

DISCUSSIONS ON IMPLEMENTATION OF RECOMMENDATIONS ON
TECHNOLOGY TRANSFER AT THE FOURTH SESSION OF THE CDIP
HELD FROM NOVEMBER 16 TO 20, 2009 (EXTRACTED FROM CDIP/4/14 PROV.)

131. The Secretariat said that the project that was up for consideration by the Committee was about technology transfer and was entitled 'Intellectual Property and Technology Transfer: Common Challenges and Building Solutions'. It was inspired mainly by two factors. One was Recommendations 19, 25, 26 and 28. The other was the spirit of the Development Agenda, in so far as it was a development-oriented and transparent project, which also built upon partnerships with all involved stakeholders. Four recommendations were involved in the project, which framed the objectives of that proposal, which the Secretariat would seek to summarize. The first was to further facilitate access to knowledge and technology, for developing countries and LDCs to enhance creativity and innovation. The second was to explore IP-related policies and initiatives necessary to promote the transfer and dissemination of technology for the benefit of developing countries and to enable them to benefit from the existing flexibilities. The third was to encourage research and scientific institutions, particularly in industrialized countries, to enhance cooperation with R&D institutions in developing countries; and finally to explore supportive IP-related policies that Member States, especially developed countries, could adopt for promoting the transfer and dissemination of technology in developing countries. The objective was, in particular, to aim at the exploration and increased understanding and consensus on possible IP-related initiatives and policies to enhance technology transfer, particularly for the benefit of developing countries, and the tangible objective was to develop a New Platform for International IP Collaboration and Technology Transfer, which would be based on realistic, non-controversial and mutually acceptable elements, as a starting point for building joint solutions. The key activities that were envisaged were divided into five different phases or five different major sets of activities. The first consisted of organizing a High Level Expert Forum to initiate discussions on how to facilitate access to knowledge and technology for developing countries. The experts invited would be international renowned experts from all regions, and the intention was to obtain recommendations on how to improve technology transfer. The second phase would be a series of studies that had been proposed earlier in document CDIP/1/3. For example, it would include undertaking economic studies on IP and international technology transfer, studies on existing IPR-related policies and initiatives that existed in various countries and a set of case studies. Further details could be found in the project document. What was not in the project itself, but had been proposed at the Open-Ended Forum organized by WIPO in October, and was probably a very good idea, was to include a review of the existing literature and studies. That had been proposed by International Centre for Trade and Sustainable Development (ICTSD), and would probably make the project more complete and comprehensive. The third phase would be the creation of WIPO web-based fora on technology transfer and IP in order to incorporate the ideas and views of all stakeholders, so everybody could participate. The studies and recommendations would be put on the web, which would foster a broad discussion on the issue. The fourth phase was to organize five regional technology transfer consultation meetings, to make recommendations the way forward. The fifth phase, and perhaps most important part of the project would be the mainstreaming of the recommendations of the consultation meetings into WIPO's activities in order to strengthen those activities in the area of technology transfer. Concerning the delivery strategy, without going into detail, there would be a number of case studies, a concept paper and web-fora. Further information on each part of the project was available in the document. The Secretariat also noted that the project included evaluation indicators, e.g. the project

paper would be made available within three months from the approval of the project; the web-fora would be operational within nine months following approval; and, finally, the incorporation of the adopted recommendations resulting from the project into the WIPO programs. As far as the project budget was concerned, it was estimated at 960,000 Swiss francs and the implementation time line was approximately 27 months. Finally, the Secretariat wished to clarify that work on technology transfer was not completely new to WIPO, and mentioned some of the activities that were already undertaken within WIPO. For example, infrastructure for IP management, know-how improvement in Member States. The Secretariat explained that WIPO contributed to the development of national IP strategies, to national IP audits for those national strategies, on the basis of tools that had been prepared and were publicly available. Work was also done in the area of institutional policies for universities, which included supporting universities interested in understanding how to deal with IP, whether they should own IP and how to negotiate with the private sector to transform their inventions into marketable products. In that regard, a guide would be issued shortly on institutional university policies. In the field of know-how development, a number of seminars were conducted, including seminars concerning patent drafting, as it was very important to improve patent drafting skills in many countries, be it only to understand how it worked. Seminars were also conducted in the area of technology licensing at different levels, which was in very high demand, and on IP valuation. The Secretariat added that all such activities were demand driven and responded to specific requests from Member States.

132. The Delegation of Egypt felt that the approach to that and the following project would need to be a bit different than what had been done until then since they were projects that were going to be discussed for the first time. The Delegation stated that the project on technology transfer was one of the most important because it captured the essence of the Development Agenda. It was a project that dealt with the notions and ideas that had led to the rise of the WIPO Development Agenda. It captured extremely important ideas that were at the core of the requests from the vast majority of Members of the Organization. The Delegation believed that the Committee would need to have a qualitatively different discussion on that project, and recalled the three golden rules that had been set and approved in CDIP/3, primarily and essentially that the building blocks of the discussions should be the recommendations themselves. The Committee, therefore, should start with the recommendations, look at particular activities, see linkages among the various activities arising from the recommendations, and then see how they could be translated into a project. After that introduction, the Delegation wished to let other delegations know, that a number of "like-minded" delegations had been engaged over the previous month in consultations on that project, and were in the process of finalizing a document to be presented to the CDIP that would elaborate on the ideas of that group of delegations on the recommendations pertaining to transfer of technology and by implication on the project itself. At that stage, the Delegation wished to raise some general issues and concerns, as a preliminary step, that reflected the document that would hopefully be presented soon. For the Delegation, a critical first point to consider, as the Committee dealt with Development Agenda recommendations, particularly those proposed under the project as well as other related recommendations, such as Recommendations 17, 22, 23, 27, 29, and 31, was to look at what was meant by transfer of technology. The Delegation believed that the definition of transfer of technology should include market mechanisms, such as commercial transactions and trade, foreign direct investment, licensing and joint research and development arrangements. In addition, it should also include legitimate non-market channels of technology transfer such as imitation through product inspection, reverse engineering, software recompilation, and simple trial and error. Finally, a third means of transfer of technology, was through assistance from IGOs,

