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Programme budget for 2021

Nineteenth annual progress report on the implementation of the capital master plan

Report of the Secretary-General

Summary

The nineteenth annual progress report on the implementation of the capital master plan is submitted pursuant to section II, paragraph 34, of General Assembly resolution [57/292](#). In the report, the Secretary-General provides an update on the status of the project since the issuance of the eighteenth annual progress report ([A/75/302](#)). He also addresses issues raised by the Advisory Committee on Administrative and Budgetary Questions in its most recent report on the capital master plan ([A/75/589](#)).

The Organization remains engaged in an arbitration case with the construction manager for the capital master plan. A hearing on the merits of the second phase of the case is currently scheduled for May 2022.

The General Assembly is requested to take note of the present report.

* [A/76/150](#).



I. Background

1. The capital master plan was the largest and most comprehensive construction and renovation project undertaken by the United Nations. The project met its objectives of honouring and preserving the original historic design of the Headquarters complex, while at the same time modernizing the facilities to meet prevailing accessibility, safety, security and technological standards.
2. As reported in previous progress reports, all construction work and related administrative close-out activities have been completed, with the exception of those related to one remaining arbitration case.
3. The General Assembly requested the Secretary-General to submit annual reports on the progress, schedule, projected cost to completion and financial status of the capital master plan. The present report is the nineteenth such report to the Assembly.

II. Arbitration

4. The Organization has been engaged in two arbitration proceedings with Skanska, the construction manager for the capital master plan. Each of the arbitration proceedings arose from claims filed against Skanska by a Skanska subcontractor. One of the arbitration cases and the first phase of the other arbitration case concluded in 2020, detailed of which were provided in the eighteenth annual progress report on the implementation of the capital master plan ([A/75/302](#)).
5. The arbitration proceedings that remain ongoing arose as a result of an arbitration case brought against Skanska by its electrical subcontractor, in which the subcontractor claimed that it was owed tens of millions of dollars for the work that it performed under several contracts with Skanska as part of the capital master plan. Although Skanska had denied the subcontractor's claims in their entirety, Skanska itself had claimed that, if it were found to owe additional sums to its subcontractor, the liability therefor should be passed on to the United Nations. The United Nations disputed Skanska's claim under the relevant contracts, and the dispute is currently before an arbitral tribunal, as required under such contracts. The capital master plan project consisted of several subprojects. Skanska's electrical subcontractor, which is a party to the Skanska-United Nations arbitration case, worked on some but not all of the subprojects. Each subproject had its own construction management agreement between the United Nations and Skanska. In an effort to facilitate the arbitration process, the tribunal decided to divide the proceedings into three separate and consecutive phases, as follows: (a) the Secretariat subproject; (b) the Conference Building subproject; and (c) various other infrastructure subprojects (for example, fire alarm and basement power distribution). As reported in the previous progress report, the arbitral tribunal issued a final decision for the first phase in June 2020, which resulted in a net payment by the United Nations to Skanska and the settlement of retainage to subcontractors, totalling \$3,607,800. The Office of Legal Affairs is working with outside counsel to determine the Organization's approach with respect to the remaining two phases, considering the reasoning of the arbitral tribunal for the first phase. A hearing on the merits of the second phase of the case is currently scheduled for May 2022. The required expenditure for attorneys' fees and arbitral expenses is difficult to estimate at the present time, but is not expected to exceed \$600,000 for the period between 1 July 2021 and 31 December 2021, to be funded from the liquidation of commitments held pending the resolution of all legal proceedings.
6. The Secretary-General takes note of the request by the Advisory Committee on Administrative and Budgetary Questions, in its most recent report on the capital

master plan ([A/75/589](#), para. 7), that lessons learned be gathered from the substance of the arbitration cases, with a view to avoiding litigation as much as possible and protecting the rights of the United Nations in other capital projects. Once the arbitral tribunal has rendered all decisions with respect to the arbitration case that remains ongoing, the Secretary-General, through the Department of Operational Support and in consultation with the Office of Legal Affairs, will fully consider the tribunal's decisions in order to determine any necessary adjustments to United Nations construction principles and practices so as to further protect the interests of the Organization with respect to the implementation of major capital projects.

III. Implementation of the recommendations of the Board of Auditors

7. The Administration had nine recommendations that remained outstanding as at 31 December 2019, of which seven have been implemented and subsequently closed by the Board of Auditors. The remaining two recommendations are under implementation, pending the outcome of the ongoing arbitration case mentioned in section II of the present report and the completion of the project to bring the United Nations Headquarters facilities to the 2010 Americans with Disabilities Act (ADA) Standards for Accessible Design. An update is provided in table 1.

Table 1

Status of implementation of outstanding recommendations as at 30 June 2021

A/70/5 (Vol. V) , para. 17 (d)	The Board recommended that the Administration report the full amount of any savings arising from contract closure and introduce appropriate governance mechanisms to determine the use that could be made of such savings, including specific consideration of returning savings to Member States.	One of the arbitration cases is still ongoing, as explained in section II of the present report. The final unused balance of the project can be determined only after the conclusion of the arbitration processes and the settlement of all liabilities.
A/73/5 (Vol. V) , para. 71	The Board recommended that the Administration examine the requirements of the 2010 ADA Standards for Accessible Design and take necessary steps on a progressive basis towards compliance with those standards to ensure accessibility to all individuals with disabilities.	The three-year accessibility programme is under implementation, with some delays experienced as a result of the coronavirus disease (COVID-19) pandemic, as reported under sections 29B, Department of Operational Support, and 33, Construction, alteration, improvement and major maintenance, of the proposed programme budget for 2022. Some of the work originally planned for 2022 will be carried out in 2023.

