

## **Committee on Development and Intellectual Property (CDIP)**

**Tenth Session  
Geneva, November 12 to 16, 2012**

DRAFT REPORT

*prepared by the Secretariat*

1. The tenth session of the CDIP was held from November 12 to 16, 2012.
2. The following States were represented: Albania, Algeria, Andorra, Argentina, Australia, Austria, Bangladesh, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czech Republic, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Ethiopia, Finland, Former Yugoslav Republic of Macedonia, France, Georgia, Germany, Ghana, Greece, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Japan, Jordan, Kenya, Kyrgyzstan, Lebanon, Lithuania, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Monaco, Morocco, Nepal, Netherlands, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, South Africa, Spain, Sudan, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen, Zambia, Zimbabwe (95).
3. The following intergovernmental organizations (IGOs) took part as observers: European Union (EU), Eurasian Patent Organization (EAPO), International Union for the Protection of New Varieties of Plants (UPOV), Interstate Council on the Protection of Industrial Property (ICPIP), Patent Office of the Cooperation Council for the Arab States of the Gulf (GCC Patent Office), *Organisation Internationale de la Francophonie (OIF)*, South Centre, World Trade Organization (WTO), African Union (AU), Organization of Eastern Caribbean States (OECS) and Organization of Islamic Cooperation (OIC) (11).

4. Representatives of the following non-governmental organizations (NGOs) took part as observers: Association IQSensato (IQsentato), Brazilian Center for International Relations (CEBRI), Communia, International Association on the Public Domain (COMMUNIA), Computer and Communication Industry Association (CCIA), CropLife International, European Broadcasting Union (EBU), European Law Students' Association (ELSA International), Friends World Committee for Consultation (FWCC), Ibero-Latin-American Federation of Performers (FILAIE), International Association for the Development of Intellectual Property (ADALPI), International Association for the Protection of Intellectual Property (AIPPI), International Centre for Trade and Sustainable Development (ICTSD), International Chamber of Commerce (ICC), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Associations of Film Distributors (FIAD), International Federation of Film Producers Associations (FIAPF), International Federation of Pharmaceutical Manufacturers Associations (IFPMA), International Federation of Reproduction Rights Organizations (IFRRO), International Literary and Artistic Association (ALAI), International Trademark Association (INTA), International Video Federation (IVF), Knowledge Ecology International, Inc. (KEI), Latin American Federation of Pharmaceutical Industries (ALIFAR), *Médecins Sans Frontières (MSF)*, Medicines Patent Pool Foundation (MPP) and Third World Network (TWN) (26).
5. Ambassador Mohamed Siad Doualeh, Permanent Representative of Djibouti, chaired the session.

#### **AGENDA ITEM 1: OPENING OF THE SESSION**

6. The Chair welcomed delegations to the session and noted that their presence reflected the recognition by all Member States of the importance of the Committee and the crucial role of development in the field of intellectual property (IP). He recalled that the Committee was conceived as a consequence of the Development Agenda (DA) and it continued to play a central role in the implementation of the DA and its 45 recommendations. The Chair thanked the Director General, Mr. Francis Gurry, and the Deputy Director General, Mr. Geoffrey Onyeama, for the continued efforts to integrate the DA and its underlying principles into the work of the Organization. The tenth session of the Committee marked the fifth year of the DA and the growing maturity of the process. The Chair noted that it was increasingly obvious that significant progress had been achieved in implementation with the close involvement and supervision of the Member States. The tenth session would continue with the emphasis on evaluation and monitoring of the results of the project-based implementation of the DA. Six independent evaluation reports would be presented for the Committee's consideration. He noted that these brought the total number of evaluation reports to 12. The Chair stressed that there was a great deal of work ahead as indicated by the sheer number of documents that were before the Committee. He looked forward to an efficient and positive session. He informed the delegations that they would be receiving a proposed schedule of work for that week. He would hold prior consultations on certain issues, where required, in order to ensure good progress. Referring to the discussions in the informal briefing, the Chair reiterated that he would be proposing a short conclusion at the end of each Item. The conclusions would reflect the discussions on each document. Together, these would form the summary by the Chair. It would make the process of producing the summary more efficient. He sought the cooperation and goodwill of delegations for the meeting to be conducted in an efficient and constructive manner. The Chair informed the Committee that three side events had also been organized during the session and a flyer with details of the events would be made available. In concluding, the Chair emphasized the importance of consensus building and hoped that the shared vision of the benefits that an intellectual property system can bring to global development would inform and support the discussions at the session. He invited Mr. Geoffrey Onyeama, Deputy Director General, to address the Committee.

