommendations thoughtful, useful and welcome, and agreed with the JIU statement that the time to act on them was now. The Delegation recognized that the Committee did not have authority to implement some of the recommendations but, as the Secretariat had pointed out, the Committee was free to recommend their adoption by the appropriate bodies. The Delegation hoped that the Committee could reach consensus at the current meeting on the JIU recommendations. The Delegation further referred to the proposal of Group B to establish a committee, which would oversee WIPO's implementation of certain audit, oversight and review activities. In particular, this new Committee could set the terms of reference for the desk-to-desk headquarters review recommended by the JIU, which it saw as a particularly important recommendation. This Committee could also work to strengthen the internal audit function in WIPO and might even oversee an external investigation of the recent fraud allegations. It might also have a role to help oversee the new construction project. The Delegation was of the view that this new committee should be Member-State driven, transparent in its operations, with an advisory, and not a decision-making, role. It should be able to draw on assistance from the Secretariat and from outside experts, such as the JIU or specialists in the field. WIPO Member States could look to other UN committees as models, such as the WMO Audit Committee, or the New York-based Advisory Committee on Administration and Budgetary Questions (ACABQ). The Delegation noted that the JIU had

encouraged WIPO Member States to exercise their board-of-directors function in managing WIPO's program and budget. In this respect, the Delegation wished to extend its agreement with the recommendations and hoped that other Committee members would reach consensus on this challenge.

52. The Delegation of Germany expressed its full support for the statement made by the Delegation of Italy on behalf of Group B. It also supported the statement made by the Delegation of Canada and looked forward to the discussion on the Proposed Program and Budget for 2006/07 in which it hoped to play a constructive role. The Delegation welcomed the new budgetary policy of the Secretariat, which was clearly visible in the documents. It commended the Secretariat for stating transparently and clearly at the beginning of the document that an over-optimistic forecast, rather than a decrease in income, had been responsible for the recent financial problems of WIPO. This was very important and reflected a sea change in the presentation of the financial problems of WIPO. The Delegation stated that WIPO was a financially-sound organization. Income continued to grow at a satisfactory pace, amounting to more than eight percent in the 2004/05 biennium. It commended the Secretariat for the key elements of its new budget policy: no fee increase, no deficit spending, timely development of forecast models for PCT income and ongoing work on similar forecast models for the Madrid and Hague systems.

53. The Delegation further expressed satisfaction with the close cooperation of the International Bureau with the JIU, and welcomed its swift steps to implement the key recommendations of the JIU so far. It stressed that it fully accepted the findings of the JIU and thanked the JIU for its presentation. It expressed an interest in the progress the Director General had made so far in implementing the recommendations addressed to him. The Delegation stated that it wished to make a proposal regarding the first recommendation of the JIU in which the Director General was asked to hire independent external expertise to perform a comprehensive desk-to-desk needs assessment of the human and financial resources of WIPO. It noted that, according to the JIU, the headquarters review should encompass a review of expenditure and income requirements, as well as the development of a comprehensive information technology and human resources strategy. Furthermore, according to the JIU, the objective of this desk-to-desk analysis should be reduced budget requirements for 2006/07. The Delegation wished to submit a proposal in order to respond to the JIU's advice that Member States should exercise its board-of-directors function more decisively by taking an active and robust role, not only in the program process but also in the budgetary process. It proposed the establishment of an audit committee which, in the Delegation's view should consist of representatives of the Secretariat as well as delegates of Member States, with the possible addition of external expertise, such as the External Auditor. The Delegation suggested that, with regard to the desk-to-desk review, the audit committee should have the following tasks: contributing to the development of the terms of reference for the external company; following the international bidding process to select the independent external expertise; and cooperating with the external company during the consultation process. The Delegation stressed that this would give the Member States a voice during the consultation process.

54. In conclusion, the Delegation noted the difficulties that had emerged during the previous year as it became apparent that income growth had been overestimated. It hoped this situation would be avoided in the future. In that regard, the Delegation of France had raised concerns regarding expenditures in the budget proposal. Over-estimating income or under-estimating expenditures, could each result in budgetary deficits, and these were mistakes that should be avoided. The Delegation noted the JIU recommendation to set the new budget level

at the same level of the revised budget for 2004/05, with any required adjustment being made after the results of the desk-to-desk review were known. The Delegation hoped that the Secretariat would be open and responsive to this suggestion. The JIU recommendations could make the Organization more effective and efficient and such a reinforced Organization would best serve the needs of the Member States.

55. The Delegation of the United States of America associated itself with the statement made on behalf of Group B by the Delegation of Italy, and expressed support for the statement made by the Delegation of Canada. The Delegation expressed its thanks to the Secretariat for its work: the documents prepared for the meeting were extremely well written and well-organized, and provided essential information. The Delegation agreed with the Delegations of the Russian Federation and the United Kingdom about the need to continually improve performance indicators. It thanked the JIU for undertaking its review of the administration and management of WIPO, and for providing its first report. It welcomed the recommendations and noted that many were already being implemented by the Secretariat. The Delegation thanked the Secretariat for its close cooperation with the JIU and urged it to continue to do so. It also thanked the President of the WIPO Staff Association for his presentation and expressed agreement with many points raised in that presentation. The Delegation expressed its wish to move forward on implementation of the JIU recommendations without delay. It emphasized its support for the JIU recommendation regarding the desk-to-desk needs assessment of WIPO's human and financial resources, reform of personnel practices and containment of personnel costs, and the establishment of a strengthened internal audit function. A rigorous needs assessment would provide the Secretariat and Member States with specific information on staff levels and responsibilities for all types of staff, including regular staff, short-term staff, part-time staff, consultants and special service agreements. The Delegation expressed support for the proposal made by the Delegation of Canada that the Program and Budget Committee recommend the adoption of all the JIU recommendations by the appropriate WIPO bodies this week. Regarding the new construction, the Delegation noted that it could support the option of a commercial bank loan on the revised construction project only if the cost of the loan would be paid from income, other than WIPO Member States' contributions. It stressed that its Government's share of contributions could not be used for external borrowing of any kind.

56. With regard to the Proposed Program and Budget for 2006/07, the Delegation commended the Secretariat for updating information concerning the financial situation of WIPO, and welcomed the decision not to seek a fee increase in the 2006/07 biennium. It applauded WIPO's cost-saving measures, which had resulted in a smaller-than-projected deficit for the current biennium. The Delegation also welcomed WIPO's efforts to improve its forecasting methods and the presentation of a balanced budget for the 2006/07 biennium. It urged the Organization to continue refining its income forecasting methods since they were critical to the program and budget process. The Delegation supported WIPO's continued efforts to make improvements in transparency and accountability within the Organization, and looked forward to working closely with the Secretariat and other Member States to ensure the most efficient allocation and deployment of WIPO's resources.

57. The Delegation of Switzerland associated itself fully with the statement made by the Delegation of Italy on behalf of Group B. The Delegation added that, following WIPO's financial difficulties since 2003, the Secretariat had made great efforts to achieve savings, which should be welcomed. Those efforts had already produced a reduction in the budget of 18 per cent for the current biennium as well as a reduction in the expected deficit. The Delegation requested that those efforts towards savings, or rather rational and effective use of

resources, should continue in the future, even though the Organization's income was expected to grow in the coming years. A transparent financial policy and the rational and effective use of resources would be in the interest of both the Organization and each of its members. The Delegation also welcomed the collaboration between the Joint Inspection Unit (JIU) and WIPO, and noted with satisfaction that the Secretariat already envisaged implementing some of the recommendations. The Delegation strongly encouraged the International Bureau to continue its collaboration with the JIU and for the other relevant recommendations made by that body also to be implemented as quickly as possible. The Delegation of Switzerland wished to join the other delegations which had spoken before it in supporting fully the proposal made by the Delegation of Italy, on behalf of Group B, concerning the creation of an audit committee responsible for conducting a detailed evaluation, office by office, of WIPO's human and financial resources. The Delegation emphasized that the Secretariat had proposed that such an audit committee should be set up, as recommended by the JIU, as quickly as possible. The Delegation expressed its support for the idea that the audit committee would give its opinion on the strengthening of the function and organization of the internal audit. It therefore proposed that the Program and Budget Committee should wait for the results of the audit before making a statement on the draft internal audit charter. Finally, the Delegation added that the audit committee could usefully oversee an external enquiry into the recent fraud allegations.

58. Concerning the draft program and budget for 2006-2007, the Delegation of Switzerland observed with satisfaction that the draft budget was balanced and provided for the maintenance of a reasonable level of reserves and no increase in fees. The presentation of the new budget highlighted, moreover, with greater clarity the strategic aims and priorities of the Organization. In order, however, to guarantee a better follow-up on the part of Member States concerning the developments in the various programs from one biennium to the following one, it would be desirable for the program and budget presented to be stabilized in the future. The Delegation said that the information received on each program appeared more cursory than in previous programs and budgets, and more detailed information containing figures was desirable. It added that that could be achieved through the presentation of an accounting plan, allowing closer monitoring of the allocation of resources and the cost of different services, while providing more detailed information, in particular concerning staff allocations for the different programs and salary classes. The information should also cover the various categories of fixed term staff. At the informal meeting held in February 2005, the Delegation of Switzerland had expressed the desire for such information to be provided systematically and regularly, and for a detailed chart of the Organization's structure to be presented. The Delegation regretted that the draft program and budget for 2006-2007 still contained no organization chart. That chart, which should be regularly updated, could in particular refer to the various divisions and services, the persons responsible for them, and give an indication of the number of people employed. The Delegation also noted that the anticipated results and performance indicators left broad room for manoeuvre when assessing the results. Although aware of the difficulties which existed in finding and establishing relevant and reliable indicators, the Delegation hoped that the discussions designed to refine the Organization's management, based on the results, would continue.

59. Since the planning of WIPO's income was a central issue in the preparation of the budget, the Delegation noted and expressed its support for the efforts undertaken by the Secretariat, within the PCT Union, to improve its forecasts and its desire to do the same for the Madrid and Hague Unions. The Delegation wished to obtain information in the future on the implementation of those new evaluation methods. However, having examined carefully the forecasts which the Secretariat had made in relation to income from the PCT during the

coming years, and having compared them with those recently published by the European Patent Office (EPO), the Delegation noted a quite considerable gap between the forecasts made by both organizations, as the EPO had shown much greater growth for the PCT than that envisaged by WIPO, and hoped that the Secretariat could explain the reasons for such discrepancies.

60. Concerning the new construction, the Delegation noted with satisfaction that the Secretariat had decided to implement the external auditor's recommendation whereby management of the construction would be entrusted to an external party. The Delegation encouraged the Secretariat to do the same with the other recommendations on the new construction.