development assistance agencies and NGOs. Similarly, studying available information was also a way to transfer technology including patent disclosure, provided sufficient information was made available for engineers to understand the technology. Having raised those three important means or mechanisms of technology transfer, there were important international parameters on the subject. In considering the issue of technology transfer, the Committee should be guided by such international parameters, mainly TRIPS Article 7, which read: “The protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and to the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations”. Similarly, of direct relevance to WIPO was Article 1 of the WIPO-UN Agreement of 1974. That article read: “The United Nations recognizes the World Intellectual Property Organization (hereinafter called the “Organization”) as a specialized agency and as being responsible for taking appropriate action in accordance with its basic instrument, treaties and agreements administered by it, *inter alia*, for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to the developing countries in order to accelerate economic, social and cultural development”. The Delegation explained that out of those two parameters, developing countries had earlier set out three specific sets of issues that needed to be considered when looking at the transfer of technology. One set of issues was international IP standards pertaining to the transfer technology. On that issue, a more dynamic approach was needed for the benefit of developing countries and LDCs that should incorporate among others, appropriate policies with respect to protection criteria, such as patentability requirements, and with respect to the duration of rights beyond a reasonable time to justify rewarding innovation and creativity. Other issues were exceptions to exclusive rights, the use of public tools, such as disclosure, working requirements, compulsory licensing, open-source software etc., a system of protection relevant to national circumstances, and, finally, administrative and procedural aspects. The Delegation noted that a second set of suggestions for developing countries focused on supportive IP-related policies by industrialized countries. With a view to promoting transfer and dissemination of technology among other related objectives, the Delegation felt that WIPO should contribute to a debate with other relevant international organizations, as appropriate, on such initiatives as undertaken by developing countries to provide technical and financial assistance for improving the ability of countries to absorb technology; fiscal benefits to firms transferring technologies to developing countries, of the same type often available in developed countries for firms that transfer technologies nationally, to less developed regions; or the same tax advantages for R&D performed abroad as for R&D done at home. For example, to meet the terms of Article 66.2 of TRIPS, issues such as fiscal incentives should be considered to encourage enterprises to train scientific, engineering and management graduates from developing countries, with a view to their knowledge being used for development of technology in their country of origin. Public resources, such as those from the National Science Foundation or the National Institute of Health of the United States, could be used to support research into the technology development and transfer needs of developing countries. Likewise, the Delegation pointed out that grant programs could be established for research into technologies that would be of greatest productivity for the purpose of meeting priority social needs of developing countries. Grant programs could also be devised that offered support to proposals that meaningfully involved research teams in developing countries, in partnership with research groups in donor countries. Universities should be encouraged to recruit and train students from developing countries in science, technology, and management. Incentives for setting-up the degree programs through distance learning, or even foreign establishments may be particularly effective. Finally, special trust funds for the training of

scientific and technical personnel for facilitating the transfer of technologies that were particularly sensitive for the provision of public goods, and for encouraging research in developing countries. The Delegation stated that a third very important process would be multi-lateral supportive measures. At the multi-lateral level, the following initiatives could be considered: adoption of commitments like those contained in Article 66.2 of the TRIPS Agreements, expanded to benefit all developing countries; the establishment of a special fee on applications through the Patent Cooperation Treaty (PCT), the revenues of which would be earmarked for the promotion of research and development activities in developing and least-developed countries; the establishment of an intermediary conduit to reduce the asymmetric information problem in private transactions between technology buyers and sellers, for knowledge about successful technology acquisition programs that have been undertaken by national and sub-national governments. The Delegation explained that that could serve a useful role in encouraging collaboration and information sharing among member governments. Such a program could involve, for example, detailed information about past policies and about effective partnerships between agencies and domestic firms in acquiring technologies. It could also include information on the terms involved, such as royalty rates, and contract clauses that resulted in actual local absorption. They could also describe the most effective roles for public research facilities in universities, in facilitating technology transfer. Once enough information of that type had been compiled and studied, WIPO could attempt to develop a model technology transfer contract that could serve as a guideline for the transfer of technology and would represent the legitimate interests of both buyers and sellers. Those were the three principle ideas that the discussions that the Delegation had earlier referred to among “like-minded” delegations had raised, and it believed that they went to the core of the activities that the Development Agenda should be looking at with regard to the issue of technology transfer, and access to knowledge and technology. The Delegation hoped to be able to submit that in written form with further explanation of some areas. The Delegation apologized if it had taken a lot of time, but it felt that that general intervention was important, as it was on behalf of a number of delegations.

133. The Chair thanked the Delegation of Egypt and indicated that the intervention was not too long as it was important to listen to different views and exchange ideas. The Chair wondered whether the approach or discussions that week had lived up to the expectations of that Delegation as regards the approach. The Committee had adopted an approach that had been approved by everyone. There had been sufficient discussions on quite a lot of projects, which had been adopted. The intervention that had just been made by the Delegation of Egypt was a whole program; almost another Development Agenda. The Chair noted that the intervention had been very useful, very detailed, but delegations would probably need some time to take in what had just been shared with the Committee. He felt that what was being proposed would not rule out the examination by the Committee of the document that was under consideration. The document seemed to complement what had been proposed by the Delegation of Egypt, or, from a different perspective, one could consider that what was being proposed by that Delegation complemented the project document, as they did not rule out each other. The Chair, therefore, proposed that the Committee examine that document as presented, bearing in mind that it had already been presented at the third CDIP, and noting too, that Recommendations 25, 26, and so on, were also contained in the first document that had been presented by the Secretariat, document CDIP/1/3. Therefore, they were old projects that had been brought up again because the Committee had not had time to examine them at previous sessions. The Chair proposed to the delegations of “like-minded countries” that the Committee would come back to those proposals and leave delegations to think about what had been proposed by the Delegation of Egypt. In the meantime, the Committee could look at the

project, examine it, and see whether it could be adopted. Bearing in mind, of course, any new proposals that delegation may submit in written form.

134. Referring to document CDIP/4/7, on IP and technology transfer, the Delegation of Spain stated that its Delegation was in full agreement with the statement made by Sweden, on behalf of the European Community and its 27 Member States. Nevertheless, the Delegation believed that the transfer of technology was one of the key aspects of the Development Agenda and as such, it accorded high priority to that issue. The Delegation urged the Secretariat to draw up a list of 'best practices' based on interesting or successful experiences in Member States, so as to enable discussions to be focused on what Member States could really do in this field. The Delegation believed that such a list could promote cooperation between public or private players, in particular private players, and create a stable market for cooperation between businesses. The Delegation was of the opinion that such a list would serve to connect Recommendations 25, 26 and 28 of the Development Agenda. The Delegation of Spain then requested additional information on the staff costs of the project, the fate of the project and the lack of funds available for the patent component, in particular, the part pertaining to patent information. The Delegation concluded by emphasizing the need to be efficient and to find the best ratio possible between the funds available to the Organization, the estimated cost of those activities and the outcome.

135. The Delegation of China underscored the importance of the transfer of technology to developing countries and LDCs, as well as its direct impact on the economic and technological development of those countries. The Delegation expressed its support in principle, for the project and expressed its desire to participate actively in all activities related to that project.

136. On behalf of the European Community and its 27 Member States, the Delegation of Sweden made reference to comment made earlier by another Member State with respect to the increasing importance of technology transfer in the world and the developmental challenges that countries faced. The Delegation welcomed the Secretariat's practical approach outlined in the document under consideration on how the implementation of Recommendations 19, 25, 26 and 28 could take place. The Delegation stated that any initial step for the implementation should consist of an in-depth exploration of the issues, and the initiation of an open dialogue with knowledgeable experts who have experience of the issues at hand. The Delegation added that it was important to involve all the actors concerned, such as the private sector, industry academia, and various government sectors. The basis for such a dialogue should, as the Secretariat had proposed, consist of a series of studies. The Delegation gave two reasons to in support of its opinion: first that many of the elements of technology transfer were either unexplored, or less explored; and the second that information on all aspects which influenced technology transfer decisions needed to be taken into consideration so as to produce credible results in future work. The Delegation further stressed that the work to be undertaken should cover the IP aspects of technology transfer in the context of emerging issues. In particular, issues such as legal security or issues that could arise when technologies were transferred from one country to another. The Delegation concluded by stating that it deemed it essential, for the studies to highlight the role of the efficient enforcement of IPRs in that context.