7. The Deputy Director General welcomed the delegations on behalf of the Director General, Mr. Francis Gurry. The Director General was unable to attend as he was travelling and had requested the Deputy Director General to convey his very warm greetings and best wishes to all delegations for a successful session. The Deputy Director General thanked Ambassador Mohamed Siad Doualeh for his excellent leadership of the Committee. He recalled that the Committee's report was discussed at the recent session of the WIPO assemblies. The delegations had recognized the Organization's commitment to the effective implementation of the DA and the significant progress that had been achieved in the Committee. There was a general consensus towards the continued implementation of the DA and its recommendations to support socio-economic development in WIPO Member States. The Deputy Director General noted that a significant number of documents had been prepared for the Committee's session. These included the annual Progress Report on ongoing DA projects as well as the 19 recommendations which did not require additional resources for implementation. The reports should enable the Committee to assess how the projects and activities had furthered the objectives of the DA recommendations and prepared the ground for the mainstreaming of those recommendations into the work of the Organization. He also noted that the Committee would also be considering six independent evaluation reports on completed DA projects. The value of monitoring and evaluation was reflected in the recommendations of the DA. The Deputy Director General stressed that the Secretariat attached great importance to the need to provide continued feedback to the Member States and for the evaluation of progress in the field of development to be conducted in an objective and effective manner. The external review of WIPO's technical assistance was also very important area for the Secretariat and he looked forward to the Committee's deliberations on the issues raised in that review. The Deputy Director General reiterated that the Secretariat was ready to incorporate any recommendations provided by the Committee based on its examination of that review. The Secretariat also looked forward to the Committee's deliberations and recommendations on the Conference on IP and Development as well as Phase II of the Project on Developing Tools for Access to Patent Information. He stressed on the need for constructive engagement by all Member States in order to reach consensus on issues where there was disagreement in the Committee. This was required to achieve progress on those issues and the shared objective of advancing the role of intellectual property in development. The tenth session of the Committee marked the fifth year since the DA was agreed. The Secretariat hoped that by next year, significant mainstreaming of the DA would be achieved within the Organization. It was crucial to maintain the momentum that had been generated in the past five years for the benefit of developing countries and the Organization as a whole. Referring to the request from several delegations at the last session for a document on the development tools and services offered by the Organization, the Deputy Director General informed the Committee that a brochure had been produced and was available outside the room. It provided a snapshot of all the tools and services that were available for developing countries within the Organization. He hoped that the members would find it useful. In concluding, he wished all delegations a very successful and productive session.

8. The Chair thanked the Deputy Director General for his remarks. He drew attention to the need for the various regional groups to look into the issue of electing two Vice-Chairpersons for this and the following session. Nominations were urgently required to fill those positions. He would present the nominations to the Committee for approval once they were received. Certain delegations had assured him that it only required a short exercise within the regional groups. The Chair would like the process to be accelerated in order for the nominations to be presented as soon as possible. He thanked the outgoing Vice-Chair, Mrs. Alexandra Grazioli, Senior Legal Advisor, Swiss Federal Institute for Intellectual Property, for her services to the Committee. The Chair then turned to Agenda Item 2 on the adoption of the Agenda.

## **AGENDA ITEM 2: ADOPTION OF THE AGENDA**

### Consideration of Document CDIP/10/1 – Draft Agenda

9. The Chair declared the Agenda as adopted given that there were no objections from the floor. He then invited the Committee to move on to Agenda Item 3 on the accreditation of observers and invited the Secretariat to introduce the document.

## **AGENDA ITEM 3: ACCREDITATION OF OBSERVERS**

### Consideration of Document CDIP/10/15 – Accreditation of Observers

10. The Secretariat introduced document CDIP/10/15 and informed the Committee that the International Association for the Development of Intellectual Property (ADALPI) and the West African Economic and Monetary Union (UEMOA) had requested for accreditation to the Committee. In accordance with the Rules of Procedure, if the requests were approved by the Committee, the NGOs would obtain *ad hoc* accreditation for a period of one year.