61. The Delegation recalled that, at the informal meeting held in February 2005, it had raised the idea of undertaking more detailed discussion of certain financial instruments governing the Organization. Such discussions could easily form part of the current audit projects, so that the Member States in future exercised their management function in a more decisive manner. In more specific terms, the Delegation pointed out that the time had perhaps come to review the WIPO Financial Regulations and to refine them somewhat, for example by scheduling regular meetings of the Committee in order to examine, indeed during the first year of a biennium, the implementation of a program and budget and to take a decision as quickly as possible on any adjustments to be made. The Delegation emphasized the fact that Committee members were obliged to receive up-to-date information on WIPO's financial situation and on planning. Insofar as more regular information would circulate on the financial situation and the implementation of the program during a biennium, combined with more regular meetings of the Program and Budget Committee, it was appropriate to ask whether the exercise designed to produce revised budgets, adopted in practice three months prior to the end of a biennium, was truly justified, or whether it would not be appropriate to give up this practice and instead, at the end of the biennium, to have clear explanations on the causes and reasons for discrepancies. The Delegation added that, in view of the program for the forthcoming biennium, WIPO once again proved its concern with meeting the needs of its members as well as possible. That was demonstrated in particular in the strengthening of several programs where willingness had been expressed to highlight the link between intellectual property policy and the corresponding measures for which the authorities were responsible in order to facilitate an enlightened and constructive debate on different matters relating to an appropriate intellectual property policy. In addition to such strengthening, which was welcomed by the Delegation, the central activities of WIPO relating to the international registration of property titles, the harmonious and balanced development of intellectual property law and technical cooperation activities should not be ignored, so that WIPO could continue in all those sectors to play its role on the international stage. The Delegation therefore stated that all those sectors should receive appropriate and sufficient means, be they financial or staff-related resources. The Delegation expressed its full support for the audits proposed by Group B, which should be conducted by the JIU. It concluded by reconfirming its support and active participation in the process of establishing the program and budget and other proposals submitted that day.

62. The Delegation of Brazil welcomed the Proposed Program and Budget for 2006/07 document prepared by the International Bureau. It stated that there had been a clear attempt to reorganize and make it clearer where resources were being allocated in terms of programs and activities. It also provided a clear picture of the allocation of resources among the different types of activities by the Organization, in particular expenditures on personnel on the one hand, and more substantively oriented activities on the other. It noted that the

Organization was taking a step in the right direction by reversing its previous position of proposing an increase in PCT fees. It supported the idea of a balanced budget, which it considered timely. It also welcomed the postponement of the construction of the new building, which had been a wise decision. The Delegation supported the stabilization of reserves, and the clear statement to this effect in the Proposed Program and Budget for 2006/07. The Delegation also welcomed the report by the JIU. It stated that, in general, it would like the Committee to recommend the JIU recommendations to the General Assembly, to the Secretariat and to the Director General for adoption. It noted that some of these had already been taken into consideration by the Secretariat. However, it commented that further discussions should be held regarding which of the recommendations should be taken as a priority and which should be taken on a longer term basis. The Delegation noted that some important suggestions had been put forth for decision by this Committee. In particular, it noted the proposal from Group B, the Delegations of Canada and Germany, and others, to establish an oversight committee that would include Member States, experts, and representatives of the Secretariat, as a channel through which Member States could assume fuller responsibility for the management and for the implementation of the WIPO budget on a more regular basis. It stated that further information would have to be provided to Member States and a permanent reporting relationship would have to be established between the Secretariat and representatives of Member States. The Delegation expressed its wish for the Organization to be more Member-State-driven and for Member States to have a greater say in the elaboration and fine-tuning of the program and budget. It commented that this was difficult to achieve in a single three-day meeting such as this session of the Committee. The Delegation supported the view expressed by others that there should be more frequent meetings of the Committee. These meetings should allow countries to get into details of the program and budget and examine it almost on a program by program basis, putting forth their positions and also receiving more complete information from the Secretariat as to the implications of these for adoption by the General Assembly given the substantive issues being discussed and debated in other bodies of the Organization. Furthermore, it stated that it would not support a dissociation between the budgetary process, which provided the means through which the Organization would implement activities, and the priorities of the Member States on the one hand, while discussions were on-going in substantive bodies, such as on the Development Agenda, genetic resources, and in the Standing Committee on the Law of Patents, which would lead to decisions with significant financial and budgetary implications. The Delegation commented that it did not see a connection between what was happening in those bodies and the type of remarks made in the program and budget document. The Delegation noted that it had put forth a substantive document for discussion with the Member States regarding a Development Agenda for WIPO that would obviously require consideration by all Member States. However, this could lead to an adjustment not only to WIPO's budget but also to its method of work and priorities which would enable these new, more development-friendly programs and activities, that it wished to see the Organization adopt, to be implemented.

63. The Delegation of Brazil remarked that Part I of the document contained the Director General's highlights on the role of IP and development and a brief description of his ideas in this regard, as well as comments regarding the challenges facing WIPO. It also noted that the Strategic Goals cited in the document were based on the 2006-09 Medium-Term Plan. The Delegation stated that in its understanding this plan had been submitted to the General Assembly, which had taken note of it; however this was a document of a more general nature providing a guideline to 2009. In its view, the Director General or the Secretariat could not base the budget upon it. For these reasons the Delegation stated that it would like to see a redrafting of the introductory comments in the program and budget document and that these

comments be more directed towards budgetary and the financial aspects within the scope of the mandate of the Committee. In conclusion, the Delegation noted that it would welcome the possibility of more in-depth discussion on the program and budget before making any recommendations to the General Assembly. This would obviously require more meetings. There were issues not only of content but also regarding the allocation of resources. It understood that there was a legitimate concern on behalf of developing countries regarding the considerable decrease in resources allocated to the technical cooperation programs of WIPO. This decrease could be seen in the revised budget for 2004/05, where there had already been a considerable decrease. There was a further decrease in the Proposed Program and Budget for 2006/07. The Delegation stressed the importance of technical cooperation. It noted that it had proposed, in the context of the Development Agenda, to rediscuss the terms of technical cooperation, which in its view in the Proposed Program and Budget 2006/07 were largely focused on enforcement issues, rather than on the use of IP by developing countries. The Delegation said that it would not support this narrow focus on technical cooperation. The Delegation noted that it had stated this in other bodies and that the program and budget and the activities it foresaw should reflect this. The Delegation stressed that the program and budget should be more development-oriented and should be geared towards helping developing countries, not only to implement their obligations internationally but also to make use of the flexibilities that exist in the system. The cut in resources for technical cooperation could not be dealt with just through the reallocation of resources among the different programs without leading to an increase in the overall budget of WIPO. The Delegation of Brazil felt that there were issues, which needed to be looked at carefully, such as the WIPO Worldwide Academy. It wanted more information about this program and what exactly was being done under it. It suggested that one possibility would be the reallocation of resources among programs to replenish the amount that had been traditionally directed to technical cooperation to the benefit of developing countries and the LDCs.

64. The Delegation of Japan associated itself with the statement made by the Delegation of Italy on behalf of Group B. It expressed its appreciation to WIPO for the proposed program and budget for the next biennium. On the format of the program and budget, the Delegation underscored several points which, in its view, led to the improvement and better understanding of the WIPO proposals. As regards Table VII of document WO/PBC/8/3, the Delegation indicated that it had pointed out on earlier occasions the necessity to introduce business accounting methods in the PCT system in order to clarify the extent to which PCT income was used by other areas. Several consultations had been held with the Secretariat to this end and Table VII was the outcome. The Delegation expressed its hope that further improvements would be achieved in the methodology used to calculate the share of PCT expenditures in Table VII. The Delegation also welcomed the information provided in Table X of document WO/PBC/8/3 (Fund-in-Trust Resources Potentially Available to Programming in 2006/07) and on efficiency-gain targets for 2006/07. The Delegation expressed its satisfaction with the new balanced budget policy and hoped that it would continue in the future. Satisfaction was also expressed in respect of the fact that the Secretariat had decided not to propose a fee increase in the 2006/07 biennium. The Delegation appreciated the Secretariat's efforts to reduce operational expenditure in the current biennium and hoped that this trend would continue in the next biennium. Under a balanced budget policy, available resources might sometimes be limited: WIPO would therefore need to prioritize its activities on the basis of the needs of Member States. Regarding income, the Delegation emphasized that PCT income was the major source of income of WIPO. In this regard, the Delegation associated itself with the positions of the Delegations of the United States of America and Switzerland, among others, on the critical importance of accurately forecasting the levels of PCT applications, and indicated its

willingness to contribute to the improvement of the forecasting process. WIPO should continue to make the PCT system more attractive to users since this would lead to increased levels of PCT demand and income. The automation of the PCT system was highlighted as one area of focus. The Delegation expressed its strong interest in participating in the management and implementation of the automation process.

65. Concerning the JIU Report, the Delegation commended the work of the Unit and expressed its satisfaction that its recommendations would contribute to the improved transparency and efficiency of WIPO's operations. The Delegation hoped that the Secretariat would implement the recommendations and that WIPO and the JIU had a close communication. And, it also expressed its support for the audit committee, which had been proposed and supported by a number of delegations. On the issue of the new construction, the Delegation requested clarification and additional information on: work space requirements and whether further reductions in the number of personnel could be achieved in view of PCT automation efforts; interest rates for the commercial bank loan option and possible impact of variation of interest rates; and maintenance and related costs associated with the owning of the new administrative building as compared to those incurred in the case of rental of office space.

66. The Delegation of France associated itself with the statement made by the Delegation of Italy on behalf of Group B. The Delegation of France thanked the Secretariat for the working documents and expressed satisfaction at the improvement in the financial situation during the current biennium as well as the efforts made by the Secretariat to achieve more rigorous management. That trend was reflected in the draft budget for 2006-2007. It allowed WIPO to continue playing its central role in full, to which the Delegation of France had expressed its great attachment, in the field of intellectual property promotion throughout the world, in particular through cooperation activities for development, while preserving balanced finances in major areas. The Delegation also expressed satisfaction at the efforts made to rationalize the budget document *inter alia* through the management elements based on results, and also the Secretariat's intention to implement the recommendations made by the JIU. The Delegation was convinced that the efforts towards better management were moving in the right direction and encouraged them. It was, however, concerned that the balanced situation should continue and also wished to draw attention to certain budgetary items which, in the final analysis, could prove to be underestimated. The Delegation feared primarily that the amount provided to cover the wage adjustments dictated by the International Civil Service Commission (ICSC) would prove to be insufficient. The Delegation indicated that the responses provided by the International Bureau and for which it was very grateful provided extremely useful information which the Delegation would study in depth and which appeared to assuage its fears. Secondly, the Delegation emphasized that the proposal made by Group B, which consisted in taking a decision on the new construction project, based on solid expertise and up-to-date technical and financial data for the project and its funding by banks. Finally, the Delegation expressed its support for the proposal to set up a committee responsible for overseeing the implementation of the recommendations made by the JIU and also the proposal to modernize the financial regulations.

