



General Assembly

Distr.: General
18 August 2023

Original: English

Seventy-eighth session

Item 136 of the provisional agenda*

Programme budget for 2023

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

Report of the Secretary-General

Summary

The twenty-first 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 twentieth annual progress report ([A/77/299](#)). 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/77/526](#)).

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 took place in October 2022. A decision with respect to the second phase of the case is expected to be issued by the arbitral tribunal in the third or fourth quarter of 2023.

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

* [A/78/150](#).



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, except for 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 twenty-first 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, details 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 denied the subcontractor's claims in their entirety, Skanska itself 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.
6. 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 eighteenth annual 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.
7. On the basis of the decision and reasoning of the arbitral tribunal with respect to the first phase, the Office of Legal Affairs has worked in consultation with outside counsel to refine the Organization's approach with respect to the ongoing second phase. This refined approach includes using fact witnesses and expert forensic accounting professionals to directly refute the claims of Skanska's electrical subcontractor on an itemized basis as well as presenting a high-level, principled argument against the claims of Skanska and Skanska's electrical contractor.

8. A hearing on the merits of the second phase of the case took place in October 2022. At the hearing, the United Nations made an oral presentation with respect to the legal arguments in support of the Organization's position in the arbitration, conducted direct examination of expert witnesses and cross-examined witnesses presented by the other parties to the arbitration. A decision with respect to the second phase of the case is expected to be issued by the arbitral tribunal in the third or fourth quarter of 2023. The required expenditure for attorneys' fees and arbitral expenses is difficult to estimate at the present time but is not expected to exceed \$225,000 for the period between 1 July 2023 and 31 December 2023, to be funded from the liquidation of commitments held pending the resolution of all legal proceedings.

III. Implementation of the recommendations of the Board of Auditors

9. Two recommendations of the Board of Auditors remain outstanding. These recommendations continue to be 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 in line with 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 2023

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 full scope of the three-year accessibility programme was completed in 2023 as reported under sections 29B, Department of Operational Support, and 33, Construction, alteration, improvement and major maintenance, of the proposed programme budget for 2023.

IV. 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. 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 2023

(Thousands of United States dollars)

<i>Description</i>	<i>Expenditure</i>		<i>Remaining requirements</i>	
	<i>From project inception to June 2023</i>	<i>From July to December 2023</i>	<i>From July to December 2023</i>	<i>Total</i>
Capital master plan project expenditure	2 270 867.8		–	2 270 867.8
Savings from cancellation of obligations	(234 559.1)		(225.0)	(234 784.1)
Legal expenses for the arbitration cases	10 483.5		225.0	10 708.5
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

12. 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 \$225,000 is required from July to December 2023, 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 2023 to \$10,708,500.

13. 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.

14. 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 of the twentieth annual progress report on the implementation of the capital master plan (A/77/299).

15. Financial statements regarding the expenditure for the 2022 financial period were completed, consolidated, and finalized in March 2023, 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.

V. Action to be taken by the General Assembly

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