11. The Chair declared the requests as approved given that there were no objections. The representatives of the two NGOs were invited to join the meeting. The Chair then invited the Committee to move on to Agenda Item 4 on the adoption of the draft report of the ninth session of the CDIP. He invited the Secretariat to introduce the document.

## **AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE NINTH SESSION OF THE CDIP**

### Consideration of Document CDIP/9/17 Prov. – Draft Report

12. The Secretariat informed the Committee that the draft report was contained in document CDIP/9/17 Prov. It was issued on August 28, 2012. The Secretariat had not received any comments from the Member States on the draft report.

13. The Chair invited the Committee to adopt the report. He declared the report as adopted given that there were no objections from the delegations.

## **AGENDA ITEM 5: GENERAL STATEMENTS**

14. The Chair invited the Regional Group Coordinators to make general statements. He reminded the Committee that during the informal briefing held at WIPO on October 24, 2012, he had proposed that only the Regional Group Coordinators would be allowed to make general statements in order to save time. This was in accordance with previous practice within the Committee.

15. The Delegation of Sri Lanka, speaking on behalf of the Asian Group, stated that all countries and regions could agree that development was beneficial to all. It served not just to improve the economic structure of a country but also to improve the socio-economic circumstances of its population. In that regard, the Group recognized the important nexus between intellectual property and development. The Group strongly welcomed efforts by the Director General and his staff to mainstream the DA into all areas of the Organization's work and expressed confidence that those efforts would only be strengthened in future. The Group recalled that during the last General Assembly, a number of delegations had mentioned the

need for the CDIP to include a new Agenda Item to allow for discussion on the important interlinks between IP and development. The Group hoped that an item dedicated to that proposal would be included in the Agenda and sufficient time would be allocated for that discussion. The Group took note of documents CDIP/10/10 and CDIP/10/11 on the subject of flexibilities. It felt that there was room for further understanding and awareness in that area. The Group welcomed efforts by the Secretariat to organize national and regional seminars on flexibilities and believed that it would be beneficial if a number of regional workshops could be organized throughout the year, as appropriate and in consultation with each regional group. The Group also recognized the need for adequate preparation and planning with regard to the Conference on IP and Development. The Group had taken note of the proposals by the DAG and African Group and looked forward to fruitful discussions on that topic during the week. The Group attached the utmost importance to WIPO's technical assistance initiatives. Hence, the Group had expressed its appreciation and interest in the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The Group stressed the importance of utilizing the recommendations contained therein. Although delegations may not always agree on everything, the Group was encouraged by the fact that some things could be agreed upon most of the time. Given that there was a joint proposal from some Member States on the external review recommendations, the Group stressed that sufficient time should be allocated for discussing the issue and to systematically identify areas of agreement as a means of moving forward. In concluding, the Group affirmed that it remained committed to the discussions within the Committee and individual country statements would be made, as appropriate. The Group looked forward to a productive week ahead.

16. The Delegation of Egypt, speaking on behalf of the African Group, stated that WIPO had traveled a long way since 2007 to ensure that development formed an integral part of the international IP system. The General Assembly had adopted the DA recommendations and a Coordination Mechanism to ensure that development was mainstreamed into all WIPO programs and activities. Several projects had also been initiated to address the DA recommendations. These had either been implemented or were under implementation. The Group recognized the positive results achieved thus far. However, challenges continued to persist. These raised concerns and overshadowed the underlying commitment by all Member States to mainstream development into the work of WIPO in accordance with the relevant General Assembly decisions in 2007 and 2010. The Group emphasized that since 2007, the CDIP had been prevented from implementing the third pillar of its mandate, i.e., to discuss IP and development related issues. Although the WIPO Program and Budget Committee (PBC) was developing a definition for development expenditure and was actively mainstreaming development as part of its results based management framework, that Committee was still not part of the Coordination Mechanism and did not report on its contribution to the implementation of the DA recommendations. The same anomaly also extended to the Committee on WIPO Standards (CWS). Although it developed standards for national IP Offices and provided technical assistance to developing countries and LDCs, the CWS did not recognize the DA recommendations under Cluster A on technical assistance and capacity-building as well as Cluster B on norm setting. The Group was also concerned at the lack of progress in endorsing the recommendations and proposals that were put forward to reform and to enhance the efficiency, transparency and sound management of WIPO technical assistance in the area of cooperation for development. Despite the long discussions and proposals as well as the WIPO Management Response which embraced the call for reform, the CDIP was unable to reach specific conclusions on this important matter which was of significance and importance to all Member States. The Group held the view that those challenges should not be allowed to persist and to overshadow the various activities conducted by the Organization to mainstream development as an integral part of its work. The Group stressed that there should be political will, flexibility and constructive efforts to find effective solutions to long-standing challenges. The challenges should not be left to accumulate and cast doubt on the future. In the spirit of cooperation, mutual respect and a strong desire to advance the work of the Committee, the Group had identified several key priority areas where progress was required during the session.