137. The Delegation of Switzerland thanked the Chairman and the Secretariat for the proposed thematic project under consideration, as well as for the information on work already carried by WIPO in that area. The Delegation stated that the subject of technology transfer was a very important one under the Development Agenda. The Delegation believed that the

activities which had been proposed in document CDIP/4/7 were timely and well-structured, in particular the points on the setting-up of an expert forum and the studies proposed. The Delegation further expressed its satisfaction with the description of those studies and believed that discussions would lead to very concrete results and the dissemination thereof. The delegation of Switzerland underscored the importance for WIPO to continue contributing to those areas in its field of competence, without duplicating what was being done in other Organizations. The Delegation expressed the hope that the expert discussions and studies would assist Member States in providing the right focus to discussions in WIPO, in particular as it pertained to urgent environmental issues to be addressed. The Delegation concluded by thanking the Delegation of Egypt for its thoughts as well as the thoughts of other delegations on the transfer of technology, and stated that it looked forward to examining the Egyptian Delegation's proposals in more detail in the future.

138. The Delegation of Bulgaria commended the Secretariat for the document which, in the Delegation's opinion, reflected not only what had been discussed earlier but the eventual objectives of Member States behind the inclusion of technology transfer on the agenda. While associating itself with the statement made by the Delegation of Sweden, on behalf of the European Union, the Delegation cautioned that technology transfer was an issue that had already been discussed over the past 50 years in multi-lateral fora all over the world and, that countries which had succeeded in setting-up successful transfer of technology schemes were those that had looked into the infrastructure. The Delegation illustrated that similar to the field of education which needed schools and teachers, or the field of health care which needed hospitals, medical doctors and personnel, the field of technology transfer required proper and appropriate infrastructure in the country itself. More specifically, it required: technical, legal, commercial and environmental considerations. The Delegation added that there were several steps involved in the transfer of technology and that the country interested in acquiring the technology, often needed assistance in the identification, selection, application, adaptation and development of the technology. The Delegation stated that all of those aforementioned issues were related to IP, and advocated the need for the necessary infrastructure element to be addressed in the studies to be carried out. The Delegation believed that in a developing country with limited resources, it would be difficult for individual companies to come up with the resources to hire a patent lawyer, a patent information specialist, and a marketing specialist who could analyze the market. Therefore, the infrastructure would need to be provided hopefully by the public sector, or some form of public and private source. In that context, the Delegation stated that through the studies, WIPO could do an excellent job in providing best practices at the high, medium and grass root technology levels from countries such as India, which would assist other developing countries in selecting and adapting technologies to their local needs. The Delegation concluded by offering its support with respect to work in that area.

139. The Delegation of Nigeria stressed the importance of the issue of technology transfer in today's modern world. The Delegation made direct reference to the document in question and underscored the need for the studies to address the issue of the embodiment of knowledge, which was fundamental to the foundation of science and technology, as well as the issue of infrastructure. The Delegation concluded by commending the Delegation of Egypt for sharing its thoughts as well as the thoughts of other delegations with the Committee.

140. The Delegation of South Africa expressed its support for the methodology that had been proposed by the Delegation of Egypt, and noted that its Delegation had also been part of that process in providing substantive comments to the project that had been proposed on

technology transfer. The Delegation believed the comments provided by the Delegation of Egypt to be a clear basis for the Committee to move forward, in terms of the issue on technology transfer which was very important to many countries. It also reiterated the comments of the Nigerian Delegation with respect to aforementioned methodology being the way forward. The Delegation further suggested that the comments made by the Delegation of Egypt, be used as the basis for further developing the project which had been proposed by the Secretariat. The Delegation concluded by stating that it would come back in the future with more detailed comments, and urged that the points already raised by the Delegation of Egypt, on behalf of the delegations of “like-minded countries”, be included in the project proposal as the key basis for taking that project forward.

141. The Chairman stated that the principles mentioned by the Delegation of Egypt were extremely interesting and very important. He reiterated his request to the Delegation of Egypt for a written version of its statement so that the proposal could be discussed. The Chairman added that the document of the Egyptian Delegation would not prevent the Committee from continuing to work on the project document under consideration and making progress thereon. He believed that the Committee was very close to reaching a consensus since no objection to the project had been expressed up to that point in time, and therefore suggested that the document from the Delegation of Egypt, and those of other delegations be examined in the future. The Chairman elaborated his concern that more time would be required for a proper analysis and digestion of all the information and documents which had been put forward on that day. He therefore suggested that the Committee continued to make progress on the project in question and that the door be left open to come back to the proposal made by Egypt.

142. The Delegation of Algeria stated that the proposal made by the Delegation of Egypt was neither a new proposal nor was it a new agenda or program, but that it was rather a complementary set of comments which would complete the project that the Committee was in the process of reviewing. The Delegation confirmed that it was in fact one of those “like-minded countries”, and that it had also participated in drafting the aforementioned document. The Delegation thanked the Secretariat for preparing document CDIP/4/7, and stated that it would like to focus in particular on Recommendation 31, regarding the implementation of initiatives, in the plural, that contributed to the transfer of technologies in favor of developing countries. In that context, the Delegation suggested the consideration of the problem related to brain-drain by creating for example, a system to manage IP issues, which would consist of researchers and engineers from countries of the south, who would be at the service of laboratories and research centers in industrialized countries. The Delegation believed that such a network would allow developing countries to benefit from the competencies that were located abroad, and that it should be taken into greater consideration in the project under discussion.

143. The Chairman summarized the activities of the morning session with respect to the consideration of document CDIP/4/7 and commended delegations that had shared their views on the document as well as those which had expressed their support and enriched the discussion.

144. The Delegation of South Africa emphasized that its previous intervention was with respect to the statement made by the Delegation of Egypt, and that it would be providing further comments at a later stage. The Delegation added that its statement therefore was not yet an indication of consensus on the adoption of the project. It recalled the three principles that had been agreed to, as to how projects should be examined. The Delegation noted that it

was the first time the Committee was looking at the project, and as such, the aim was to find a way forward or a means of enhancing that project in accordance with the pertinent recommendations. In that context, the Delegation underscored that the comments raised by the Delegation of Egypt should be included in the project. The Delegation then elaborated on its preliminary comments and noted that it would like to have language consistent with that of Recommendation 2 throughout the study. More specifically, the Delegation stated that the text, ‘to promote technology transfer’, should read ‘to promote the transfer and dissemination of technology transfer’. The Delegation also sought clarification concerning the web forum in the project, as to whether consideration would be given to existing technology that could be already transferrable to developing countries, depending on the needs. The Delegation further indicated that, when reference was being made to the transfer and the dissemination of technology, it would like to have more focus on the needs of developing countries, so as to facilitate the existing needs. With respect to the High-Level Expert Forum, under point two of the project description, the Delegation sought clarification as to how the process would be decided, who were the experts, how they would be determined, and what their roles would be. It believed that clearer flows and linkages needed to be made to the studies. On that same point, the Delegation also sought clarity on the reference to inputs, and suggested the insertion of the following text so as to provide substantive backing to the deliberations: “from a series of consultations with Member States and other external experts, and through studies”.