67. The Delegation of India commended the Secretariat for the comprehensive documents provided for this meeting and underlined their transparency and user-friendliness. The information had been streamlined to enable delegations to take informed positions with regard to issues under discussion. The Delegation pointed to the Organization's emerging financial stability and the need to draw lessons from the recent experience. It was wiser to plan expenditures based on conservative income projections rather than committing to expenditure

patterns based on optimistic forecasts that later proved to be unsustainable. If things did not turn out better than forecast, the Organization could more easily take corrective action to balance its budget than if it were faced with a structural deficit. The Delegation was reassured that the 2006/07 budget proposals reflected a more realistic basis for projecting income than the prior proposal had done. A reserve level of 18 per cent of biennial expenditure that WIPO expected to maintain should enable the Organization to cope with any unusual cash flow situations. The Delegation commended WIPO for giving its full cooperation to the JIU in its review, in spite of the fact that the Organization had not been included in the JIU's original 2005 work plan and therefore had had very short notice to prepare for it. It was fair to conclude that the recommendations of the JIU had broad support from WIPO Member States. The Delegation was pleased to see that some of these recommendations had already been incorporated into the documents submitted by the Secretariat to the Committee. The JIU recommendations covered some important matters. In particular, the Delegation agreed that Member States should exercise their oversight responsibility more meaningfully. In this regard, it spoke of the example of the Advisory Committee on Administrative and Budgetary Questions (ACABQ), a subsidiary organ of the General Assembly of the United Nations made up of elected experts nominated by Member States and mandated to examine and report on budgetary proposals submitted by the Secretary-General. A similar organ established at WIPO could discharge the functions of an audit committee as proposed by Group B and supported by several Members States. Along with the independent external expert proposed by the JIU, the new committee could have a role in the desk-to-desk needs assessment and other important matters. In this context, the Delegation also referred to the programmatic aspects of the Proposed Program and Budget for 2006/07, in particular to the need of developing countries to reorient and customize the thrust of WIPO's technical cooperation programs to address the comparative advantages and specific strengths of each country. The policies and action programs emerging from these efforts would strengthen the credibility of the IP system and should reflect the views of all stakeholders, striking a balance between the interests of both the rights holders and society as a whole. The Delegation pointed out that the operationalization of the program goals could be better achieved through a more meaningful interaction between Member States and the Secretariat in a smaller forum, made up of experts and able to address various technical details and issues.

68. The Delegation of Iran (Islamic Republic of) expressed concern over the negative implications of the balanced budget on resource availability for technical cooperation activities. It also pointed out the importance of having an efficient system of budget evaluation, noting the JIU Report as a positive step in this direction. On the question of oversight, the Delegation was of the view that initiatives in this area and the active participation of Member States therein would lead to transparency and enable the Organization to achieve its goals more effectively.

69. The Delegation of Argentina began by thanking the Secretariat for its presentation of a balanced budget based on the forecasts made for the forthcoming biennium, and referred specifically to the aspects of the budget relating to programs for that period. It emphasized that it was important to stress that WIPO was an intergovernmental organization which should above all support its Member States. The Delegation explained that during the Assemblies in 2003 document A/39/5 had been presented and noted by the Member States, but there had been no possibility to amend the text, nor to insert the comments received at the Assembly session. A new version of the document had therefore been presented. The Delegation noted that in the records of the 2003 Assemblies various members including GRULAC had made a series of observations including the need for a distinct strategic direction for the Organization's work. It pointed out that the vision put forward at that time by a number of

countries had subsequently been consolidated with the presentation of a WIPO Program for Development. The new direction was observed in certain parts of the budget in relation to different programs, especially in parts 1, 4 and 5 of the document, and said that it would continue to insist on a more restrictive focus. The Delegation considered that in order to facilitate approval of the budget for 2006-2007, it was necessary to take into account the observations made on document A/39/5, which had not been adopted by the Assemblies, as was noted in paragraph 9. The Assembly session had noted the document and also the full mandate of WIPO, as it stemmed from the Agreement between WIPO and the United Nations. The Delegation said that in a future document it would be more appropriate to focus on such budgetary aspects, thereby avoiding a programmatic approach which prejudged the position of members of the Organization in certain areas, including possible results in subsidiary bodies. Referring to Part III of the document (paragraphs 62 to 66), which contained an explanation of staff expenditures, the Delegation said that Tables I and V did not show how many short-term employees there were, or the number of consultants or staff holding special service agreements. The Delegation said that the number of posts occupied following a competition, be they for directors, P category or G category staff, was clearly indicated. It observed that those three categories were not broken down in relation to numbers, despite the fact that, as was seen in Table V and Table I, they represented a cost of 59.793 million Swiss francs on staff.

70. As to the allocation of resources for programs, the same part of the budget referred specifically to paragraph 70 where it was indicated that resources for technical cooperation were envisaged in various programs. The Delegation said that the problem was that in the program it was difficult to know what the real figure intended for technical cooperation was since the information was unclear. It considered it necessary to indicate separately the figure specifically devoted to technical cooperation and for a separation by geographical area to be made for Latin America, Asia and Africa. It said that different internal areas of the Organization could be identified to take responsibility for implementing the cooperation budget. It explained that in relation to technical cooperation Diagram 7 indicated that the amount devoted to technical cooperation was 73.7 million Swiss francs, but that when referring to the graphs where expenses for individual programs were specified, Diagram 7 included in the total amount staff and operating expenditure as well as that on furniture, communications, premises and maintenance. As to Program 6, which was the specific technical cooperation program with an allocation of 37.6 million Swiss francs, it was noted that over half that amount was intended for staff salaries. The Delegation observed that the remaining lines of Program 6 did not allow either a clear determination of what the specific figure was for technical cooperation. Nevertheless, it should be deduced from the figures corresponding to Program 6 that the amount devoted to technical cooperation with countries in Asia, Latin America and Africa was less than 37.6 million francs. The Delegation had limited itself solely to matters relating to technical cooperation because in reality that element was presented in the document as a horizontal feature which was involved in various programs and different internal areas of the Organization. The Delegation concluded by saying that it did not believe in the form of presentation of the budget, preceded as it was by a long explanation of different programs which, in most cases, did not identify specific actions or those which could be the subject of a specific budgetary measure. It said that more information should be provided and further details given in forthcoming draft budgets. For example, a Program 29 existed on management of premises but at the same time each program contained a budget line with the title premises and maintenance. The Delegation said that none of the lines in each individual program made it clear what the specific amounts were corresponding to rents or those which referred to external consultants or maintenance. Having referred to the glossary which contained an explanation of the meaning of premises

and maintenance expenditure, the Delegation therefore considered that in order to be able to make a recommendation to the General Assembly, expenditure should be broken down clearly in advance and the program-based structure be maintained. As indicated previously, it believed that the 31 programs currently being presented should be the subject of a substantive detailed analysis, since they should respond to the decisions and interests of Member States. It expressed its concern regarding a number of programs to which it did not wish to refer at the current meeting but at a later date. As to extra budgetary resources, referred to in paragraph 52, the Delegation said it was necessary to know why recourse was had to donors that were not Member State governments and why only the adoption of guidelines was suggested with respect to the private sector and not for other players such as those listed in paragraph 52, for example, non-governmental organizations. The Delegation did not understand the difference which existed between non-governmental organizations which could provide funds. Furthermore, it considered that the suitability of broadening the range of donors beyond the sphere of government donors should be the subject of assessment by the Member States prior to any administration of the matter by the Secretariat.

71. Finally, the Delegation expressed appreciation for the examination of WIPO's management and administration by the JIU, which it considered a very important preliminary step towards the adoption of the new budget. It shared some of the recommendations made but said that others did not to some extent appear to correspond to considerations which the JIU had put forward in the documentation, as was the case for example with Recommendation 8. Concerning the conclusion of paragraph 31, on the application for a loan to construct a new building, the Delegation expressed interest in obtaining more details, as had been requested by other delegations. It also supported those delegations which had urged a cautious approach to be taken in that respect. Finally, referring to document WO/PBC/8/2 relating to the accounts for the 2002-2003 biennium, it also highlighted the relevance of the Auditor's recommendations in that sense and, in relation to the facts which gave rise to such recommendations, it considered it important for Member States to have all the necessary information available to implement the recommendations made.

72. The Delegation of Chile thanked the Secretariat for the document and welcomed the fact that, after four biennia, a balanced budget had been proposed and that the budgetary overview had improved since September 2004. It was pleased to note that the Secretariat had implemented a new system of forecasting levels of demand and PCT-related income, and that similar systems were being assessed for other sources of income. As to expenditure, the Delegation expressed its satisfaction with the measures that had been adopted, including those relating to the new construction. It said that its concerns with regard to the budget for cooperation activities for development were similar to those already expressed by other delegations, and that it therefore welcomed the explanations provided by the Secretariat. It emphasized that in drawing up programs certain concerns expressed by the Delegation had been taken into account, such as the negative impact which might result from the technological protection measures used by authors for the users of exceptions and limitations in the digital environment in Program 4, or the negative influence and social consequences which new technologies might give rise to in Program No. 5. Referring to the JIU report, it welcomed the fact that it had been produced and shared some of the points of view expressed. It was pleased to note that the International Bureau was already taking on board some of the suggestions made. It also noted the comments made by the Secretariat on the JIU report and proposed that advantage should be taken of the presence of the inspectors who could clarify the matters raised by the Secretariat, especially those contained in paragraphs 4 and 5 of document PBC/8/INF/2 relating to the fact that the procedure followed by the JIU was an exception to that established in its own statutes, since WIPO would have been unable to refer

to procedures envisaged in the statutes of the JIU itself. Regarding paragraph 7 of the same document, it was satisfied with the explanation given by the JIU representative.

73. The Delegation of the Philippines welcomed the revised format of the Proposed Program and Budget document. It also thanked the JIU for its work and recommendations, which provided food for thought for the Committee. The Delegation appreciated the admirable efforts of the Secretariat to have a balanced budgetary policy for WIPO given the financial constraints that the Organization had faced in more recent years. The Delegation expressed the hope that this balance would not be at the expense of WIPO's development cooperation programs for developing countries and LDCs, which it hoped would see an increase in funding. The Delegation further noted the concerns expressed by other delegations that decisions made by the Committee should not affect future decisions currently under discussion in other fora. The Committee should not prejudice or prejudge the outcome of discussions in other fora such as the Intersessional Intergovernmental Meeting (IMM). The Delegation stated its support for the Proposed Program and Budget for 2006/07 provided that the previously outlined legitimate concerns of other delegations were taken into account.

74. The Delegation of Kenya associated itself with the statement made by the Delegation of Morocco on behalf of the African Group. The Delegation stated that it supported the WIPO Strategic Framework and its strategic goals and priority areas as outlined in document WO/PBC/8/3 and noted that these priorities, if met, would fulfill the various concerns of Member States in intellectual property. The Proposed Program and Budget for 2006/07 was acceptable as it was based on the revised budget for 2004/05. It had also taken account of the recommendations contained in the JIU Report as well as the input from Member States during the Committee's informal session in February 2005. The Delegation expressed concern at the budget allocation for Program 6, which appeared to have been reduced from 43.1 million Swiss francs in 2004/05 to 37.6 million Swiss francs in 2006/07. This represented a decrease of 12.9 per cent. The Delegation emphasized the importance it attached to the WIPO Worldwide Academy, cooperation for development and, in particular, technical assistance especially as it was related to programs dealing with genetic resources, traditional knowledge and folklore: these were all programs which should remain priority areas.

