

# WIPO



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## PROGRAM AND BUDGET COMMITTEE

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### OPTIONS CONCERNING THE NEW CONSTRUCTION

*Document prepared by the Secretariat*

#### I. INTRODUCTION

1. In September 2002, the WIPO Assemblies approved a project for the construction of a new administrative building and a conference hall for a total cost of 190.5 million Swiss francs (hereinafter referred to as “the Original Project”) (documents A/37/2, A/37/9, A/37/10 and A/37/14, paragraphs 240 to 262).

2. In August 2003, following an international tender, a jury composed of representatives of WIPO Member States selected a general contractor: this general contractor was a consortium composed of two parties. The Organization was obliged to terminate its contract with the consortium on January 12, 2004, because a dispute arose between the two parties, which prevented them from honoring their contractual obligations to WIPO.

3. In the meantime, an estimated income shortfall of over 80 million Swiss francs for the 2004-2005 biennium had become evident. This income shortfall was mostly created by lower-than-anticipated volume of PCT applications in 2004-2005. (Please see document WO/PBC/IM/05/2 for more details.) In view of this situation, and following the termination of the contract with the consortium, the Secretariat considered it prudent to suspend the project and study alternative technical options designed to reduce its cost. It was also recognized that it would be a lower risk option for the Organization to maintain its reserves and explore the possibility of financing the new construction through external funding.

4. This document describes the alternative technical options (Chapter II) and possible alternative sources of financing (Chapter III). It also provides information on the tender and jury process (Chapter IV) and conclusions in Chapter VI.

5. When the Member States approved the Original Project in 2002, they did so after extensive analysis, including an independent evaluation report by the Swiss Federal Audit Office (i.e., the External Auditor) (document A/37/10). The decision taken at that time reflected the economic benefits of owning the new building *versus* renting office accommodation. The economic arguments supporting that decision remain as valid today as they were when the Original Project was approved. Chapter V reiterates these arguments in light of the current (December 2004) financial circumstances.

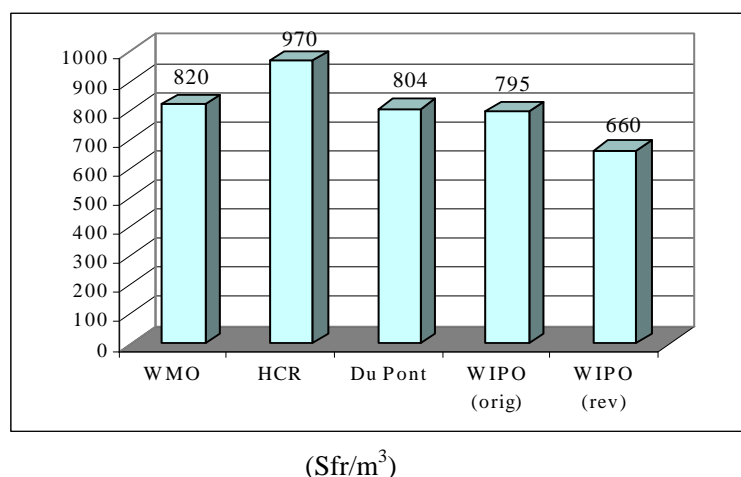
## II. TECHNICAL OPTIONS

6. Following the decision to postpone the project, the Secretariat requested the architect responsible for the Original Project to study possible ways to reduce the cost of the administrative building which had been approved by the Member States in the framework of the Original Project. The outcome of that study is an alternative version of the Original Project with similar functionality (i.e., no decrease in the number of work places and parking spaces) but at a lower cost. This alternative project (hereinafter referred to as “the Revised Project”), would provide a five-floor, instead of six-floor, office building with the same number of work places (560) and parking spaces (280) as the Original Project. The main technical data of the Revised Project are shown below.

Number of work places	560 places
Cafeteria capacity	320 places
Underground parking	280 places
Gross surfaces	
Offices (1st to 5th floor)	13,364 m <sup>2</sup>
Common areas (ground, 1st floor)	4,251 m <sup>2</sup>
Technical areas (–1 level)	5,255 m <sup>2</sup>
Parking (–2 and –3 levels)	10,286 m <sup>2</sup>
Storage space (–4 level)	5,143 m <sup>2</sup>

7. As shown in the graph below, the cost per cubic meter of the Revised Project (660 Swiss francs per cubic meter) is lower than the costs of other corporate and United Nations agencies’ buildings in Geneva, as well as of the Original Project (data extracted from the External Auditor’s report, Table 8, page 17 of document A/37/10).