First, enhance WIPO's contribution to the achievement of the United Nations Millennium Development Goals (MDGs). In this regard, the Group requested the Secretariat to implement the recommendations contained in the study and to provide regular briefings on this issue which could be considered as a standing Agenda Item for future CDIP sessions. Second, improve the quality and development impact of WIPO technical assistance to developing countries in accordance with the recommendations identified in the African Group proposal in document CDIP/9/16. The proposal was presented at the last session of CDIP. Third, advance the proposed WIPO Conference on IP and Development to be held in 2013. This was captured in document CDIP/10/17. Fourth, advance the implementation of the Project on Enhancing South-South Cooperation on IP and Development among Developing Countries and LDCs. The project was proposed by the Group. The Committee should capitalize on the proposals made on recommendations thus far. Fifth, initiate the process for an independent review and evaluation of the implementation of the 45 DA recommendations in accordance with the WIPO General Assembly decision in 2010. Sixth, advance the WIPO work program on flexibilities in the areas of patents, trademarks and copyright. Seventh, support the inclusion of a CDIP standing Agenda Item on IP and development. Eighth, improve the format of the reports by the various WIPO Committees on their contributions to the implementation of the DA recommendations. This was required to allow for a meaningful analysis of the way in which each Committee had implemented the relevant recommendations. Last but not least, the Group emphasized the importance of using African expertise in the implementation of DA projects. The Group noted that very few of the experts used were from Africa. As such, the Group requested the Secretariat to increase the number of African experts in the implementation of the DA recommendations. Separately, the Group believed that the contents of many training sessions and workshops tended to be heavy. It may be challenging for some beneficiaries to understand so many issues within a limited period of time. Thus, in its view, adequate attention should be given to assessing the impact and effects of the implemented projects. The Group looked forward to constructive engagement and flexibility from all Committee members in order to achieve progress on these issues which were of particular interest to the Group. In concluding, the Group assured the Chair of its support and commitment to achieve a high value outcome for the session.

17. The Delegation of Belgium, speaking on behalf of Group B, stated that the Group expressed appreciation for the availability of documents. Nevertheless, while it appreciated the challenges in managing documentation, the Group emphasized that the availability of documents did not only require timely availability in accordance with procedure but also availability in all WIPO languages. In view of the large volume of documents to be considered by the Committee, the Group urged the Committee to work through the Agenda in a well-organized manner while ensuring a balanced discussion in keeping with the planned time frame. In that regard, the Group made several points. The Group welcomed the progress made with regard to the implementation and evaluation of DA projects. Nevertheless, while it appreciated the challenges of making evaluation reports available in a timely manner, the Group urged for further efforts to make these available in an even shorter time span. The Group also noted the need for further enhancements to the tools for planning, monitoring and evaluating projects. Based on the Group's review of all the completed and ongoing project evaluations and Progress Reports, many of the CDIP projects appeared to face some common implementation challenges. Similarly, Evaluators across numerous projects had made parallel recommendations for the design of future projects. In that regard, the Group suggested that perhaps consideration should be given to applying some of the recommendations to all early stage projects. Finally, in order to better contribute to the objectives of the Committee, the Group again highlighted that the sustainability and coordination of evaluation projects were important. Hence, the Group would welcome further steps in that regard. Referring to the discussions on WIPO's technical assistance in the area of cooperation for development, the Group encouraged a balanced, consensus driven and constructive approach. The Group welcomed the Organization's willingness to ensure greater transparency and accountability in all areas of technical assistance planning and delivery in order to avoid the shortcomings