145. The Delegation of Brazil took the floor and informed that it was also one of the “like-minded countries” referred to by the Delegation of Egypt in its intervention. The Delegation stated that Egypt, on behalf of Brazil and a number of other countries had made a number of observations and suggestions in a spirit of bringing improvement to the project which was being proposed. It believed that those suggestions should be fed into the process of analyzing the project and should not be considered as a complimentary or parallel process of analyzing the issue of technology transfer. The Delegation added that Brazil had been participating actively and constructively in the implementation of the Development Agenda and it would want its work to be characterized by expediency. The Delegation was of the view that the contributions of the Delegation of Egypt brought value to the discussions. It believed that value was essential to the Development Agenda process, and that the Committee should be wary of not wasting funds on implementing projects which were insufficiently discussed, as that could only lead to an undermining or weakening the process of implementation of the Agenda. The Delegation felt that the discussions on the project had been rushed and recalled that the Director General had referred to technology transfer as being core to the Development Agenda, in his opening statement. The Delegation then referred to the statement made by Bulgaria and reiterated the complexities of getting technology transfer on track and the preconditions, such as infrastructure, which were necessary. The Delegation concluded by stating that it was neither prepared to broadly agree, nor partially agree to the document in question at the present session, but that it might be in a position to do so at the following session. The Delegation reserved the right to come back to the matter with more substantive contributions.

146. The Chair thanked the Delegation of Brazil and reassured delegations in general, that the Committee would neither make headway nor adopt anything whatsoever, unless everyone was in full agreement on the issue. He underscored that the Committee would go no further if there were as much as a single person who did not agree and as such, there would be no rushing through the discussions, or sacrificing of quality, just for the sake of adopting project. The Chair then stated clearly that the rationale for the existence of the Committee was to enable delegations to express their various inputs and opinions on contributions to the

recommendations. He assured delegations that regardless of the time it would take, all contributions would be listened to.

147. The Delegation of Kenya commended the Secretariat for the excellent document. The Delegation considered technology transfer a key element in getting technology to the marketplace. It encouraged and supported endeavors to facilitate and achieve such transfers which would update and develop technologies in developing countries and LDCs. The Delegation stressed the fact that a lot of the technology transfer which had taken place in the past, had failed and that it was now important to determine the causes for that failure.

148. The Delegation of Pakistan thanked the Chairman for his able stewardship of the CDIP session, and expressed great confidence that progress made in the session would continue, and that Member States' views would continue to be given due consideration. With respect to the project in question on technology transfer, the Delegation reiterated the words of other delegations and stated that, the issue was a basic and vital one. The Delegation added that Clusters B and C of the Development Agenda, in particular, Recommendations 19, 25, 26 and 28, also brought across that point. The Delegation further added that the somewhat sensitive connotations that were attached to technology transfer should in no way be a hindrance to access to knowledge. The Delegation concluded by identifying itself as one of the authors of the proposal made by Egypt and "like-minded countries", and requested that the said proposal be given due consideration.

149. The Chairman again requested the delegations of the "like-minded countries" for an indication as to when a written document containing their thoughts could be presented, in order to provide other delegations with the opportunity to examine and consider the issues.

150. The Delegation of Egypt thanked the Chairman for his wise appreciation of the need to have sufficient time allocated to a discussion on such an important program. The Delegation stated that the delegations of the "like-minded" countries", would be making their statements from the floor and that the Delegation of South Africa was the first to have done so that afternoon. The Delegation also recalled the rules that had been agreed upon for discussing new projects and outlined that delegations would first raise concerns with regard to the recommendations themselves, and at a later stage, those comments would be incorporated. It further added that since the project under discussion would be elaborated further between CDIP/4 and CDIP/5, the written comments of "like-minded countries" would be presented as soon as possible. However, the Delegation of Egypt assured the Chairman that all the interventions to be made at that point in time would pertain to the specific issues that had arisen during the discussions of the "like-minded countries", in various meetings held over the previous month.

151. The Delegation of Bolivia expressed its full support for the statements that had been made by the delegations of Egypt and Brazil, stated that it was also one of the "like-minded countries" and stressed the importance of dedicating sufficient time to the discussion on projects, before approving them. The Delegation further elaborated that it was of the opinion that approved projects should commence with an impact analysis. In that connection, the Delegation stated that it would like to see the project on technology transfer begin, with an analysis of the impact that IP has had on technology transfer, to ascertain the extent to which IP laws had been an impediment to technology transfer. The Delegation underscored the need for exploring options within the IP system itself, so as to enhance the transfer of technology.

It suggested that reference to new flexibilities in the project document, could be one avenue for further exploration.

152. The Delegation of Nigeria stated that it appreciated the information provided by the “like-minded countries”, added that, through the various interventions, the Committee was able to have more insight into their proposal. The Delegation noted that, although the idea of carrying out an impact analysis was important, a problem could however arise with the suggestion, since such an analysis would require a considerable amount of time and therefore delay the discussions on the project for lengthy periods before any action could be taken. The Delegation of Nigeria suggested that, given the proposals in the project document had not been rejected at that point, it might be more constructive to focus on the proposals contained in the existing project document, so as to obtain tentative approval and then come back to the suggestions of the “like-minded countries” later on. The Delegation stated that its suggestion was in the interest of moving the discussions on the project forward, believing that the project was of a long-term nature, it did not seem fit to await an impact analysis and CDIP/5, before coming to an agreement.

153. The Delegation of Burundi congratulated the Chairman on his election. With respect to the project on technology transfer, the Delegation supported the proposal made by the Delegation of Egypt. The Delegation believed that it was important for the wish list of Member States to be taken into account in the deliberations, especially in core areas which would facilitate the development of developing countries. It underscored the need for discussions to give priority consideration to economic and technological development related technology transfer, as well as the legal obstacles involved.

154. The Delegation of Sri Lanka noted that technology transfer was an important area for the development of WIPO, as the Director General had taken the initiative to create a new Global Challenges Division, and a new Technology Transfer Division, which was attached to the SCP. The Delegation was of the view that the project should not only specify climate change, as there are other issues, such as food security and access to medicines that were also important. All the issues that had been discussed in the IP and Global Challenges Conference should be highlighted in the project. The delegations should also look at how the climate change debate was going, especially in light of the establishment of the new executive committee in the context of the United Nations Framework Convention on Climate Change (UNFCCC), which would look at the issue of transfer of technology. It would be important that the Committee look at such developments when the Committee examined the project proposals. The Delegation indicated that the comments made by the Delegation of Egypt and the “like-minded countries” should be considered and should be taken very seriously because the heart of the proposal was to incorporate all the others aspects that were being raised in the other fora into the technology transfer debate at WIPO. It was not a stand alone issue that only WIPO was addressing. Such issues had to be incorporated into the project proposal and the implementation phase including in the studies that were foreseen. The Delegation noted that analyses of technology transfer had established that developing countries were always requesting technology transfer as a tool for development. LDCs in particular should be considered for activities on technology transfer, but it was important that infrastructure development also be looked into. It would not make sense to invest in a technology transfer project in a country where there was no infrastructure, and without the necessary infrastructure, technology transfer may not be a solution for development in that particular country so it was important that the project take a broader approach. The Delegation supported the proposals made by the Delegation of Egypt and other “like-minded countries”.