Cost Comparison by Volume of Various Buildings



8. A technical and financial comparison between the Original Project and the Revised Project is provided in Annex I.

9. The total estimated cost of the Revised Project is 125.4 million Swiss francs, compared to 190.5 million Swiss francs for the Original project. A breakdown of the total estimated cost of the Revised Project appears in Annex II. As evidenced in that annex, the Revised Project would achieve a cost reduction of approximately 65 million Swiss francs by not constructing a new conference hall, eliminating the sixth floor and maximizing the number of work places in the remaining space, eliminating the *passerelle* with the Arpad Bogsch (AB) building, and revising certain technical concepts (for heating, air-conditioning and ventilation), as recommended by the External Auditor.

10. The Revised Project includes additional underground space for storage and/or parking in the area adjacent to the AB building. This space would provide extra parking facilities for a maximum of 260 cars, which could be also utilized by delegates and visitors. This means that the total number of parking places available could be, if required, 540<sup>1</sup>. The authorization to utilize this additional place as parking was delivered by the Geneva authorities in 2003<sup>2</sup>.

11. Including the cost of the purchase of the land (13.6 million Swiss francs), the total estimated cost of the Revised Project would be 139.1 million Swiss francs<sup>3</sup>, of which 25.5 million Swiss francs, or 18.3 per cent, has already been disbursed (or committed) by WIPO. In other words, the total remaining cost to be covered by WIPO, would be 113.6 million Swiss francs, as illustrated below.

Description	Disbursed	Committed	Not Yet Committed	TOTAL
Office building	-	1.2	87.1	88.3
Additional underground space	-	-	8.9	8.9
Honoraria	5.8	3.5	11.4	20.7
Other costs	1.1	0.3	6.2	7.6
Purchase of land	13.6	-	-	13.6
TOTAL	20.5	5	113.6	139.1

25.5 million = 18.3% of total cost

### III. FINANCIAL OPTIONS

12. Provided that the Revised Project, as described above, is agreed upon, there are two potential external financing options for its construction: (i) a loan from a commercial bank; and (ii) a lease arrangement with an investor-developer. These two options are discussed below<sup>4</sup>.

#### A Loan from a Commercial Bank

13. A first option would be to finance the construction of the Revised Project through a loan from a commercial bank. A precedent exists in this regard as the Organization's Madrid Union building was financed by a mortgage from the Union Bank of Switzerland (UBS) in 1975. In constitutional terms, the possibility of WIPO contracting such a loan is not excluded by the WIPO Convention. The Secretariat has held informal discussions with a number of local and foreign commercial banks to explore the possibility of financing the construction by means of a commercial loan. Preliminary credit proposals have been made by two Swiss banks.

14. Based on these preliminary proposals, it would be possible for WIPO to obtain a loan covering the full amount of money yet to be disbursed to build the administrative building on the basis of the Revised Project (113.6 million Swiss francs). This would mean that the investments already made by the Organization in the project (cost of purchase of the land and the cost of the architectural study and its modifications), would be considered by the loan institution as a sufficient cash contribution on the Organization's part and no further cash contribution would be required. The yearly estimated cost of such a loan would be 6.315 million Swiss francs (including interest and capital amortization) based on an interest rate of 3.56 per cent per annum<sup>5</sup>. The contractual arrangement between WIPO and the selected bank would have a maximum duration of 30 years, but the amortization period could extend beyond this 30-year period, if required by the Organization.

15. Under such a scheme, the Organization would not be required to waive its immunity from jurisdiction or execution, except in case of a duly noted default<sup>6</sup>. Throughout the credit period the lending bank would abstain from demanding the constitution of a mortgage on the totality of the land and the administrative building provided that WIPO meet certain conditions.

16. The above financing option is shown in Annex III. The amortization period would start only upon completion of the construction, which means that during the construction phase (estimated duration: 26 months), there would be no amortization costs to be borne by WIPO. This means that during the construction phase the yearly cost to the Organization would be 1.846 million Swiss francs (at an annual interest rate of 1.5 per cent).

#### A Lease Arrangement with an Investor-Developer

17. A second option would be a lease arrangement with an investor-developer. An investor-developer, identified through a tender procedure, would finance the construction of the Revised Project and lease it back to WIPO. The initial minimum lease period would ordinarily be ten years. Subsequent to that initial lease period, WIPO would have the option to vacate the building, wholly or in part, or to buy the building at the initial project construction cost, in which case WIPO would need to identify the means to finance the purchase.

18. The estimated cost of this option is shown in Annex IV. If, as part of this arrangement, the investor-developer agreed to buy the land from WIPO and to reimburse to WIPO the expenditures incurred for the architect's project, a certain amount of cash would flow back to WIPO (Alternative A). If the investor-developer did not agree to buy back the land and repay these costs to WIPO, WIPO would nevertheless receive from the investor-developer a yearly rent for the land and a cash flow back for the architect's project (Alternative B).

