



# General Assembly

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## Seventy-ninth session

Item 138 of the provisional agenda\*

### Programme budget for 2024

## Twenty-second annual progress report on the implementation of the capital master plan

### Report of the Secretary-General

#### *Summary*

The twenty-second 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 twenty-first annual progress report ([A/78/318](#)).

The Organization remains engaged in an arbitration case with the construction manager for the capital master plan. The first phase of this arbitration case concluded in 2020, as reported in the eighteenth annual progress report ([A/75/302](#)). A decision with respect to the second phase of the case was issued by the arbitral tribunal in April 2024. Of the approximately \$15 million originally at issue for the second phase, together with the additional costs in excess of \$13 million claimed by the construction manager and its subcontractor for this phase, the tribunal decided that the United Nations was required to pay the construction manager a net amount of approximately \$5.7 million, which would be funded partially from the liquidation of commitments held pending the resolution of all legal proceedings and partially from the overall regular budget appropriation approved by the General Assembly for 2024. The Office of Legal Affairs, with the assistance of outside counsel, will continue to defend the interests of the Organization with respect to the remaining third phase of this arbitration case.

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

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\* [A/79/150](#).



## 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 historical 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. By its resolution [57/292](#), the General Assembly requested the Secretary-General to submit to it annual progress reports on the implementation of the capital master plan. The present report is the twenty-second 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.
5. The first arbitration case concluded in 2020, details of which were provided in the eighteenth annual progress report on the implementation of the capital master plan ([A/75/302](#)).
6. The second arbitration case, which remains 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 denied the subcontractor's claims in their entirety, Skanska claimed that, if it were found to owe additional sums to its subcontractor, the liability 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.
7. 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).
8. The first phase of this second arbitration case also concluded in 2020, as reported in the eighteenth annual progress report. Of the approximately \$17 million originally at issue for the first phase, together with the additional costs in excess of \$12 million claimed by Skanska and its subcontractor for this phase, the tribunal decided that the United Nations was required to pay Skanska approximately \$3.6 million.
9. A decision with respect to the second phase was issued by the arbitral tribunal in April 2024. Of the approximately \$15 million originally at issue for the second phase, together with the additional costs in excess of \$13 million claimed by

Skanska and its subcontractor for this phase, the tribunal decided that the United Nations was required to pay Skanska a net amount of \$5,661,655.

10. The General Legal Division of the Office of Legal Affairs, with the assistance of outside counsel, will continue to defend the interests of the Organization with respect to the remaining third phase of this arbitration case. With respect to this phase, the required expenditure for attorneys' fees and arbitral expenses is difficult to estimate at the present time but is not expected to exceed \$505,000 for the period between 1 July and 31 December 2024. However, there may also be additional requirements to cover legal expenses in 2025, and a possible decision from the arbitral tribunal, which will be reported in the next progress report.

### III. Implementation of the recommendations of the Board of Auditors

11. There is one remaining recommendation of the Board of Auditors, which has been requested for closure. An update is provided in table 1.

Table 1

#### Status of implementation of outstanding recommendations as at 30 June 2024

A/70/5 (Vol. V), para. 17 (d)	The Board recommends that the Administration manage the capital master plan to successful completion by reporting the full amount of any savings arising from contract closure and introducing appropriate governance mechanisms to determine the use that can be made of such savings, including specific consideration of returning savings to Member States	The partial award with respect to the second phase of the arbitration was issued in April 2024. Pursuant to that award, the total liability of the United Nations for the second phase is \$5,661,655. The current cash balance of the capital master plan fund is \$4,053,412. Since the full amount of the remaining capital master plan savings will be required to settle this award, the administration requests the closure of this recommendation, as there will be no savings to be returned to Member States
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### IV. Financial status

12. 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.

13. 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. The current status of the expenditure and remaining estimated requirements until December 2024 are summarized in table 2.

Table 2  
**Capital master plan project expenditure and estimated requirements until December 2024, as at 30 June 2024**

(Thousands of United States dollars)

<i>Description</i>	<i>Expenditure</i>	<i>Remaining requirements</i>	<i>Total</i>
	<i>From project inception to June 2024</i>	<i>From July to December 2024</i>	
<b>Capital master plan project expenditure</b>	<b>2 270 867.8</b>	<b>–</b>	<b>2 270 867.8</b>
Savings from cancellation of obligations	(234 559.1)	(4 053.4)	(238 612.5)
Legal expenses for the arbitration cases	10 483.5	505.0	10 988.5
Award payments to vendors and retainage settlements from concluded arbitration proceedings	3 607.8	5 661.7	9 269.5
<b>Subtotal</b>	<b>2 050 400.0</b>	<b>2 113.3</b>	<b>2 052 513.3</b>
Enhanced security upgrade project	100 000.0	–	100 000.0
<b>Total capital master plan project expenditure</b>	<b>2 150 400.0</b>	<b>2 113.3</b>	<b>2 152 513.3</b>

14. The accumulated legal expenses for the arbitration cases to date total \$10,483,500. On the basis of the estimate from the Office of Legal Affairs, an additional amount of \$505,000 is required from July to December 2024, including \$55,000 to be billed to the Organization with respect to May and June 2024 legal services. The additional expenditure would bring the estimated total expenditure for legal expenses by the end of December 2024 to \$10,988,500.

15. The legal expenses have comprised primarily lawyers' fees based on attorneys' billable hours, arbitral tribunal costs, the Organization's cost consultant and expert fees, and information management and data storage costs. A breakdown of the legal expenses for the duration of the arbitration proceedings to date is provided in table 3.

Table 3  
**Breakdown of legal costs as at 30 June 2024**

<i>Description</i>	<i>Total expenditure as at 30 June 2024</i>
Attorneys' billable hours	8 577 280
Arbitral tribunal costs	909 930
Cost consultant and expert fees	522 730
Duplicating and printing	54 624
Electronic data storage and intake	401 411
Lexis and Westlaw research databases	16 524
Outside party software licences	1 000
<b>Total legal costs</b>	<b>10 483 500</b>

16. As indicated in paragraphs 9 and 14 above, the total liability of the United Nations for the second phase of the arbitration case is \$5,661,655 and an estimated additional amount of \$505,000 is estimated for July to December 2024 for legal expenses related to the third phase, totalling \$6,166,655 in estimated additional

expenses for 2024. The legal expenses, including the arbitral expenses, have been funded to date from the liquidation of commitments held pending the resolution of all legal proceedings. The cash balance of the capital master plan fund as at 30 June 2024 was \$4,053,412, which will be used to partially fund the additional expenses for 2024. The balance of \$2,113,243 will be funded from the overall regular budget appropriation approved by the General Assembly for 2024.

## **V. Action to be taken by the General Assembly**

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