IV. Other matters

8. In its report, the Advisory Committee requested updated information on the implementation of the new energy management tool and its costs ([A/75/589](#), para. 11).

9. The project is under implementation but has been delayed to the third quarter of 2022. The new energy management tool is an integral part of a suite of applications (OpenBlue Enterprise Manager) designed as a comprehensive solution for managing buildings and assets. The installation of the applications will be the final phase of a complex, multi-year upgrade of the existing building management system. Upon further review, it proved to be technically difficult and significantly more costly to install a new energy management tool without first completing the other required upgrades, including information technology security upgrades, to the underlying system. The implementation was also delayed by the liquidity crisis and the COVID-19 pandemic. The estimated cost of the system upgrade, inclusive of all applications, such as the one for energy management, is \$460,000 and is to be funded from within existing resources under section 29B of the programme budget.

V. Financial status

10. The total approved funding for the capital master plan project amounts to \$2,150.4 million, comprising appropriations of \$1,876.7 million for the original project scope, donations of \$14.3 million, combined interest income and working capital reserve of \$159.4 million and funding of \$100.0 million for the enhanced security upgrades.

11. As reported previously, all approved funding in the amount of \$2,150.4 million has been committed in full. All contracts have been closed and all payments finalized, except for invoices relating to the ongoing arbitration cases and the associated legal fees.

12. The estimated final cost of the project remains unchanged, at \$2,150.4 million. As at 30 June 2021, the cumulative expenditure incurred amounted to \$2,150.4 million, indicating that 100 per cent of the estimated cost to completion has been expended and committed. The current status of the expenditure and remaining requirements is summarized in table 2.

Table 2

Capital master plan project expenditure and requirements until completion, as at 30 June 2021

(Thousands of United States dollars)

Description	Expenditure	Remaining requirements	Total
	From project inception to June 2021	From July to December 2021	
Capital master plan project			
Design contractual services	168 828.5	—	168 828.5
Staff costs for the Office of the Capital Master Plan	33 806.0	—	33 806.0
Support staff costs	15 903.5	—	15 903.5
Operating and other costs	18 003.5	—	18 003.5
Programme management and other consultants	56 172.7	—	56 172.7

<i>Description</i>	<i>Expenditure</i>	<i>Remaining requirements</i>	<i>Total</i>
	<i>From project inception to June 2021</i>	<i>From July to December 2021</i>	
Construction and pre-construction	1 414 348.8	–	1 414 348.8
Swing space costs (including rent)	554 600.8	–	554 600.8
Subtotal	2 261 663.8	–	2 261 663.8
Prior-period adjustments	9 204.0	–	9 204.0
Adjusted project expenditure	2 270 867.8	–	2 270 867.8
Savings from cancellation of obligations	(230 802.9)	(600.0)	(231 402.9)
Legal expenses for the arbitration cases	6 727.3	600.0	7 327.3
Award payments to vendors and retainage settlements from concluded arbitration proceedings	3 607.8	–	3 607.8
Subtotal	2 050 400.0	–	2 050 400.0
Enhanced security upgrade project	100 000.0	–	100 000.0
Total, capital master plan project expenditure	2 150 400.0	–	2 150 400.0

13. The accumulated legal expenses for the arbitration cases to date total \$6,727,300. On the basis of the estimate from the Office of Legal Affairs, an additional amount of \$600,000 is required from July to December 2021, to be funded from the liquidation of commitments held pending the resolution of all legal proceedings, which would bring the estimated total expenditure for legal expenses by the end of December 2021 to \$7,327,300.

14. The final unused balance of the project can be determined only after the conclusion of the remaining arbitration proceedings and the settlement of all liabilities. At that time, the Secretary-General will report on the final balance and submit proposals for approval by the General Assembly with respect to the return of any final residual balance to Member States.

15. The final consolidated requirement of the capital master plan is unchanged at \$2,305.1 million, or \$2,309.3 million if the portion funded by the support account for peacekeeping operations is taken into consideration. Details thereon are provided in table 3.

Table 3

Consolidated expenditure as at 30 June 2021 and projected requirements until December 2021

(Millions of United States dollars)

<i>Description</i>	<i>From project inception to June 2021</i>	<i>From July to December 2021</i>	<i>Total</i>
Project costs			
Capital master plan project	2 050.4	–	2 050.4
Enhanced security upgrade	100.0	–	100.0
Subtotal	2 150.4	–	2 150.4

<i>Description</i>	<i>From project inception to June 2021</i>	<i>From July to December 2021</i>	<i>Total</i>
Associated costs			
Non-project costs	139.7	–	139.7
Secondary data centre	15.0	–	15.0
Subtotal	154.7	–	154.7
Consolidated total	2 305.1	–	2 305.1
Portion of secondary data centre funded from the support account for peacekeeping operations	4.2	–	4.2
Consolidated total, including portion funded from the support account for peacekeeping operations	2 309.3	–	2 309.3

16. Financial statements regarding the expenditure for the 2020 financial period were completed, consolidated and finalized in March 2021, following established financial reporting processes, in compliance with the Financial Regulations and Rules of the United Nations. The financial close-out of the capital master plan project will depend on the outcome of the remaining arbitration case.

VI. Action to be taken by the General Assembly

17. The General Assembly is requested to take note of the present report.