19. The advantage of such an option would be that the responsibility of supervising and managing the construction process would shift from WIPO to the investor-developer. WIPO's sole responsibility would be to ensure that the construction was carried out in accordance with the general tender. However, in the long-term, the investor-developer solution would be more costly than financing the construction through a commercial loan, as shown in Annex V. For this reason, the Secretariat recommends pursuing the option of a loan from a commercial bank (see paragraphs 25 to 27).

#### IV. TENDER AND JURY PROCESS

20. If all the necessary arrangements for the construction of the administrative building (by means of a commercial bank loan) fell in place, the Secretariat would launch a new ~~international~~ tender to select a general contractor. The final choice of the general contractor would be made by a special jury composed, as in the case of the 2003 tender, of representatives of Member States<sup>7</sup>. The timing of the new tendering process should ideally be such as to enable resumption of construction in January 2006, with February 2008 as the completion deadline.

#### V. BUILDING *VERSUS* RENTING: FINANCIAL ANALYSIS

21. In 2002, when Member States approved the new construction, the prevailing view was that this approach represented the most economical use of the Organization's resources as opposed to renting premises. The Secretariat's current projections (based on moderate growth of the registration systems in the medium-term) anticipate a need for 1,500 work places by 2009 including a reserve of 100 work places. By proceeding with the new construction, this

requirement would be fully accommodated through the new administrative building and existing WIPO-owned premises without the need to rent any other office space. This would represent significant savings.

22. As shown in Annex V, the yearly rental cost for the Procter and Gamble, *Centre administratif des Morillons* (CAM) and *Nations* buildings is 8.7 million Swiss francs, for a total of 560 work places. This cost is higher than the yearly cost of servicing a bank loan for 6.3 million Swiss francs.

## VI. CONCLUSIONS

23. Based on the above, it is the Secretariat's view that it is in the Organization's best financial interest to invest in the construction of its own administrative building on the basis of the Revised Project, rather than continuing to rent office space. It is also the Secretariat's opinion that, of the options available, the most prudent and financially advantageous one is to finance this project by a loan from a commercial bank.

24. There are a number of financial advantages to such a solution:

(a) WIPO would become the owner of an asset the financial value of which is likely to increase over the years and which, if need be, could be rented out or sold;

(b) WIPO could capitalize on the investments already made in the project (25.5 + 1.5 = 27 million Swiss francs), including the international architectural competition process, architect's fees, and excavation;

(c) WIPO could take advantage of the favorable interest rates currently being applied in the capital market, the cost of which would be largely off-set by the interest received by the Organization on its monetary placements, as well as by the non-payment of rental costs; and

(d) A unified headquarters location would enable more efficient management, maintenance and security arrangements for WIPO premises as well as improved communication among the various WIPO services. Savings in security, management, internal communication and transportation would also be generated.

25. The Secretariat would issue a call for tenders to interested banks, with a view to signing a loan arrangement, before the end of 2005, with the selected bank. The WIPO Construction and Contracts Review Committee would make the selection. An independent expert would be engaged to advise the Committee on the best options in terms of interest rates and other technical conditions of the loan arrangement. Once the loan has been secured, and following the completion of a new tendering process for the general contractor, construction work could resume on January 1, 2006. The cost resulting from the above bank tender would be integrated into the Proposed 2006-2007 Program and Budget for the approval of the Member States.

[Annexes follow]

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<sup>1</sup> The additional underground space (6,100 m<sup>2</sup> parking + 2,250 m<sup>2</sup> liaisons = 8,350 m<sup>2</sup>) was not included in the Original Project budget of 190.5 million Swiss francs. Therefore, additional specifications would need to be developed. The estimated cost of 8.9 million Swiss francs is based on the costs quoted by the general contractor in the 2003 tender and does not take into account possible discounts if a lump sum arrangement were to be made.

<sup>2</sup> In September 2002, the Member States had requested the Secretariat to study the question and contact the Geneva authorities with a view to ensuring the availability of these extra parking facilities (see document A/37/14, paragraph 262).

<sup>3</sup> This figure does not include the cost of purchasing the land (190.5 + 13.6 = 204.1 million Swiss francs).

<sup>4</sup> A third possibility would have been to obtain funds from the *Fondation pour les organisations internationales* (FIPOI). FIPOI was set up jointly by the Swiss federal and Geneva cantonal authorities with the purpose of making premises available in the Canton to intergovernmental organizations based in Geneva. In 2004, the Secretariat contacted FIPOI to explore the possibility of FIPOI's financing the new construction. According to FIPOI, all available credits have already been granted until 2008, and no funds are therefore available before that date.

<sup>5</sup> Different options would be available (fixed or variable interest rates, or a combination of both).

<sup>6</sup> Such as, failure to pay interest and/or principal within a period of 60 days following the due date, failure to abide by the so-called *pari passu* clause.

<sup>7</sup> The same process would apply in the case of the investor-developer option.