75. The Delegation of Jamaica, speaking in its national capacity, noted the cost-saving measures implemented by the Secretariat to address the income shortfall during the 2004/05 biennium as well as to reduce the budget deficit. It welcomed these measures which put the Organization on a sounder financial footing than the situation that had existed in 2004. It shared the relief expressed by many delegations that WIPO's financial stability no longer appeared in doubt. The Delegation welcomed the balanced budget proposed for 2006/07, noting that this would continue to be the objective of the Organization in the medium term, but questioned why this was not a long-term objective. The Delegation noted that there had been an increase of two million Swiss francs earmarked for cooperation for development activities, an increase from 71.7 million Swiss Francs to 73.7 million Swiss francs for the next biennium; however, it noted that, when this amount was disaggregated, it led to a 13 per cent decrease in the appropriation for the regional bureaus under Program 6. The Delegation noted that a number of delegations from developing countries had raised this as a primary concern and that it shared this concern. In its view, this program incorporated a number of important activities and the reduction was therefore a cause for concern as its country was seeking to put in place a modern and robust intellectual property system. Support from WIPO, including Program 6, was of tremendous importance to it. The Delegation further noted the cooperation agreement signed with WIPO and Caribbean governments which outlined a series of activities to be pursued to assist intellectual property offices in the region and expressed the hope that

the requisite resources be earmarked for the respective programs, i.e., the bureaus, collective management and all areas of copyright, to carry out these activities. The Delegation recognized that earnings from PCT fees accounted for the largest share of WIPO's income and shared the observation and concern of other delegations that accurate and predictable forecasting of PCT applications and income was necessary. It noted the JIU Report on this matter and stated that, given that PCT represented three-quarters of WIPO's income, accurate projections were essential to effective program planning and delivery. The Delegation welcomed the attention that the Secretariat was giving to this issue and noted that models were also being developed for the Madrid and Hague systems. It stated that it looked forward to receiving updates from the Secretariat on the effectiveness of these models. The Delegation concluded by welcoming the balanced budget and the new focus of the Organization's budgetary policy.

76. The Delegation of the Democratic People's Republic of Korea expressed its support for the Proposed Program and Budget for 2006/07. It noted that the budget was balanced and thanked the Secretariat for its efforts to minimize the negative impact that financial constraints might bring regarding cooperation with developing countries. In this connection, the Delegation expressed its appreciation for the efforts of the Asia and Pacific Bureau for its development cooperation activities in the region.

77. The Delegation of Bangladesh associated itself with the statement of the Delegation of Iran (Islamic Republic of) regarding the late receipt of documents. This had prevented it from undertaking an in-depth study of the documents. It stated that any program and budget should be based on the principle of equity and equitable geographical distribution. Furthermore, it noted that this should be done in a fair and transparent manner and that there should be a particular focus on the development of priorities. The Delegation welcomed the fact that the budget was balanced. This would lead to expenditure on priorities. The Delegation stated that it wished to focus on three aspects: first, that existing resources should be maintained and not diminished and that technical assistance should be focussed on human resource development and capacity building; second, noting the contribution in this regard of the WIPONET project, that information and communication technology should be given priority; and third, the importance of Program 6 for developing countries and its concern that this program had been reduced by 12.9 per cent. This was a matter of concern on which it would submit comments. The Delegation stated that it had not yet considered in full the report of the JIU but would also send those comments in writing.

78. The Delegation of India asked if it could receive clarification regarding an inconsistency in the documents which it had commented on earlier and whether there would be an opportunity for Member States to address these issues. It also noted that the budget structure had changed over the years and that the number of programs varied. There had been 18 in 2000-2001, 13 in 2004/05, and 31 in 2006/07. The Delegation noted that it was simpler to aggregate than to disaggregate, and that it might be a good idea for the Secretariat to consider a larger but fixed number of program components, for example, 50 programs. This would aid Member States in comparing changes from one biennium to the next to determine exactly what was being provided for.

79. The Delegation of Colombia began by referring to the JIU report. It was very grateful for the efforts made by the JIU in formulating recommendations which it considered to be very useful, positive and productive with a view to improving and increasing the effectiveness of the Organization's activities and administration. It stressed the concern expressed by the Delegation of Chile in relation to the second chapter of document WO/PBC/8/INF/2. It

pointed out that little coverage was given to the procedure followed in presenting the report. It also expressed an interest in requesting clarification from the Secretariat and JIU, before the Committee passed an opinion on the recommendations, regarding the matter raised by the Delegation of Chile. It also requested clarification regarding the fulfillment of the established procedure so as in future to avoid removing the legitimacy from a debate owing to the failure to observe formalities. As to the recommendations, the Delegation of Colombia said that it considered that a large number of the recommendations covered many WIPO spheres and bodies, and that a fragmented approach was required. Many consequences which might arise from the recommendations should be taken into account, in particular those stemming from recommendation 8. That recommendation could be interpreted in the sense of promoting a process to revise the Convention establishing WIPO, if it were observed that in Article 9(7) of the Convention it was stated explicitly that the Coordination Committee should approve the appointment of Assistant Directors General, as made by the Director General. It also said that if the Member States wished to approve that recommendation, such legal considerations should be taken into account, since it considered that they would involve a revision of the part of the Convention devoted to the work and scope of the mandate of the Coordination Committee with regard to appointments to D-category posts and above. The Delegation wished to put on record its concern in that respect and said that when a decision was adopted or an opinion put forward on the report, the consequences of each of the recommendations should be assessed.

80. At the end of the above interventions, the Secretariat again took the floor to reply to the questions raised by various delegations in respect of item 5. These replies are summarized below.

81. In reply to the concerns expressed by several delegations on the decrease in resources for Program 6 (Africa, Arab, Asia and the Pacific, Latin America and the Caribbean Countries, LDCs) in the Proposed Program and Budget for 2006/07, the Secretariat invited the delegations to refer to paragraph 70 of document WO/PBC/8/3 which clarified that the proposed resource allocations for the next biennium for cooperation for developing countries were to be found not only in Program 6, but also in a number of other programs. It stated that with the evolution of intellectual property in many countries, development cooperation activities that had traditionally been carried out by the regional bureaus were now also the responsibility of various other sectors within the Organization. The regional bureaus would continue to be the focal point for activities in the developing regions and for assistance particularly in relation to legislation and modernization of infrastructure. There were, however, a number of new subjects of interest to developing countries, which were linked to the economic value and use of IP for wealth creation. This was one of the main reasons why the Secretariat had reorganized its work by creating a new Program 3 (Strategic Use of IP for Development). A number of posts had been redeployed to it. Program 3 would be called upon to undertake activities within the framework of the Development Agenda currently under discussion at WIPO, as well as to continue activities which had already been taking place in previous biennia, such as cooperation with SMEs, SMEs and intellectual property, IP asset management, and the economic value of IP. This internal reorganization was the main explanation for the apparent decrease in Program 6.

82. With regard to Program 2 (External Coordination), the Secretariat pointed out that it covered not only WIPO liaison offices, but also activities related to UN Inter-Agency work, and the Organization's relationship with non-governmental organizations (NGOs), as well as with the World Trade Organization (WTO) and the International Union for the Protection of New Varieties of Plants (UPOV). The main explanation behind the increase in resources was

the number of redeployed posts, as well as the increase in the levels of WIPO's contributions to UN-shared costs for the International Civil Service Commission (ICSC), the Joint Inspection Unit (JIU) and the Chief Executive's Board (CEB).

83. Addressing concerns over the decreased budget allocation for Program 7 (Certain Countries in Europe and Asia), the Secretariat observed that the decrease in non-personnel resources was not as substantial as it appeared in view of the fact that this program would cover fewer countries than in 2004/05 because 10 countries of the region had acceded to the European Union (EU) in May 2004.

84. With regard to queries on the reduced levels of resource allocations in the revised budget for 2004/05 for the regional bureaus and LDCs, the Secretariat clarified that, while the revised budget for 2004/05 reflected an overall reduction of 18.1 per cent, the budget provisions for Main Program 08 (Cooperation with Developing Countries) had only been reduced by 7.4 per cent.

85. With reference to the question by the Delegation of France on statutory salary adjustments, the Secretariat provided data thereon for 2002 through 2004, which confirmed the basis for the calculation of similar provisions in the Proposed Program and Budget for 2006/07. Financial implications of statutory adjustments had amounted to 0.4 million Swiss francs in 2004, 0.7 million Swiss francs in 2002 and 2.2 million Swiss francs in 2003 (when there had been a major adjustment of salary levels).

86. With regard to the interest rate for the new construction, the Secretariat replied that, as indicated in document WO/PBC/8/INF/1, specific proposals on interest rate terms would be obtained by WIPO through a tender process. Expert advice would also be sought thereon. The net present value of the commercial bank loan option had been recalculated on the basis of a fixed interest rate over the first 10 years, and increased rates in the second decade and thereafter. These revised net present value calculations had shown that even in the case of higher interest rates the bank loan option remained considerably more advantageous to the Organization than the rental option. Regarding the conference hall, the Secretariat confirmed that the revised project did not include it; however, should the Member States decide in future, that a new conference hall should be built, this would still be possible because the Organization owned the land and the related architectural plans.

87. Regarding the questions raised by the Delegation of Japan, the Secretariat confirmed that work space requirements of the Organization for the years 2007 to 2009 had been evaluated taking into account efficiency gains expected to be made through the introduction and further development of automation including, in particular, in the PCT. With respect to a question by that Delegation on maintenance costs for the new construction, the Secretariat stated, without being able to provide an exact figure, that this would represent a modest amount and would not create a new major source of expenditure for the Organization.

88. Referring to the comments made by the Delegation of Switzerland, the Secretariat pointed out that the level of growth of PCT applications and the level of growth of PCT income did not necessarily coincide and reassured the Committee that the newly developed forecasting model for PCT demand and income would continue to monitor these data in the coming months.

89. Referring to a question raised by the Delegation of France under agenda item 4 on termination indemnities for high-ranking officials, the Secretariat confirmed that these were

now governed only by the relevant provisions of the Staff Rules and Regulations and referred the Delegation to the text of Staff Regulation 1.6.

90. Referring to several questions raised by the Delegation of Argentina, the Secretariat pointed out that the objects of expenditure presented in the Proposed Program and Budget for 2006/07, both in the general table and in the individual tables by program, had been the same as for almost three decades. These had always included expenditures on premises and communication. The only change in this biennium was that, for the first time, they had been elaborated more transparently with respect to personnel expenditures which now more clearly showed costs for short-term employees, consultants and holders of Special Service Agreements. This had not been the practice in the past. In response to the question on the number of persons working at WIPO not occupying posts, the Secretariat replied that it was not possible to give a precise number because of fluctuations in the number of consultants and short-term employees working in the Organization. It added that consultants were not always employed for a full 12 months a year, since some were personnel recruited for specific projects and tasks, as were the holders of Special Service Agreements. The Secretariat added that the total number of short-term employees was an average because of month-to-month fluctuations in the population. This was a presentation of estimated costs on an average number of persons across the biennium but it would be impossible to give now an exact number. Consideration should also be given to the fact that some people worked part-time, so the headcount figure did not necessarily correspond to the number of full-time employees in the Organization.

91. Finally, the Secretariat welcomed the comments of various delegations on the importance of result-based budgeting, appropriate performance indicators and the need to encourage their continued evolution.

92. The Secretariat took note of the remarks of the Delegation of India on alleged inconsistencies in certain figures and agreed to provide clarifications in due course to the Delegation.