discovered recently with respect to equipment transfers to certain countries subject to UN Security Council sanctions. The Group had taken note of the steps which had already been taken and looked forward to further updates in that regard. The Group thanked the Secretariat for preparing a document on future work on patent related flexibilities in the multilateral framework. The Group welcomed the information but also took note of the fact that substantial work had already been undertaken. Finally, the Group took note of the study on misappropriation of signs. The study served the objective of deepening the analysis of the implications and benefits of a rich and accessible public domain. The Group welcomed the information but considered that its current domestic laws already provided for well-balanced and sufficient protection of the public domain while affirming the interests of competitors. In concluding, the Group assured the Chair that he could count on the constructive spirit and support of its delegations during the session.

18. The Delegation of Peru, speaking on behalf of GRULAC, observed that the Spanish versions of the documents were only made available very recently which was not in accordance with the rules of the Organization. Thus, the Group requested that those deadlines be respected in future. The Group referred specifically to document CDIP/10/2 which it regarded as one of the most important documents. The Group reiterated its willingness to continue cooperating with other Member States in the implementation of DA recommendations. The 45 recommendations that were identified in 2007 marked the beginning of a very long road that must be covered in order to foster initiatives that were linked to development and which promoted equity among Member States. The Group encouraged the implementation of the recommendations in the Organization's activities, particularly through strengthening initiatives aimed at capacity-building, technical assistance and improving the work in specific fields of intellectual property. The Group highlighted the importance of development initiatives. The Pilot Project for the Establishment of "Start-Up" National IP Academies was cited as an example. Several countries in its region were in the advanced stages of implementing the project and others that were just beginning. The Group firmly supported the renewal of the project to allow for the creation of learning centers for intellectual property within the region. There would also be a multiplying effect. Thus, the Group stressed that it was important to discuss certain issues with regard to that project. Financial resources must be provided for the project to be sustainable in the medium term and should be made available through the budget of the WIPO Academy. This matter must be dealt with by the PBC in 2013. IP must support development. The Group understood that country plans must take into account the balance between IP and the specific situation of the countries concerned. The Group was certain that within these parameters, WIPO's cooperation would help to strengthen capacities and promote innovation and creativity within society. However, the Group emphasized that the development of these strategies extended beyond their elaboration and required the cooperation of WIPO throughout the period of implementation. The Group expressed its appreciation for the preparation of the Progress Reports in document CDIP/10/2 by the Secretariat. The reports provided details of the progress and status of implementation of the various projects. The Group stressed that the implementation of the recommendations of the DA did not end with the completion of a project and must continue. The Group also stated that all activities carried out by the Organization and its Member States since 2007 must be compiled by the Secretariat in order to assess progress made in the implementation of the recommendations and more importantly, the path that should be followed for implementation to continue. As it had pointed out, the implementation of the DA did not end with the completion of specific projects. New tasks must be identified and new priorities should be set. In this context, the Group recalled that it was mentioned at the previous session of the Committee that it would be useful for the Secretariat to provide additional details in its future reports on the implementation of the DA. The Group was interested to know more about the activities that WIPO carried out jointly with other international organizations and how such cooperation took into account the DA. South-South Cooperation was also of great interest to the Group and it was encouraged by the recent meeting in Brazil. The meeting dealt with a number of issues that were very important for developing countries. These concerned governance, intellectual property, genetic resources,

traditional knowledge, folklore, copyright and related rights. The Group looked forward to the next South-South meeting to be held in Egypt in May 2013. That meeting would cover patents and trademarks. The Group stressed that these meetings should not serve only as means for maintaining academic discussions. They should also aim to reach practical recommendations to help guide the Organization's work. Finally, the Group emphasized that work should continue on document CDIP/10/10 on Further Steps in the Work Program on Flexibilities in the Intellectual Property System. Further work should also be conducted on patent-related flexibilities in the multilateral legal framework as set out in document CDIP/10/11. There should also be more flexibility within the Committee and efforts must continue in that regard.