To conclude, the Delegation requested a schedule on technology transfer because there were a lot of meetings going on in Geneva and it was difficult for delegations and small Permanent Missions, like Sri Lanka, to keep track of everything. The Delegation, therefore, suggested that the next CDIP should be held at a time when there are not many meetings being held in Geneva.

155. The Delegation of Egypt referred to the statement made by another delegation, which had recalled that issues of technology transfer had been discussed in the United Nations (UN) over the past decades. It was a topic that came with a lot of baggage and in order to grapple with it and contribute meaningfully to the topic, thorough discussions and reviews, such as literature reviews, should be conducted. The Delegation wished to make a few comments with regard to the recommendations themselves, which supplemented the general comments it had made earlier, and would contribute to the formulation of a possible project, as the comments would include specific references to document CDIP/4/7. Primarily, the Delegation believed that the project should be renamed “Project on Access to Knowledge and Technology”. That would be a means to capture the essence of the transfer of technology exercise. Secondly, the Delegation believed that the focus of the project should be on the needs of LDCs and developing countries and obstacles to achieving the transfer of technology. One of the essential drawbacks of the project was that there was a need for concrete definition of the problems and the project still needed direction in that regard. Thirdly, Mr. Chair, the Delegation believed that there was a need to emphasize that the approach should be guided by the different levels of development, and avoid falling into the trap of a one-size-fits-all approach. It must be acknowledged that IP could play a supportive role for the transfer of technology, but it could also, in certain instances, hinder the transfer of technology. The project mentioned that the recommendations of the High-Level Experts Forum would be incorporated into WIPO’s program. It was important, therefore, that the High-Level Experts Forum be balanced and its composition be decided upon by the Member States. Prior to embarking on ambitious projects as outlined in the proposed project document, it was important for countries to define their thinking with regards to technology transfer. Perhaps the Secretariat could prepare a working document on IP-related policies and initiatives that were necessary to promote the transfer of technology. That working document could then be discussed at the CDIP so that Member States could determine the next steps. A fourth point was the need for clarification on what was meant by a New Platform for Technology Transfer and IP Collaboration. The term was quite vague and it was not clear what it would imply. Fifth, the project did not contain any action-oriented results. While it seemed to be a good basis for a long-term approach, it did not take into account the need for concrete steps to start implementing technology transfer to developing countries. There were, thus, no actionable proposals. The sixth point was that the project needed to start with a literature review of existing work and efforts done in the field of transfer of technology particularly by other UN agencies. It should consider the history of multilateralism on the subject. The literature review should be pre-defined with the list of issues to be addressed. Another point raised by the Delegation was that while technology transfer was viewed principally in the patent domain, the area of copyright and other categories of IPRs should not be overlooked, including the contribution from relevant programs of WIPO. The eighth point, contained a list of five specific proposals that could be included in the project: (1) the setting up of a database that specifically targeted R&D and technology transfer possibilities from developing countries; (2) look at alternatives for enhancing R&D efforts and support to innovation apart from the currently existing patent system. The latter issue had been taken up before by the WHO in its Commission on IPRs, Innovation and Public Health, and could be used as a model for a similar exercise by WIPO, (3) What were the possible open-source

models and what was their contribution to technology transfer, which would go to the heart of recommendation 36; (4) an analysis of the extent to which technology transfer was yet to materialize in the context of TRIPS in order to decide what WIPO could do in that regard. This would include a point that had been raised before by some delegations which was how could developing countries, assisted by WIPO, address the problem of brain drain. As to some of the specific mechanics of the project itself, such as the implementation time line, the sequence of events seemed to be counter-intuitive. Regional consultations needed to take place at the very beginning of the project in order to identify needs rather than to keep them at the very end of the project. And finally, WIPO had a proposal to establish Technology and Innovation Support Centers, which had been discussed in the context of the Program and Budget exercise for 2010-2011. The Delegation wished to see how that could fit into the proposed project.

156. The Delegation of Switzerland requested some clarification on how the Committee should proceed, because that morning an interesting discussion had been held on document CDIP/ 4/7 where some delegations had expressed that they were in favor of adopting the project as proposed and now it understood that some delegations wished to look at the project in more depth. The Delegation also understood that a new proposal was to be submitted and, perhaps, in light of the forthcoming meeting, delegations could look at that new proposal. The Delegation had understood that the project contained in CDIP/4/7 was a first phase which would then allow the Committee to continue working with the new proposals that were submitted that day. The Delegation found it quite difficult to understand how the project would be modified during that session and how to integrate the other proposals that had been made. At that stage, the Delegation found it difficult to react to what had been said and to accept the amendments without having a clearer image of the picture as a whole and a clearer image of the proposals that were on the table. Given the importance of the issue, the Delegation thought that it was important to be clear on what exactly was being currently discussed.

157. The Chair thanked the Delegation of Switzerland for its statement. Indeed, the document and the issues at hand were of primordial importance for Member States. That was why any decision taken on the project or on the subject at hand must be the result of a deep reflection. It must be thoroughly studied and examined by the Member States. At the outset, statements had been made by various delegations supporting the project, but it had then become clear that the document could not be adopted in its current form due to certain reservations expressed by some countries. So perhaps it was necessary to put the brakes on a little bit, think about the project, reflect on it, take the time to consider all the elements that it contained and give delegations the time to consider, examine and really understand all the interventions from delegations. The Chair suggested that it would perhaps be desirable to take the time to really examine the document in depth. Indeed, during the time left between CDIP 4 and 5, delegations could reflect on the document. The Chair hoped that the Secretariat had noted all the comments and observations and requested delegations that wished to present documents on the project to do so as soon as possible. If they could do so during that week, that would, of course, be desirable, but if that was not possible, the Secretariat would expect those documents in the days immediately following the CDIP. At that stage, given the oral proposals and the observations of various delegations, the Chair could not see that the document being adopted as it stood during the week, unless the Secretariat, with support from all delegations, was able to present a different document with amendments to the project. Of course, if the "like-minded countries" were able to present the document and if everybody had the time to review and approve the proposals, that would be

fine, but the Chair did not think that that would be possible in the remaining three days. The Chair suggested putting the document to one side for the time being and reflecting further thereon.

158. The Delegation of Sri Lanka wondered why the project would be put aside, when three days were left to talk about that project, to improve it, and to incorporate the suggestions from the “like-minded countries”. The Delegation enquired why the discussion would be postponed to the following session, as continuing the discussion could be useful. The Delegation had not been present throughout the debate and was wondering whether some delegations had requested that the discussion be postponed.