93. The Representative of the JIU also took the floor again to address some of the questions raised by a number of delegations, specifically with respect to statutory and procedural issues, and the comments in paragraphs 4 and 5 of document WO/PBC/8/INF/2. The Representative clarified that the JIU's statutes allowed it to undertake a report at any time, in any place and anywhere. Its studies were not bound by time limits. The Unit had decided to undertake the review on WIPO and had informed WIPO by letter of December 2, 2004. In that letter, the JIU had indicated a timetable and noted its intention to have the preliminary review completed in time for the February 2005 informal session of this Committee. The Representative referred to WIPO's letter, dated December 20, 2004, which welcomed the opportunity and looked forward to cooperating with the JIU. In that regard, it was therefore a fully informed process. The Representative noted that Article 11 of the JIU's statutes indicated that, upon receipt of reports, the executive head or heads concerned should immediately distribute them with or without their comments, to the Member States of the respective organization and the article went on to say that the report and comments thereon of the executive head should be transferred to the competent organ of its organization no later than three months after receipt of the report for consideration at the next meeting. From the JIU's perspective, its procedures had complied with the JIU statutes and charter. In response to the question raised by the Delegations of Chile and Argentina, as well as other delegations, on Recommendation 8, the JIU replied that it was not proposing amendment of any established conventions. What it was proposing was to allow the Director General the

flexibility to fill properly approved posts at the D-1 levels—not Assistant Directors General nor Deputy Directors General—without first having to go to the Coordination Committee, as this was not in accordance with practice in other international organizations. The Unit believed that this flexibility should be accorded to the Director General of WIPO and, as the Secretariat had indicated, this would require a revision or amendment of the Staff Rules and Regulations. With respect to the question of the Delegation of the United Kingdom concerning the statement of the President of the WIPO Staff Association, the JIU believed that the development of a human resources strategy, which it had called for, should not delay the implementation of the recommendations in its report. Many of the concerns expressed by the President of the WIPO Staff Association, such as career development issues, would be addressed as part of the development of a human resources strategy. Regarding the questions raised by the Delegation of Nigeria with respect to the desk-to-desk review, the JIU commented that the United Nations High Commissioner for Refugees' Office (UNHCR) had recently undergone a headquarters' review but that it was not in possession of the outcome of that review. The JIU further commented that an in-depth look at an organization should enable greater rationalization of the processes of the organization itself and could result in greater efficiencies because it would, hopefully, show any redundancies and duplications which could then be eliminated. Much depended upon the external expertise hired to conduct the exercise. In response to the possible cost implications of such a review, the JIU believed that on average it would be less than one per cent of an organization's annual budget, but stressed that this depended on who was selected to conduct the evaluation and their terms of reference. Regarding the timeframe, the Representative hoped that this review could be started relatively quickly and that it would be completed by the end of the year. Regarding interviews with WIPO staff members, the JIU Representative commented that its inspectors had spoken to WIPO staff, from different areas of the Organization when they undertook the report. With respect to levels of reserves and deficit spending, the JIU had expressed its concern in this regard. It understood that the Member States themselves had in the past requested WIPO to reduce the reserve levels and to use these in part to finance the budget. The JIU welcomed the reduction in the Organization's projected deficit from 23 million Swiss francs to 14.6 million Swiss francs and felt that the projected deficit of 14.6 million Swiss francs should not be drawn down from reserves until later in the year, given that monthly expenditure was approximately 20 million Swiss francs. She recognized, however, that Member States had authorized a draw down from reserves if and when that became necessary.

94. The Delegation of Brazil raised certain procedural points and expressed a wish to consolidate the points that had been made in an effort to gather consensus to formulate a substantive decision. It was of the opinion that there was a general desire among members of the Committee to adopt the content of the JIU Report. It also thought it would be useful for the Committee to take decisions on future work because it was not willing to make recommendations to the General Assembly based on the Proposed Program and Budget for 2006/07 document as it had been presented. It asked for in-depth discussion of the document with an eye to making some changes to it. It thought that there were not enough meetings of the Committee where Member States' guidance would be solicited by the Secretariat in order to prioritize the Organization's activities and allocate its funds. To do that, a more consistent method of work was needed: more regular meetings, more involvement on the part of the Member States, as well as more information from the Secretariat. It pointed out that the budget document under consideration contained many substantive statements with which it, and some other delegations, did not agree, and that it was therefore necessary to make a decision as to whether the Committee wanted to discuss the substantive issues contained in the program and budget for the Organization as it was presented. In order to achieve that, there would have to be consensus on what the substance was or whether the Committee would

prefer to see a program and budget document that only provided information on financial aspects such as resources and resource allocations, without texts that pre-judged discussions taking place in other fora. It therefore asked the Chair how the Committee could take substantive decisions which would have a relevant outcome.

95. The Chair replied that it was his intention to recommend that the Proposed Program and Budget for 2006/07 be recommended by the Committee for adoption by the Assemblies of the Member States. That was the tradition of the Committee: he recognized that Committee members wanted to have more meetings to analyze in more detail the Proposed Program and Budget and other issues and reminded the Committee that holding more meetings would have budgetary implications. The Organization and its Member States had been trying to make savings and the Committee would have to arrive at some consensus in order to be able to have more meetings. He asked the Committee whether it wanted to agree to the proposal to have more meetings and said that, for this session, instead of having a Chair's summary, the Committee should recommend the adoption of the Proposed Program and Budget for 2006/07 to the Assemblies of Member States at its session in September 2005. He asked for consultations among the regional coordinators with the hope of reaching some consensus on the issues raised by the Delegation of Brazil after which the Secretariat would prepare the draft report. After reviewing the draft report there would be another opportunity to make comments and those further comments would be reflected in the final report.

96. The Delegation of Mexico said that it was speaking for the first time at the current session and added that it had followed the discussion on the report submitted by the JIU with interest. It also recognized that the debate had generated confusion for it and it therefore requested guidance from the International Bureau on the possible legal limitations which the report would give rise to concerning the following points: firstly, document WO/PBC/8/INF/2, paragraphs 3 and 9: the text appeared to indicate that the JIU had followed neither the corresponding methods nor procedures in forwarding its report to the Organization; secondly, the Delegation expressed the view that recommendations 1, 8, 9 and 10 were within the remit of the Coordination Committee and not of the Program and Budget Committee; and that recommendation 3 was within the competence of the PCT Union and recommendation 7 that of UPOV; thirdly, although the mandate of the Program and Budget Committee allowed for administrative and financial matters to be dealt with, it should be pointed out that, in accordance with the decision taken at the General Assembly on July 24, 1998 (see document WO/GA/23/4), the Committee could review any matter submitted to it by the Assembly or the Director General and, in the case in question, the report appeared not to have been forwarded to the Delegation in accordance with the procedure. The Delegation raised three very specific questions: firstly, what would the legal nature of the JIU report be if in fact the corresponding methods and procedures had not been observed; secondly, to what extent did the Committee's mandate allow the recommendations and the powers of other bodies, committees and organizations to be examined, and decisions to be taken thereon; and thirdly, what would be the legal nature of the decisions taken in the current forum regarding subjects which were within the Committee's remit and how would they affect the future development of those subjects. By way of clarification, the Delegation said that it hoped that its statement would not be interpreted as an attempt to discredit the JIU report but that, on the contrary, the document had given food for thought on subjects of great importance for the Organization's Member States; however, it would appear counterproductive if, through a desire for transparency, decisions were taken on the basis of a document and the procedures which gave order and certainty to WIPO's relationship with its Member States had not been followed.

97. With respect to the JIU Report, the Delegation of Canada supported the intervention of the Delegation of Brazil with respect to the next steps to be taken with regard to the report. It thought Member States had had ample opportunity to review it during and since the February 2005 informal meeting of the Committee. There were no new recommendations. It said that, since some delegations had procedural concerns about how the report had been drafted and its legal status, a response from the Secretariat, as well as from the JIU itself, would help elucidate these points. But it thought it was important not to let the process distract the Committee from the substance of the recommendations. The JIU had made some clear and solid recommendations that WIPO and its Member States could follow up on if the Committee so chose. While it thought that the legal and procedural issues could be further explored, it also thought that the Committee could recommend to the General Assembly, the Coordination Committee, the Director General, etc., to act on the recommendations contained in the report. It was in favor of starting the process of adopting the JIU recommendations. It also supported in principle the idea that WIPO Member States should begin to try to move towards consensus on establishing a transparent, and efficient Member-State-driven audit committee, which could draw on the expertise of the Secretariat, the JIU or outside experts, to help WIPO manage its program and budget activities better. The Committee should have an advisory and not a decision-making role in its work to help WIPO oversee the implementation of certain audit, oversight and review activities, and that the Committee could begin a consultative process to develop this idea better. It said it considered it to be very important that there be informal consultations with regional coordinators and interested Member States so that all delegations holding strong opinions about what they could do in this new body could participate in these consultations and develop these ideas further. It wanted the Committee's report to express agreement that it wanted to do something about the proposed program and budget document before it, to have an audit committee, and take action on the JIU recommendations.

98. The Delegation of Bhutan described how its Government had benefited from WIPO's technical assistance program. It asked the Secretariat to take into account, in the continuing implementation of this program, the concerns of developing countries, particularly LDCs, in the context of the on-going debate in WIPO on the subject of the Development Agenda.

99. The Chair expressed his intention, if the Committee reached consensus, to recommend the recommendations of the JIU to the Assemblies of Member States. If it could not reach consensus, then it could not recommend the JIU recommendations to the Assemblies, but could say in its report that a certain number of delegations requested the referral of the recommendations in the JIU Report to the competent bodies of the Organization. He asked the Committee whether it agreed to recommend the JIU recommendations to the Assemblies of the Member States at their session in September 2005.

100. The Delegation of Morocco, speaking on behalf of the African Group, said that it was desirable for the Committee to focus delegations' interest on the correct conduct of discussions concerning the program and budget. The Delegation added that the proposal by Group B to set up an audit committee should be comprehensively analyzed in order to determine the ins and outs and better understand the nature of its functions, powers and responsibilities, in consultation with national capitals. The Delegation praised the noble objective of the JIU recommendations, designed to strengthen the effectiveness of the Organization's administrative and financial operations, but emphasized certain legal clarifications and that what was expected from the Committee in relation to those recommendations had also proved to be necessary for the African Group. If the recommendations in fact appeared to be required, prior to any recommendation or approval,

the African Group wished to know the financial implications beforehand, in particular concerning recommendation 1. The African Group added that more information and greater clarification should be provided on recommendation 4, according to which the General Assembly should limit the transfers between programs to five per cent of the smallest amount of the two biennial allocations for the programs concerned. Clarification was also necessary as to the methods used to select external experts responsible for assessing human and financial resources on an office-by office basis. Finally, the Delegation of Morocco said that the *modus operandi* of the programs and proposed subjects of the program and budget should be examined further so as to take into account the results of the intergovernmental sessions relating to the development action plan.

101. The Legal Counsel of WIPO drew the delegations' attention to paragraphs 4 to 7 of document WO/PBC/INF/2, in which the Organization had set out its views on the procedures followed by the JIU. The Vice-chair of the Joint Inspection Unit had also given the JIU's views on procedure. He confirmed that if the Committee wanted to adopt the JIU recommendations, it could do so; but, as a subsidiary body, the Committee was limited to putting forward the JIU recommendations to the Assemblies' competent organs (for instance, the PCT Assembly, the General Assembly, or to the Coordination Committee), which would then take decisions on the JIU recommendations. In response to the question of the Delegation of Colombia concerning Recommendation 8 of the JIU, the Legal Counsel replied that the Organization had Staff Regulations and Rules which the Coordination Committee was competent to amend and implement. In response to the questions of the Delegation of Mexico related to the legal status of the JIU Report, the mandate of the Program and Budget Committee and the status of decisions taken in that Committee, the Legal Counsel confirmed that those recommendations should be forwarded to other competent organs for decision.