19. The Delegation of Brazil, speaking on behalf of the DAG, reiterated its commitment to work constructively on issues to be discussed during the session. The Group recognized that the CDIP had made good progress in the implementation of the DA recommendations in the last few years. A good number of concrete results had been achieved. This was reflected in the coverage of the DA recommendations and the portfolio of projects. The Coordination Mechanism for monitoring and assessing the implementation of the DA and the reporting modalities had also been approved and were gradually being implemented. However, streamlining the DA across the Organization was a continuous process. The Group emphasized that this depended not only on the commitment of the Member States but also on cultural change in terms of how the Organization worked. Cultural change was required in all areas of the Organization, including all staff and external Consultants. The Group stressed that the approval and implementation of projects, no matter how good, should not be regarded as the complete fulfillment of the mandate to implement the DA. The Committee must continue to monitor and evaluate the mainstreaming of the DA in all areas of WIPO's activities. The Group hoped to have meaningful and productive discussions on issues before the Committee in the week ahead. The Group noted that the reports on the projects were becoming more complete and informative, with improvements to content and structure. Document CDIP/10/2 was cited as an example. The Group reiterated that increased transparency and accountability were recurring demands of the Member States in this and other WIPO Committees. With regard to the description of the contribution of the relevant WIPO bodies to the implementation of the respective DA recommendations, reference was made to document CDIP/10/12. The Group and other developing countries were in favor of a strong mechanism that provided Member States with valuable information on strategies and activities that were related to the implementation of the DA. The Group supported the proposal put forward by the African Group in the last session for the Secretariat to prepare a report with a summary of the main points raised by the delegations. As mentioned during the last General Assembly, the Committee should be able to undertake a meaningful analysis of the information provided by the relevant bodies. The Group reiterated its view that the PBC and the CWS should be considered by all Member States as relevant bodies within the context of the implementation of DA recommendations. With regard to Agenda Item 7 on the consideration of the work program for implementation of the adopted recommendations, the Group recalled that document CDIP/ 9/16 was introduced in the last session of the Committee. The document contained a joint proposal by the Group and the African Group. The proposal was also co-sponsored by the Delegation of Bolivia. The Group stated that the main objective of the proposal was to provide for effective follow-up action based on the recommendations contained in the report on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The Group underlined that in order to increase the transparency and effectiveness of technical assistance activities, the adoption of those recommendations should not be delayed. Sufficient time must be allocated to the discussions on technical assistance during the session. Referring to the preparatory process for the convening of a conference on intellectual property and development, the Group stated that it was ready to engage in a constructive discussion with all Member States to design an event which would provide an opportunity for strategic reflection on the interplay between IP and development and open new perspectives for further work in the Organization. The Group informed the Committee that it had made a submission on suggestions for the conference. The submission was contained in document CDIP/10/16 and



would be discussed in the course of the session. The Group thanked the Chair for initiating consultations on the conference in the intercession. The Group was ready to contribute ideas and discuss modalities for a successful and fruitful conference. The Group referred to the work program on flexibilities in the IP system. That was another issue under the same Agenda Item which deserved serious attention. Flexibilities played an important role in balancing the IP system. However, the Group stressed that much work was required to allow Member States to make full use of the flexibilities that were embodied in international agreements. The work program was essential in this regard. The Group underlined that the documents prepared for the session were not intended to be exhaustive and did not replace past documents such as CDIP/9/11 and CDIP/8/5. The Group stated that these documents were complementary in nature. Finally, the Group recalled that in the Sixth session of the CDIP, the Group had proposed the inclusion of a standing Agenda Item on IP and development related issues. The new Agenda Item would be devoted to discussing matters under the third pillar of the decision that created the CDIP at the General Assembly in 2007, namely, to discuss IP and development related issues as agreed by the Committee as well as those decided by the General Assembly. The Group was ready to contribute and to work constructively towards a productive session in the week ahead.

20. The Delegation of Cyprus, speaking on behalf of the European Union and its Member States, stated that the Committee had a heavy Agenda which would require intense work and flexibility from all parties. The EU and its Member States would be making some proposals under future work on ways to improve the functioning of the Committee. The EU and its Member States were firmly committed to continue working in a constructive, cooperative and efficient manner. In that spirit, they would have liked to meet that week with a more structured and thematic Agenda, with less voluminous and more focused documentation that was made available on time in all languages. They urged the Committee to keep its work within the planned time frame and to work towards an early adoption of the Chair's summary by concluding on each Agenda Item as the work progressed. The EU and its Member States looked forward to finding sustainable and balanced solutions. They had every confidence in the ability of the Chair to guide the Committee in meeting those goals. In concluding, the EU and its Member States reiterated that they stood ready to discuss, under future work, possible ways to improve the work of the Committee.