159. The Chair clarified that it was not deciding anything, it was up to the Committee to make the decisions. The document was before the delegations, there had been various statements from different delegations, which required some reflection, and it was important to understand the reasoning behind them. As mentioned earlier, if the Member States that proposed various changes to the project could present them to the Secretariat and if the Secretariat was able to present something to the Committee incorporating all those changes by the end of the week, that would be desirable. If not, in the opinion of the Chair, it was important to really reflect on the project and give it further consideration.

160. The Delegation of Brazil thanked the Secretariat for its efforts in putting together the project, which was a core project. The Delegation, together with the other “like-minded” delegations, had found the project to be so important that it had been meeting for a month in order to identify ways in which it could be improved. As had been agreed, the development of work programs would commence with a project put forward by the Secretariat that would be the basis for discussions at the CDIP. Those discussions would include how Member States understood the recommendations, whether they felt that the recommendations were adequately addressed by the project and they would provide comments and suggestions for other activities that could be added to enrich the text. The following CDIP would then discuss a revised version of the project, as had been done with the two projects that had already been approved, which had already been discussed at CDIP/3. In that respect, the procedure for the project on technology transfer would be as usual. It was not unusual, especially given the importance of the project being discussed, and that was why they would be submitting a written text, because it was so important that they believed the Secretariat would find it useful in order to fully understand all the comments that were being raised.

161. The Chair thank the Delegation of Brazil and sought clarification on whether what it was proposing was that the Secretariat present a modified project based on what had been said in the room and that the revised project would be considered at the CDIP for adoption at its fifth session.

162. The Delegation of Tunisia wished to make a point of order with respect to the discussions on that document. The Delegation acknowledged that it was important to improve the documents and that documents could always be further improved. However, it was equally important to get the process started, to get the project going and work on the improvements once it was being implemented. The Delegation was concerned about setting a precedent for that document to always continue improving it, and the risk would be that at the fifth session of the CDIP, it was decided to continue improving the document at another session. The Delegation therefore proposed that delegations sit around a table in the remaining 3 days with the Secretariat and those who proposed the document to come to a

compromise. If it were possible to do so by the end of the week, then the document could be approved in plenary to get the ball rolling and have the project implemented. It would then be possible to leave political issues or other kinds of issues which required greater reflection for a later date and let countries express their views in the fifth session. If subsequently any delegations had comments, recommendations or remarks to make they could send them to the Secretariat and allow the Secretariat the time to prepare for the fifth session of the CDIP. At that stage, the time would be ripe to get the ball rolling so that implementation could begin.

163. The Delegation of Morocco noted that the issue of technology transfer was a very important one for developing countries and highlighted the fact that all delegations agreed on that point. The Delegation pointed out that a lot of time had been spent coming up with the 45 recommendations, and it was important to ensure that the 45 recommendations were implemented as soon as possible. The Delegation agreed with the proposals and indicated that some of them were clear, such as studying the impact of IP on technology transfer. The Delegation recalled that the project had been submitted to the third session of the CDIP, the budget had been allocated as well then and it hoped it would be implemented from January 1, 2010. The Delegation, therefore, suggested to the Chair that all proposals that could be immediately incorporated, be incorporated, so that the project could be adopted, while leaving the door open for any other proposals for the next session.

164. The Delegation of Switzerland having heard various proposals on how the Committee would be moving forward with the amendments and discussions on the document, pointed out that it had some problems with the proposed way of proceeding. The Delegation did not think it possible for the negotiation to take place between the delegations that had proposed amendments to the Secretariat. The Delegation believed that the discussion should be between Member States and it was between Member States that modifications to the project could be discussed. The Secretariat would then amend the document on the basis of those discussions and not on the basis of unilateral proposals which are a kind of compilation, which would make it very confusing and difficult to move forward with the document. It was important to decide on the general framework for the project and then make modifications later. Given the large amount of information received that day without being able to study it more in depth, the Delegation found it difficult to commit to revising the project at that time and would prefer to receive the information in written form and then re-read the project document with such written proposals. That would be the basis for discussing how to modify the project and explore how to move forward based on the proposals that had been made during the meeting. The Delegation, therefore, found it difficult to ask the Secretariat to modify the document without having decided on the modifications to be undertaken.

165. The Chair said that the proposals for amendments and suggestions made by some delegations had been made in the meeting and everyone had heard them. The Chair had not seen delegations expressing reservations or objecting to the ideas that had been presented in the room. That was why, given that there had been no countries objecting to the proposals made, the proposals were with the Secretariat. The Chair noted that of course nothing was set in stone and nothing had been agreed yet. If there were objections or reservations from some country regarding the proposals that had been made by various countries, they should indicate it. The debate that was taking place was to enable delegations to raise any concerns before anything was adopted and before the proposals or modifications were incorporated into the project. All the work that needed to be done would be done among Member States before it was submitted to the Secretariat for inclusion in the project. The Chair completely agreed with the delegations on that, but as there had not been any real objections to the proposals

made that was why he thought the Secretariat could proceed but nothing was set in stone and it had still not been decided how to move forward on this issue.

166. The Delegation of South Africa did not wish to enter into a substantive discussion on procedure, which had already taken place at the previous session of the CDIP, when deciding how to proceed with the thematic projects. However, it was important to recall the three principles that had been agreed upon at the previous session which was how the Delegation and the “like-minded countries” approached the discussion. The “like-minded countries” had made comments to enhance the project that had been submitted by the Secretariat. The proposals sought to provide additional information to make sure that the project covered the needs of developing countries. The Delegation was very concerned when it heard comments from the floor about the need to approve the project because it was already in circulation since the previous session. The Delegation recalled that the project had not been discussed before; it was the first time it was being discussed. It was a very important project and the delegations wanted to make sure that when it was implemented it was done in the proper manner. It had nothing to do with not wanting to have implementation begin immediately. If it was possible, it would encourage that to happen. However, the Delegation was following what had been agreed to at the previous session and it was trying to provide positive feedback to the Secretariat on the document in terms of providing additions to enhance it. Some delegations had also asked for clarification and of course if delegations had further questions they were free to ask. The Delegation believed that some type of agreement could be reached on how the Secretariat could revise or update the document by the end of the session so that the following CDIP could approve it without lengthy debates. The Delegation, therefore, wished to clarify once again, as had been done by the Delegation of Brazil, that the “like-minded countries” had asked one delegation to speak on their behalf so that there was not a lengthy discussion on the issue. To conclude, the process that was taking place and the way the Delegation was approaching the project, was in line with what had been agreed at the previous session of the CDIP. If that was not clear for other delegations, it was important to reiterate it, so that discussions could proceed that way over the following three days without a need to get into this type of discussion over and over again.