102. Deputy Director General Petit also stated for the record that the International Bureau was ready to submit proposals to the relevant governing bodies to establish a WIPO audit committee in consultation with Member States; to report on the implementation of the recommendations of the Joint Inspection Unit addressed to the Director General; to submit proposals to the competent bodies at the next session of the Assemblies of Member States on the outstanding recommendations of the JIU Report. Concerning the WIPO Development Agenda he recalled that, if decisions on that or other program issues had budgetary implications, the Secretariat would propose the necessary adaptation of the proposed budget to the September 2005 session of the Assemblies.

103. The Delegation of Nigeria associated itself with the statement made by the Delegation of Morocco, on behalf of the African Group. It stated that it wished to confine its observations to the JIU Report. The Delegation commented that the JIU Report was a positive exercise that would have a salutary effect on the administration and encourage efficient use of resources. The report had helped put a number of issues in clearer perspective and had had an overall positive effect. The Delegation commended it to the WIPO Secretariat for consideration in a constructive spirit. The Delegation expressed its satisfaction that WIPO had accepted the report, and had indicated its willingness to implement the recommendations. The Delegation of Nigeria, however, wished to question some aspects of the JIU Report, particularly the proposal for a desk-to-desk review. It considered that such a review seemed a rather drastic and radical option and raised several questions: First, in what way would this exercise increase overall efficiency in WIPO? Second, how, and over what timeframe, would the exercise be conducted? Third, what would be the cost implications of such an exercise? Fourth, had such an exercise ever been successfully conducted in any other UN agencies or organizations and, if so, what were the outcomes? Furthermore, in recommending the

desk-to-desk review, had the JIU taken into account the peculiar and specialized nature of WIPO staffing that brought it to the conclusion that there were functional overlaps and duplications? Had the conclusion been reached by the inspectors that a desk-to-desk review could lead to savings, based on interviews held with WIPO staff members, or with people from outside the Organization? And finally, how could the JIU recommend that such a major exercise be funded from WIPO's existing resources while, at the same time, advocate more budget reductions? Paragraph 7 of the JIU Report said that "... recourse to the use of reserve should only be made for emergency purposes". The Delegation requested an explanation as to what was meant by an emergency situation. The Delegation also drew attention to Group B's proposal to create an Audit Committee to assess budget proposals and, particularly, the implementation of the recommendations in the JIU Report. In its view, the report should not prejudice the discussion of the budget document submitted by the Secretariat, nor should it be an obstacle to recommending WIPO's budget to the General Assembly. The Delegation questioned whether such a radical proposition should be considered by the Committee. Finally, the Delegation mentioned that allegation had been made in the meeting to "fraud" in respect of WIPO. It stressed that such unsubstantiated allegations could not be declared authoritatively as fraud and emphasized that, as diplomats and government delegates, the Committee should deal only with facts. It noted that there were on-going investigations concerning the circumstances of those allegations and that the Committee could not therefore base its judgement on sensational revelations in newspapers which, rightly or wrongly, could be judged as designed to achieve a predetermined outcome. The Delegation requested WIPO to provide authoritative information on the matter, including all necessary background details, to enable the delegations to make an informed judgement and report accurately to their governments.

104. The Delegation of Brazil suggested that it would be helpful for the Secretariat to present some suggestions for actions that could be taken regarding procedural points that had been raised in the Committee. There had been proposals for an Audit Committee, proposals to recommend adoption of the JIU recommendations, and proposals regarding the WIPO Development Agenda that had not yet completed its deliberations. In addition, the Delegation suggested that the Committee might wish to revise provisions in the budget to accommodate decisions that might be taken at the Intersessional Intergovernmental Meeting on a Development Agenda for WIPO. The Delegation believed that these were all steps in the right direction, but that they would not cover all the points made by Member States in this particular meeting. On the one hand, there seemed to be consensus on more issues than these three. On the other hand, the Delegation pointed out that it was important to have a more in-depth discussion of the budget itself. It stressed the need for a mechanism by which Member States could have a more hands-on involvement in the budgetary discussions. At this point it was unable to recommend the Proposed Program and Budget in its present form to the General Assembly. This was a point which the Delegation felt it necessary to insist upon. The Proposed Program and Budget for 2006/07 document elaborated on substantive issues in ways with which the Delegation could not agree. The Delegation suggested that, alternatively, the budget might be presented from a purely financial perspective, without elaboration on the orientation of programs and with the submission of parts of the budget to the relevant committees of WIPO for their opinion. Otherwise it could not recommend the budget as it stood. The Delegation proposed that the Committee should meet more often to allow more in-depth analysis by its members. It was not criticizing what had been put forward, but wanted to make Member States more comfortable. For example, the Delegation referred to the statement of the Delegation of Nigeria regarding funding of the desk-to-desk evaluation suggested by the JIU. This funding would require a new look at the budget to ensure that funds could be reallocated for this evaluation. The Delegation of Brazil wished to

insist that it could not adopt the budget as a package without careful re-examination and without the Secretariat's taking into consideration the opinions of the Committee's members. Failing this would, in its opinion, impose a straightjacket upon Member States.

105. The Delegation of India echoed the views expressed by the Delegation of Canada regarding the need to include interested delegations in any consultations that WIPO might conduct with regional coordinators. The Delegation mentioned that the second point was a substantive one and that some observations had been made about the competence of this Committee to take decisions on the JIU Report. Also, it noted that several of the JIU recommendations might not fall within the competence of this Committee. Having said that, on closer examination there really was nothing that WIPO did that did not concern this Committee: the Committee dealt with program issues and finances, so it would be difficult to understand how there could be any issue, including JIU Recommendation 8, which spoke of the authority of the Director General to make D-level appointments without seeking advice, since this had financial implications and was appropriate for the Committee to at least be apprized of the matter even if it did not have to deal with it in depth. Every issue fell within the mandate of this body, and its recommendatory powers. The final decision could only be taken by the WIPO Assembly but this did not diminish the authority of this Committee. The Delegation pointed to the example of the Advisory Committee on Administrative and Budgetary Questions (ACABQ) at the UN. It added that this Committee was seen by many as being the most powerful in the UN, although it was an advisory committee whose recommendations went first to the Fifth Committee and then to the plenary of the General Assembly. The ACABQ did not take final decisions but made recommendations which were essential to the final decision. Similarly, this Committee had a critical role without which this Organization would not be able to function. The Delegation suggested that the Committee might wish to consider establishing something akin to the ACABQ. Despite the fact that WIPO's work was somewhat more limited in scope than was the work of the UN as a whole, it might be possible for this type of body to have multiple functions, including the function of the audit committee, if that indeed was in the interest of delegations, to avoid several separate bodies dealing with related issues. Program and budget issues were issues that required a great deal of study, in-depth understanding and analysis. In the Delegation's view, none of that was possible in the present format. The Delegation did not want in future to routinely endorse proposals prepared by the Secretariat; it should, instead have the opportunity of going into the programs and financial figures in depth. It was important to know if certain ideas reflected in the document translated into actual tangible programs. Only at the end of a process of examination by a small expert body could recommendations be made to a larger body for approval. The Delegation added that there was nothing in its understanding that precluded this Committee from considering any issue at all for the simple reason that every issue either had a programmatic or a financial dimension, or very often both. Member States needed this additional information because without consensus they would not be able to move to the next stage and the Organization would be without an approved program and budget. The Delegation added that it was not in the collective interest to raise technical objections because those could be easily overcome, and would only result in an unnecessary loss of time.

106. The Delegation of Barbados thanked the JIU for the effort it had put into preparing its report. The Delegation believed that this exercise had been a positive and useful one and had assisted delegations to focus on some key issues of working toward the common goals of ensuring that they had an effective and efficient World Intellectual Property Organization. Regarding what would be done with these recommendations, it indicated that it preferred this matter be dealt with at the level of the General Assembly. The Delegation added that it would have no difficulty with the Committee making a recommendation on the JIU Report, but

believed that this should be neutral in the sense that it would be sent forward to the General Assembly, PCT Assembly, etc., asking these bodies to reflect and take the action as they thought necessary.

107. The Delegation of Senegal noted that the Secretariat might be prepared to put forward a proposal for setting up an audit committee to the General Assembly. The Delegation stressed that the Delegation of Morocco, on behalf of the African Group, had asked a number of questions on that subject, which had not been dealt with. Thus, since there was no prior consensus, the Delegation of Senegal did not believe that a proposal could be put to the General Assembly. Alternatively, the group of countries concerned could itself make such a proposal.

108. The Delegation of Sri Lanka stated that any organization needed an approved program and budget in order to function and that it was therefore important for this Committee to recommend that the WIPO General Assembly approve the Proposed Program and Budget for 2006/07. The Delegation however agreed with concerns raised by other delegations on the reduction of the allocation for development activities and believed such allocations should reflect the outcome of the on-going discussions on the Development Agenda at WIPO.

109. Upon conclusion of the above discussions, the Chair proposed to hold informal consultations to arrive at a decision on item 5. Following informal consultations, a draft decision text on agenda item 5 was made available to all delegations by the Secretariat. The following paragraphs reproduce *verbatim* the interventions which were made in respect of the said draft text.

110. Chair: "I think it is time to move towards formalization from the consultation session and, due to very limited time constraints, I feel we only have 10 minutes to deal with this new text. I am sure that the clean text has already been circulated to all members, so I would like to deal with it paragraph by paragraph from paragraph one. I will give the floor to the Group Coordinators first and each Committee member who wishes to speak next. Now, I would like to give the floor to the Secretariat to make an introduction. You have the floor."

111. Secretariat: "This Committee has been working for three days with great devotion to prepare what is its mission and responsibility, i.e. to recommend a text to the General Assembly. Each Delegation has had more than enough time and opportunity to express its point of view. The text which has just been distributed is therefore our own text on which you, Mr. Chairman, wish to receive the views of the group coordinators and I think it is now desirable for the groups to express their opinion in this formal meeting on the text as a whole. It is no longer on a paragraph-by paragraph basis or in terms of details, but I think in such a formal meeting we wish to have the reaction of the group coordinators to the specific text as a whole which has been distributed to you.

112. Chair: "Thank you for your introduction. I would like to confine the discussion to deciding whether this Committee agrees to adopt this proposed text or not, rather than to substantive debate. So, please confine yourselves to expressing your viewpoint as to whether you would accept this proposal or not. Now I give the floor to the Honorable Delegation of Italy. You have the floor."

113. The Delegation of Italy: "Thank you, Chair. I will be very brief. I think Group B could go along with the text. Thank you."

114. Chair: “Thank you, Group B. The next speaker is the honorable Delegation of the Czech Republic. You have the floor.”

115. The Delegation of the Czech Republic: “Thank you, Mr. Chairman. The Group of Central European and Baltic States agrees on the text.”

116. Chair: “Thank you, Czech Republic, for your intervention on behalf of the Central Eastern European and Baltic States. Now I give the floor to the honorable Delegation of Morocco. You have the floor.”

117. The Delegation of Morocco: “Mr. Chairman, the African Group accepts this text. Thank you.”

118. Chair: “I thank the honorable Delegation of Morocco for its comments on behalf of the African Group. Now I invite the honorable Delegation of the Russian Federation. You have the floor.”

119. The Delegation of the Russian Federation: “Thank you very much, Sir. On behalf of our Delegation I would like to say that we are ready to support this text, given the informal consultations we have had with the members of our group and the coordinators, so I think we can express our approval of this text. Thank you.”

120. Chair: “I thank the honorable Delegation of the Russian Federation. Now, I invite the honorable Delegation of Brazil. You have the floor.”

121. The Delegation of Brazil: “Thank you very much, Chair. My Delegation will not support this text. It does not reflect the last stage at which we were in the informal consultations. We had received a proposal from other delegations in a different direction, and this text does not reflect the consensus that I believe we were working towards in the informal consultations. I think this is, again, a step backwards from the positions of some countries that were expressed quite forcefully in the informal consultations. Thank you.”

122. Chair: The honorable Delegation of India, you have the floor.

123. The Delegation of India: Thank you, Chair. This Delegation too would be unable to accept this proposal and would remain opposed to it given that it does not incorporate major concerns that have been expressed by this Delegation over the past two days. Thank you.

124. Chair: “Thank you, India. The next speaker is the honorable Delegation of Argentina. You have the floor.”

125. The Delegation of Argentina: “As with the two delegations which came before me, my delegation is also unable to accept this proposal and, as emphasized by the Delegation of Brazil, we regret that a document has been presented which does not cover the agreement in principle which had almost been reached in the informal consultations that were interrupted before the beginning of this formal meeting. We therefore regret that this has not been included in the texts now before us, although there was an agreement in principle between the Member States. Thank you”.

126. Chair: “Thank you, Argentina. Now I invite the honorable Delegation of Switzerland. You have the floor. “

127. The Delegation of Switzerland: “Thank you Mr. Chairman. Our delegation associates itself fully with the statement made by the Delegation of Italy on behalf of Group B and supports the adoption of this text which, we believe, crystallizes the result of our discussions and reflects the consensus which had emerged in the informal discussions. Thank you”.

128. Chair: “Thank you Switzerland. Now I invite the honorable Delegation of the USA. You have the floor.”

129. The Delegation of the United States of America: “Thank you, Mr. Chairman. My Delegation would also like to support the statement made by the honorable Delegation of Italy on behalf of Group B, and we support the adoption of the text. Thank you.”

130. Chair: “Now I invite the honorable Delegation of Japan. You have the floor.”

131. The Delegation of Japan: “Thank you, Mr. Chair. This Delegation also associates itself with the statement made by Italy on behalf of Group B. We have no difficulty with accepting this text. Thank you.”

132. Chair: “The next speaker is the honorable Delegation of the United Kingdom. You have the floor.”

133. The Delegation of the United Kingdom: “Thank you, Chair. We also associate ourselves with the statement by the Coordinator of Group B and, in the spirit of compromise, we would be willing to go along with this text. Thank you.”

134. Chair: “Thank you. The next speaker is the honorable Delegation of France. You have the floor.”

135. The Delegation of France: “We would like to support the position of Group B and accept this text. Thank you”.

136. Chair: “Thank you France. The next speaker is the honorable Delegation of Zambia. You have the floor.”

137. The Delegation of Zambia: “Thank you, Mr. Chairman. We support the position stated by the Coordinator of the African Group, and also endorse this text. Thank you.”

138. Chair: “The next speaker is the honorable Delegation of the Netherlands. You have the floor.”

139. The Delegation of the Netherlands: “Thank you, Chair. I would like to support the statement of Group B, and therefore I would like to support the text as it is right now.”

140. Chair: “Thank you, Netherlands. Now I give the floor to the Honorable Delegation of Hungary. You have the floor.”

141. The Delegation of Hungary: “Thank you. The Delegation would like to associate itself with the statement made by the Czech Republic and we fully support the adoption of the text. Thank you”.

142. Chair: "Thank you, Hungary. The next speaker is the honorable Delegation of Mexico. You have the floor."

143. The Delegation of Mexico: "The Delegation of Mexico supports the adoption of this text".

144. Chair: "Thank you, Mexico. The next speaker is the honorable Delegation of Algeria. You have the floor."

145. The Delegation of Algeria: "The Delegation of Algeria endorses the position expressed by the African Group. We therefore accept this text, thank you".

146. Chair: Thank you, Algeria. The next speaker is the honorable Delegation of Germany. You have the floor.

147. Delegation of Germany. "Thank you, Mr. Chairman. The Delegation of Germany would like to support this text and would like to call upon those who still have problems with this text to join the emerging consensus, given the fact that we have accommodated a lot of their concerns. Thank you."

148. Chair: "The next speaker is the Honorable Delegation of Nigeria. You have the floor."

149. Delegation of Nigeria: "Thank you Chairperson. Given the fact that a number of very constructive recommendations made by the African Group have been accommodated in this text, the Delegation of Nigeria wishes to join other African Group members to express our support for this text."

150. Chair: "Is there any other Delegation who does not support this text? If there is not ... I see a Delegation. The Honorable Delegation of Colombia, you have the floor."

151. The Delegation of Colombia: "After three days of arduous discussions on procedures and in view of the proposal which has been submitted for consideration, having conducted the necessary consultations the Delegation of Colombia considers that this text is one which we could now accept in order to move ahead".

152. Chair: "The Honorable Delegation of Chile, you have the floor."

153. The Delegation of Chile: "My delegation also associates itself with this text, although we see that a backward step has been taken in relation to the last proposal we heard from the United Kingdom".

154. Chair: "Thank you, Chile. In view of time constraints, I would like to ask the Committee whether there is any other Delegation that does not support the text. If none, three delegations did not join the consensus. May I assume that this Committee decided to adopt this text? The Honorable Delegation of India, you have the floor."

155. The Delegation of India: "Thank you, Chair. It is not entirely clear to this Delegation the basis on which we are proceeding to adopt a decision. We are in a formal session and what we need to understand is the basis: Did we, did the Chair conduct a vote in this Committee? In the formal session? What exactly is it that the Chair did that enables him to take a decision regarding the conclusion of the session. So this is a query because we are

aware of various mechanisms in relation to adoption of decisions. Which particular category does this fall into? We will certainly revert once we have heard the explanation of the Chair, because there has to be a particular methodology that the Chair has followed. It is just not clear to this Delegation.”

156. Chair: “Thank you India. This is not first a meeting for Program and Budget Committee and, also, I understand that we have had many prior experiences so, to introduce the traditional and customary manner in deciding in the Committee of this Organization, I would like to invite real experts to introduce the practice. Thank you.”

157. Legal Counsel of WIPO: “Thank you, Chairman. Just to answer the question raised by the distinguished representative of India. What would happen would simply follow past practice, in that the Secretariat would draw up a report, which would state that the Members of the Program and Budget Committee adopted these five paragraphs, and the report would also reflect the fact that the Delegations of Brazil, Argentina and India were unable to join the consensus. That is exactly what has been done in the past, and that is what the report will reflect. And I am just looking at the list, and I see each single Member that has spoken so far is indeed a Member of the Program and Budget Committee. Thank you.”

158. Chair: “The Honorable Delegation of India, you have the floor.”

159. The Delegation of India: “Thank you Chair. Chair, the adoption of a decision is a formal matter. It has very significant implications and adoptions of decisions have to follow a very particular procedure. Consensus is certainly one of those and you could have situations where you have consensus with one or more delegations disagreeing with the decision but not standing in the way of adoption of that decision. We recall several such instances, including for example, in the Coordination Committee in October 2004, with the Delegation that specifically did not join in the consensus but made it clear that it was not standing in the way of the consensus. So is it your conclusion that delegations that are opposed to this are not standing in the way of that consensus, because that is important. That is critical to a consensus decision where a delegation with a different view disassociates itself but does not stand in the way of that consensus. Has the Chair come to the conclusion that those delegations that did not support its proposal are nevertheless disassociating themselves from the consensus without standing in the way of the adoption of that consensus? This is a very important point. That what we have here is not a legal question. Consensus is not a legal question. Consensus is a political question. And I am afraid that as a political question, it is really for the membership to decide on the methodology of adoption of decisions, and not legally suitable to revert to the Legal Counsel. This is a political issue. There is no legal issue involved in this. Thank you.”

160. Chair: “Thank you, India. As I mentioned at the very beginning of this formal session, I would like to confine your intervention to a decision as to whether or not the Delegation would support the text. So, as I said several times, we have limited time constraints and this Committee has to decide on the Proposed Program and Budget. According to the usual practice of this Committee, I consider that this text is now adopted, taking into consideration the reservations expressed by certain delegations. I note that Argentina, Brazil and India are unable to join the consensus. There is Argentina, Brazil and India. May I assume that the text is adopted? You are raising a point of order? Indian Delegation, you have the floor.”

161. The Delegation of India: “Thank you, Chair. Chair, we had not taken a position on whether we disassociate ourselves from the consensus, but do not block the consensus ...

whether we block the consensus. But we merely sought clarification from the Chair. We sought clarification from the Chair as to what conclusions it drew from the positions expressed by various delegations. What conclusions it drew. And how it arrived at the conclusion that what delegations that were opposed to this document, that they were merely recording reservations, and not opposition. And if that was more than reservation, if it was opposition, how is it possible to conclude that this is a consensus document and that it did not include three delegations, which none the less, did not stand in the way of that consensus? We are still trying to follow the process. We are far from being in a position to say what our final position is. What we are trying to do, what we are grappling with over here, is the Chair's understanding of the process. Has the Chair come to the conclusion that the delegations that spoke against it were merely entering reservations, but not blocking the consensus?

162. Chair: "Thank you India. I recall that in prior meetings of this Committee, we have experience of reaching near consensus, rather than full consensus. So, my intention is to conclude this meeting with the adoption of the text, and also with some reservations of certain delegations, so I fully understand that the Delegation of India would not join the consensus, so your position shall be reflected in the Report."

163. Delegation of India: "Mr. Chairman, we have said nothing about not joining the consensus or joining the consensus. We are merely trying to understand the procedure. In our understanding of words, just as you cannot be partly pregnant, you cannot have partly opposition and yet opposition – not reservation – you cannot have partly opposition and yet, and also consensus. You have to have a consensus which means that no delegation that thinks differently expressly objects to the adoption of that decision. We have not taken a position on whether we would do that or not do that. But should we do that, should a delegation take a position that it objects, that it cannot accept a consensus decision, then any simple-minded person – you do not have to be a genius – would conclude that you need a different procedure. You need to have a vote, and that is precisely what we are trying to grapple with. We have still, as the Indian Delegation, not come to the conclusion that we are opposed to the adoption of this decision. We haven't come to that point. We are merely trying to understand the procedure that you are following. If the procedure is based on consensus, then consensus can be achieved in one of two ways: that everyone agrees, or that those who do not agree, however, do not stand in the way of that consensus. Have you as our Chairman come to the conclusion that the delegations that spoke against this, spoke against it, but nonetheless do not come in the way of the consensus. That is the point. We are still far from reaching a decision."