167. The Delegation of Nigeria noted that the group of “like-minded countries” had every right to present proposals and had every right to request the postponement of decision until the fifth session. The Delegation had no problem at all with the proposals that had been made because it could see in some of them very important issues of great value to them. However, the problem the Delegation had was on the strategy of not doing anything and postponing everything until CDIP/5, because that was also the strategy that had been adopted in UNFCCC, and for 12 years no agreement had been reached. It had averted the political dimension of discussions and the chances of getting an agreement were minimal. Even in the new Committee that was likely to be set up at the UNFCCC, it was likely that after many years there would be no conclusion again. That was what the Delegation was trying to avoid at the CDIP, that a decision be postponed indefinitely. That could be avoided by continuing to do whatever was possible to reach an agreement while having a provision in the decision that the proposals made would be dealt with by CDIP/5, and the provision would become a part of the decision. But if everything was postponed, it would avert the political dimension of the negotiations and then it was difficult to predict what would happen. It is likely that at CDIP/5 no conclusion would be reached and the issue would be postponed indefinitely again. The Delegation emphasized that the substance was very useful but the strategy was wrong. So what could be done to solve the problem was to accept the proposals that had been made, which were very good proposals and that the Committee would work on them. However, in

the meantime, delegations could see what could be agreed to in the document that was before them. If there were things that needed to be amended, then they could be amended and if there were things that were not in line, they could be removed, keeping those that delegations thought were important. While the Secretariat could be working on the parts of the document that could be agreed upon, delegations would continue to work on the proposals that had been made by the “like-minded countries” in order to reach a conclusion by CDIP/5.

168. The Delegation of Canada wanted to support the statement made by Switzerland and say that while there had been proposals made that morning to add certain elements to the project contained in document CDIP/4/7, the impression from the discussion was that the “like-minded countries” were going to submit new proposals in writing so that Member States could have them for consideration. The fact that there had been no voice of opposition in the room should not be interpreted as unanimous agreement on those proposals. Each delegation should be able take the time to understand them clearly, to read them carefully, refer them back to their capitals, so that comments could be obtained from experts on the subject. The approach that had been suggested by Nigeria would be an agreeable one for the delegation. In other words, that the document could be adopted as it was and then consider a non-paper with the new proposals. The Delegation thought it was very important that the recommendations be implemented in an effective and rapid manner and it would not want the Committee to hold back the process unduly.

169. The Delegation of Brazil wanted to support what had been said by the Delegation of Switzerland on behalf of Group B, that it would be good to see all the comments and suggestions made on a text that could be evaluated and approved at the next CDIP.

170. The Chair wondered whether his understanding was correct that Brazil agreed with Switzerland that comments should be noted in writing so that delegations could deliberate on them. The Chair thought that the request from Group B was that the proposal of the delegations from the “like-minded countries” be presented in writing and not the comments themselves, being presented in writing. The Chair asked for clarification and whether his understanding was correct. The Chair noted that his understanding seemed to be correct.

171. The Delegation of Senegal noted that with regard to the question of whether the proposals that had been put forward by the Delegation of Egypt were in line with the principles that should be governing the deliberations, the answer was clearly affirmative. That was why the Delegation had made a mention in its general statement that those principles should be recalled. Because there was a strong risk that the principles that had been established by the Committee would be ignored. According to the Delegation, the proposals that had been made did not come from the surface of the problem; they came from the core of the problem itself and that was why the Delegation fully understood the reactions from certain delegations that said that it would be difficult for them to have a clear immediate position on the proposals, given the complexity of the issue. The Delegation recalled that the issue had been on the table for about 50 years. In the 70s, a lot had been said about that issue and there had been reams of literature, but as far as effective concrete implementation was concerned it was very hard to pinpoint many instances of actual transfer of technology. The Delegation noted that it was time for delegations to put words into action. The proposals that had just been heard had the merit of taking all the precautions necessary to ensure that valid and concrete results would be achieved. The Delegation had noted in the objectives of the project the issue of identification of the obstacles to technology transfer, which was an extremely important aspect to be addressed to achieve concrete results. It was, therefore, important in

the light of the objective of the project that the proposals that had been made be included to add significant value to the project. If the Committee was to proceed as pointed out by the Delegation of South Africa it would be possible to find a way out of the problem. However, if the Committee kept on putting it off, it may find itself lagging behind. According to the Delegation, the issue was very technical and the Secretariat had all the experts it needed and in the time given it could come up with the proposals that could be integrated into the document that was already on the table. It could already examine the proposals to see which Cluster could go with which other Cluster and come up with a proposal to the Committee. It did not seem to be a complicated issue.

172. The Chair explained that during the long coffee break views had been exchanged among a few delegations concerning the project under consideration. The Chair hoped that it would be possible to reach an agreement on how to move forward. He would give the floor to Egypt, to be followed by Switzerland, after which he would try to give a summary of how he envisaged the future work on that document.

173. The Delegation of Egypt noted that there seemed to have been a misunderstanding on the process, which had led to a long discussion on procedure. The Delegation looked forward to the summary by the Chair to overcome that issue and thanked a number of delegations for their constructive approach. The Delegation wished to remind the Committee that in fact the WIPO International Bureau had been very wise in the document it had presented to CDIP/3. Document CDIP/3/INF/1, which contained the proposal for the thematic projects approach, pointed out the advantages of the proposed new approach to implementing the Development Agenda recommendations and wisely predicted that one of the disadvantages was the possibility of confusion. The Committee, at its last session, had then got into an extensive discussion on the approach, which appeared in the draft report that had just been adopted, specifically in paragraphs 212 to 270. During those discussions on methodology, Ambassador Trevor Clark had suggested the three golden rules. The Delegation wished to read the three golden rules because that was essentially what had taken place during the discussions held earlier that day. The rules, which had been approved by consensus and were included in paragraph 8 of the Chair's summary, read as follows: "Under agenda item 7, the Committee agreed to proceed on the basis of the following guidelines: 1. Each recommendation would be discussed first in order to agree on the activities for implementation. 2. Recommendations that dealt with similar or identical activities would be brought under one theme where possible; and 3. Implementation would be structured in the form of projects and other activities, as appropriate, with the understanding that additional activities may be proposed." The Delegation thought that it was crystal clear. Those were the three golden rules for implementing Development Agenda recommendations, and since it was the first time that the project on technology transfer was brought before the Committee, the Delegation had proceeded to apply rule No. 1. The confusion may have been because the rules were not fresh in the minds of delegations. It would certainly take time but the general discussions that had been held that day had been useful because they had raised some important concerns and developed some important parameters that would need to be taken on board in the discussions on the project. The Delegation concluded that it was important that the three golden rules be continued at CDIP 5, and that the Committee did not forget them because there was no need to re-invent the wheel when there was an agreed methodology.

174. The Chair thanked the Delegation of Egypt for reminding the Committee of those three golden rules concerning how to proceed with the discussions on the various projects. As

a matter of fact, the Chair noted that he had wanted to raise the issue under the agenda item on “Future Work”.