164. Chair: "I give the floor to the Delegation of Brazil. You have the floor."

165. Delegation of Brazil: "Thank you Chairman. I will wait for your response to the questions raised by the Delegation of India before I proceed with my comments. Thank you."

166. Chair: "I give the floor to the honorable Delegation of Argentina. You have the floor."

167. The Delegation of Argentina: "While we too should be interested in knowing your response, there is one view that we share a decision cannot be adopted by consensus when there are three Delegations that do not agree with the decision being adopted, in other words when it is not a decision based on consensus. Apart from that we should like to draw attention to the status of those Delegations, and the fact that the Delegations are going to distance themselves and express reservations and opposition, unless either the Delegations

themselves decide, not the Legal Counsel of WIPO, or the officers presiding over the meeting decide. It is an individual, national decision for each country present in this room.”

168. Chair: “Thank you, Argentina. Now I feel it is time for me to decide whether this text is adopted or not. This text is adopted. Indian Delegation, you have the floor.”

169. Delegation of India: “Thank you, Mr. Chairman. I am sure it is adopted by the Chair. The question is, “Has it been adopted by the Committee?” The Chair is an important member of the Committee, but it has to be for the Committee to adopt the decision and not for the Chair to adopt the decision. The Chair is free to do many things including deciding on issues of procedure. But we have not reached the point where you have to do that. You have to first of all tell us whether the procedure that you have adopted is one based on consensus or one based on some other procedure that we’re not aware of. The Chair in his private capacity can do anything. There is no problem with that. But what is the procedure on which the Chair thinks it has a right and a decision that is binding on the Committee.”

170. Chair: “Thank you India. I do not want to trigger any further debates on the procedure, but the text was adopted by the Committee, not by the Chairperson by the near consensus and all your observations will be reflected in the Report.”

171. Delegation of India: “Mr. Chairman, you cannot have law by assertion. You must have law by established procedure. Assertion does not make law. You have to point to, as an individual the Chair can do anything, but for it to be binding on the Committee, the Chair should be able to point to established rules of procedure which says that he can do what he has done. Otherwise, it is a nullity in law, it has no validity at all.”

172. Chair: “All your observations will be contained in the Report. The Delegation of United Kingdom, you have the floor.”

173. The Delegation of the United Kingdom: “I will be very brief. I just want to express some appreciation on behalf of my Government for the progress we have made on discussions about an audit committee for WIPO. The United Kingdom does attach a great deal of importance to such a body. We believe that the time is right to set up an audit committee in WIPO and that this will provide an important governance tool to all of us, the Member States and Governing Body of WIPO. Thank you very much.”

174. The Program and Budget Committee adopted the text reproduced below. The Delegations of Argentina, Brazil and India were not able to support the adoption of this text.

“1. The Program and Budget Committee recommends to the General Assembly to approve the Proposed Program and Budget for 2006/07.

“2. The Program and Budget Committee welcomes the work of the JIU and recommends that the Secretariat:

“(a) report to the General Assembly in September 2005, on the implementation, in consultation with Member States, of the recommendations of the JIU addressed to the Director General (Recommendations 1, 3, 6, 9, 10, and 12), and

“(b) transmit the other recommendations of the JIU which need to be addressed to the competent bodies of WIPO (Recommendations 2, 4, 5, 7, 8 and 11), also at the 2005 session of the Assemblies of Member States, for those bodies to act upon them.

“3. The Program and Budget Committee recommends that Member States, at the September 2005 Assemblies, make adjustments as appropriate to the Proposed Program and Budget for 2006/07 in order to take into account any budgetary implications resulting from on-going discussions on the WIPO Development Agenda, and other issues.

“4. The Program and Budget Committee further decides to establish an open-ended Working Group of the Program and Budget Committee to meet informally to consider and report on proposals on the establishment of a WIPO Audit Committee, to transmit to the General Assembly for consideration at the September 2005 session.

“5. The Program and Budget Committee will include in the agenda of its next regular session an item on a new mechanism that would involve Member States in the discussion and follow up of the Program and Budget, beginning with the Program and Budget for 2008/09.”

175. The Delegation of Nigeria, referring to paragraph 4 of the above decision text clarified that, since the proposal for the establishment of a WIPO Audit Committee had only been submitted by Group B earlier that day, it would need time for further consideration and detailed assessment of all the ramifications of this proposal. Its support of the text of the (above) draft decision had been consensual in nature — in the interest of moving the work of the Committee forward — and contingent on the condition that the proposal for the establishment of an Audit Committee would neither prejudice nor pose an obstacle to the adoption of the Proposed Program and Budget for 2006/07. Its intention had been to join the African Group in calling for the establishment of an open-ended informal Working Group

which would consider Group B's proposal for submission to the next session of the WIPO Assemblies for decision.

INTERNAL AUDIT CHARTER (AGENDA ITEM 6)

176. Discussions were based on document WO/PBC/8/4 ("Internal Audit Charter"). The Secretariat stated that the proposed Internal Audit Charter was the result of a process of review of a draft which had been submitted to members of the Committee at its February 2005 informal session. The Secretariat had invited Member States to submit written comments and suggestions for inclusion in the draft. Following that meeting, several delegations had sent comments and suggestions to WIPO, and these had been integrated as far as possible into the proposed document. Since the main elements of, and differences between, the various oversight functions had already been described during the February meeting, the Secretariat briefly outlined the main headings of the proposed Internal Audit Charter, namely: definition of internal audit; authority and prerogatives; duties and modalities of work; reporting; resources; and, as suggested by some Member States, appointment and dismissal conditions. It stressed that the Charter had been prepared on the basis of, and by improving, formally existing Internal Audit Charters of other organizations within the United Nations system and that, once approved, it would provide a strong framework for the performance of the audit function within WIPO. The proposed Internal Audit Charter also included investigation and inspection functions, as in the case of the charter of some other UN agencies. The Secretariat added that, on approval of the proposed Internal Audit Charter, the investigation and inspection functions, not yet existing at WIPO, would be formally established under the responsibility of the Internal Audit and Oversight Division. The Secretariat finally recalled that the decision paragraph contained in the proposed document requested that the Committee recommend approval of the Internal Audit Charter at the General Assembly in September 2005, as an Annex to WIPO's Financial Rules and Regulations.

177. The Delegation of Germany thanked the Secretariat for preparing an Internal Audit Charter for WIPO, and considered it an important step forward. It referred to the External Auditor's "Report on the Auditing of the Accounts of the World Intellectual Property Organization (WIPO) for the 2002-2003 Accounting Period", which mentioned that WIPO's Internal Audit and Oversight Division was responsible for most of the internal supervisory functions – audits, investigations, inspections and evaluations – and that the External Auditor relied on the work of the internal auditor in a number of areas. Against this background, it considered that the proposal for the Internal Audit Charter was a unique opportunity to address existing shortcomings of internal audit and also to incorporate best practices. The Delegation appreciated that the Secretariat had consulted Member States early in the drafting process and welcomed the fact that some suggestions had been taken on board. However, in the view of the Delegation, there were still shortcomings in the proposed Charter, and it outlined three examples: First, there should be a fixed term for the internal auditor in order to make him/her more independent of management and the internal auditor should have some say in the selection of the staff of the audit unit. Second, there was a need to have a provision that would allow for the outsourcing of the oversight function to another international oversight service of the United Nations system. Finally, reference to an Audit Committee should be included in the Charter. The Delegation concluded that, if these points were not adequately addressed, it would find it difficult to recommend adoption of the Charter.

178. The Delegation of Switzerland, in its capacity as Vice-chair of Group B, and on the request of Group B members, clarified that the statement made by Germany was not an official Group B statement.

179. The Delegation of Japan considered that WIPO stakeholders needed to be confident that WIPO programs were properly managed and administered. In this connection, it supported, in principle, the Internal Audit Charter, and hoped that WIPO would establish an effective internal audit mechanism as soon as possible. It expected WIPO to show financial and personnel information to Member States, at an early stage, so that interested members of the Committee could judge its practicability. On the basis of the Proposed Program and Budget for 2006/07, it was unclear to the Delegation what kind of changes would be introduced, based on the Charter, to reflect relevant personnel and budget needs. The Delegation believed that internal audit should ensure fairness and independence and that these needed to be emphasized more in the proposed Charter. For example, situations where the internal auditor audits a case that he/she was previously responsible for should be avoided. In this connection, the Delegation considered that paragraphs 4 to 6 of the proposed text were not sufficiently clear. It expressed the view that internal auditing should co-exist with external auditing and that the Internal Auditor should cooperate with the External Auditor on a case-by case basis. Referring to the previous suggestion made by the Delegation of Germany on the outsourcing of the internal audit function to other agencies, the Delegation stated that it had difficulties accepting such a proposal because such a suggestion might contradict the concept of "internal" audit.

180. The Delegation of the United States of America commended WIPO for its work on the Internal Audit Charter and welcomed what had been done. Nevertheless, it shared some of the concerns voiced by the Delegations of Germany and Japan, and indicated that it would submit specific comments at a later stage. It concluded by saying that, at this point, it could not support any proposal to recommend the text as it now stood to the General Assembly.

181. The Chair indicated that the open-ended Working Group, to be established according to paragraph 4 of the text adopted by the Committee on the previous agenda item, could discuss the matter and make a recommendation to the General Assembly.

182. The Secretariat also clarified that paragraph 4 of the decision text, which had just been adopted, concerned the establishment of a Working Group that would consider and report on proposals for the establishment of a WIPO Audit Committee. This Working Group, which would meet before the next session of the General Assembly, could also take into consideration and examine the remarks made by the delegations on the proposed Internal Audit Charter.

183. The Delegation of Switzerland fully supported the suggestion of the Chair to discuss the matter within the framework of the Working Group.

184. The Delegation of the United States of America expressed its support for referring the matter to a Working Group and stated that the Committee, at this stage, should not make a recommendation to the General Assembly.

185. The Delegation of the United Kingdom expressed its agreement to postpone the discussion until later.

186. The Delegation of Germany clarified that it had spoken earlier on behalf of Germany only, and not on behalf of Group B, and expressed its support for the Chair's suggestion to postpone discussions on the Charter.

187. The Delegation of the Russian Federation also supported the decision to analyze the Internal Audit Charter in a future session.

188. The Program and Budget Committee agreed to postpone discussions on the Internal Audit Charter presented in document WO/PBC/8/4, and that this question be referred to the Working Group mentioned in paragraph 4 of the decision adopted under agenda item 5.

189. At the end of the session the Secretariat proposed that, in view of the fact that the meeting had continued until very late, and only provided there were no objections to this suggestion, the minutes of the meeting be communicated by the Secretariat, to all participating delegations, within the next two weeks, with the possibility for all delegations to submit comments and observations, which would be included in the final report. No objections were raised to this proposal.

190. Before concluding the meeting, the Chair expressed his sincere appreciation to all delegations who had greatly contributed to the work of the meeting. He gave special thanks to the interpreters for their patience and understanding and expressed appreciation to the Secretariat for its dedication and work on the documents and for assisting the Chair.

191. The Delegation of Nigeria expressed its thanks and appreciation to the Chair and commended him for the splendid job he had done.

192. The Delegation of Switzerland joined the Delegation from Nigeria and, on behalf of Group B, thanked the Chair for his work.

193. The Chairman stated that given the hour, and since there had been no objection, the meeting was adjourned.

[Annexes follow]