175. The Delegation of Switzerland acknowledged that fruitful discussions had been held during the coffee break in a bid to try to strike a mutual understanding concerning how to discuss the thematic projects, and how to move forward with that specific project. The Delegation wished to thank the Delegation of Egypt for those comments which were within the rules that governed the work of the Committee. The Delegation also wished to clarify some points concerning the interventions that it had earlier made and point out that it understood that the thematic projects that had been prepared by the Secretariat were in fact proposals for work and a basis for discussions by Member States. Member States could use them to make their comments and if they found that certain things were not clear or they wished to enhance certain aspects of those projects, they were in their right to do so. It was also clear for the Delegation that all delegations were free to suggest whatever they saw fit and were free to discuss the projects. The Delegation also wished to make sure that delegations had the opportunity, as Member States of the Committee, to comment on the proposals for modification or amendments that were made so that the project could be adopted or substantively amended. One of the concerns was that the proposals that had been made, unlike what had happened in the past, were very substantive and the delegations had not been able to see them in writing nor had enough time to study them. That was why it found it difficult to agree to the modifications being proposed. The Delegation, therefore, wished to point out that it would really like to move ahead with the project set out in CDIP/4/7 but it seemed that not everybody was ready to agree on it. The Delegation also noted that it was important for the Delegation that the negotiations remain among Member States and not between the Member States and the Secretariat. The Secretariat was there to help the Committee by providing the basic working documents and to explain to delegations the parameters within which the Committee was working so that the Committee was in a position to move forward with discussions on the documents.

176. The Delegation of El Salvador joined Nigeria and Canada in saying that if there were no written proposals on which to base discussions, the most appropriate thing would be to approve the draft project document that was before the Committee. The Committee was there to develop IP in the countries and there were very good ideas on the table and the countries were unable to move forward if a decision was not taken then. At the following meeting of the Committee, it was important to have the proposals written out and amendments made on the basis of the comments from Member States. The Delegation proposed that all the proposals made by the Member States that took the floor should be new inputs for the project that was being discussed and that the Secretariat should integrate them so that by the time the next meeting of the Committee was held it would be in a position to move forward without needing to discuss further.

177. The Chair said that during the coffee break he had held frank discussions with delegations and coordinators and a way forward had been found on the document. The Chair thanked delegations for their cooperation in that connection and explained how he saw the work of the Committee on that document moving forward. Firstly, document CDIP/4/7 would be maintained without any changes. Secondly, the Secretariat would be asked to present a report, not a summary, but a verbatim record of the discussions that had taken place on that specific document as soon as possible. Thirdly, the “like-minded countries” would be asked to present an official document with the comments they had made regarding the project. That document would be sent in written form to WIPO for distribution and publication as

soon as possible. The other Member States would then have the possibility to react to the document presented by the Secretariat and the document presented by the “like-minded countries” and make their own contributions to those two documents. Fourthly, the Secretariat and the “like-minded countries” would work in cooperation to try and change document CDIP/4/7 based on the comments. That new document would be a non-paper by the “like-minded countries” with the support of the Secretariat, if indeed the Secretariat was prepared to support the “like-minded countries” in that endeavor which it believed it was. All those documents and activities would hopefully be carried out as soon as possible and they would then be reviewed at CDIP/5. So it would be an interactive work carried out by the delegations and the Secretariat with a view to preparing the documents for CDIP/5. Thus, delegations would have made a great leap forward, as comments and reactions from all sides would have been collected. The necessary documentation for CDIP/5 would have been prepared and he hoped that the next CDIP would be able to adopt the project. That was the way he understood the process following discussions with a few delegations.

178. The Delegation of Switzerland thanked the Chair for the proposal, which did take into account the discussions that had taken place behind the scenes. On the last point, the Delegation wished to make sure that the “non-paper document” that would be prepared would also take into account the comments of other Member States based on the document from the “like-minded countries” that would be circulated beforehand. In other words, the non-paper would take into account all the comments.

179. The Chair confirmed that the non-paper would be prepared with a view to incorporating the comments and observations made by all the delegations.

180. The Director General of WIPO took the floor to clarify the Secretariat’s task in the last point. He enquired whether the non-paper would be prepared by the “like-minded countries” group or by the Secretariat based on proposals made by the “like-minded countries” as well as the observations made by other delegations on those proposals. The Director General asked whether his understanding was correct that it was the latter, i.e. that the Secretariat would prepare the non-paper.

181. The Chair confirmed and apologized if the process had not been clear. His response to Switzerland was that the Secretariat would be preparing the non-paper based on the comments from the “like-minded countries” and based on the subsequent reactions from other delegations. So it would be a document that would encompass all positions and all reactions from Member States.

182. The Delegation of Nigeria noted that it was not going to discuss the proposal that had been put forward. The Delegation wished to suggest modifying the order of the activities on page 2 of the project document, so that the High-Level Expert Meeting take place somewhere at the end of the process, as it would make more sense to have the High-Level Meeting after the other consultations and activities had taken place.

183. The Delegation of Angola requested that the informal document be presented one month prior to the next session of the CDIP to give delegations time to study it. The other point it wished to make concerned when implementation would begin. The table of activities indicated that implementation would begin in January 2010, and the Delegation enquired whether in case the document was only approved in April, that would mean that implementation would only start in April.

184. The Secretariat noted that there were two questions from Angola. One concerned when project implementation would begin. The understanding of the Secretariat on that issue was that implementation would start the day the project was approved. On the second point, the Secretariat had been asking the “like minded countries” when they would be submitting the proposals. By the time the meeting ended it would be the third week of November and the Secretariat would need at least 15 days to prepare the verbatim record. As a matter of fact, the Secretariat intended to try to finalize the report by the third week of December and it would be very easy to extract the verbatim record there from. The Secretariat would publish the report together with the original written proposal that would come, if it understood correctly, from the Delegation of Egypt, by December 15, 2009. Then 15 days in January would be left to receive comments; thereafter the Secretariat would compile the document as far as possible in advance of CDIP/5.

185. The Director General of WIPO understood that the timetable would be as follows, which reflected what the Secretariat could commit itself to. By the end of the month of December, two documents would be distributed, namely, the report on the part of the meeting that related to that issue, in verbatim form, together with the proposal submitted by the “like-minded countries”. Then, he suggested that Member States be given the month of January to formulate their observations and comments on those two documents. That meant that by the end of January, comments would have been received from any Member State that wished to make observations. There would then be three sets of material that would be the basis for the Secretariat to be in a position to try to do the impossible, namely, to draft a proposal which accommodated all of those sets of comments and observations and documents, and make it available by the end of the month of February. As the following CDIP was planned for the month of April, that would provide approximately six weeks for delegations to consider the new project proposal.

186. The Chair thanked the Director General for that precision and for the help and efforts of the Secretariat to facilitate the work of the Committee.

187. The Delegation of Egypt indicated that it was fully supportive of the timetable and in fact believed that it was not such an impossible task. The Delegation wished to have clarification concerning the non-paper, and enquired whether it would be presented as a document to CDIP/5.

188. The Chair confirmed that that was what he meant when he had said that all documents would be examined in CDIP/5 and that the non-paper would be a document for CDIP/5.

189. The Delegation of Spain fully supported the timetable proposed and it assumed that when the Secretariat circulated different documents that they would be circulated in all languages. The Delegation requested confirmation on that issue.

190. The Director General of WIPO confirmed that that was the case and noted that the capacity of the Secretariat to do so would depend upon the timely submission of the different elements by the delegations. The Director General assured delegations that the Secretariat would act with the greatest expedition possible to ensure that the translations were made available as early possible.