21. The Delegation of Hungary, speaking on behalf of the Group of Central European and Baltic States (CEBS), stated that as in the case of the previous session, the meeting's Agenda was quite full. All delegations must work efficiently in order for progress to be made in a satisfactory manner. The Group noted that the Committee would be addressing a number of important topics, including Progress Reports on various DA projects, evaluation reports and WIPO's contribution to the achievement of the UN Millenium Development Goals (MDGs). Discussions would also continue on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The Group found the external evaluations of the various projects to be useful. The conclusions and recommendations in those reports could often be applied to other projects and may enrich the general debate on how to further improve the efficiency and transparency of WIPO's technical assistance. The Group was ready to participate constructively in the work of the Committee and to listen with an open mind to other suggestions. The Group was confident that under the Chair's strong leadership, the Committee would be able to conduct its work effectively in a balanced and smooth manner. In concluding, the Group assured the Chair of its full support in that endeavor.

22. The Delegation of China recognized that in the five years following the launch of the DA, WIPO had made significant efforts to integrate development into its work. The results were encouraging. The Delegation expressed appreciation for the excellent work done by WIPO in this area. Like the Asian Group, China was interested in the links between intellectual property and development. As such, the Delegation hoped that the Organization would do more to integrate development into its work. The Delegation also noted that the evaluation of

implemented projects had helped to enrich the discussions. The Delegation was convinced that with the assistance of Member States, the Organization would be able to improve its work with regard to development and the implementation of all the DA recommendations. The Delegation was ready to participate in the discussions in order to achieve concrete results under the Chair's guidance.

23. The Chair noted the commitment expressed by all delegations to work in a constructive and cooperative manner to make the session a success. Indeed, its success was dependent on the contribution of all delegations. The Chair also noted that delegations had pointed a number of areas as priority areas. Areas of concern had also been highlighted and would be dealt with accordingly. With regard to effectiveness, the Chair observed that the Committee had been particularly effective that morning as work was one and a half hours ahead of schedule.

## **AGENDA ITEM 6: MONITOR, ASSESS, DISCUSS AND REPORT ON IMPLEMENTATION OF ALL DEVELOPMENT AGENDA RECOMMENDATIONS**

### Consideration of Document CDIP/10/2 - Progress Reports

24. The Chair opened discussions on the Progress Reports contained in document CDIP/10/2. He recalled that the Secretariat had undertaken to produce an annual Progress Report on the implementation of the DA for each end-of-year session of the CDIP. Document CDIP/10/2 contained the fourth annual Progress Report. The report provided an evaluative overview of developments in the implementation of 13 DA projects and highlighted the main achievements in the implementation of the 19 recommendations that were subject to immediate implementation. The Chair proposed that the projects be considered individually. He invited the Committee to begin with the Pilot Project for the Establishment of "Start-Up" National IP Academies - Phase II and invited the Secretariat to introduce the report.

### Consideration of Annex II - A Pilot Project for the Establishment of "Start-Up" National IP Academies - Phase II

25. The Secretariat (Mr. Di Pietro) provided a brief introduction to the Progress Report contained in Annex II of document CDIP/10/2. The Secretariat recalled that Phase II of the project was approved at the ninth session of the CDIP in May 2012 following the presentation of an independent evaluation report and a project proposal by the Secretariat. Phase II would carry on until the end of 2013. It included six countries, namely, Columbia, Dominican Republic, Egypt, Ethiopia, Peru and Tunisia. The Progress Report covered activities that were planned and undertaken from June 1, 2012, to August 31, 2012. The Secretariat pointed out that the period covered was relatively short. With regard to the project implementation rate, it was stated in the report that at the end of August 2012, the budget utilization rate was 2%. The Secretariat informed the Committee that it had now increased to 33%. Following the approval of Phase II in May 2012, the Secretariat began consultations with Member States in June. The first two months of the project were mostly devoted to the planning and approval of activities. The details of the activities undertaken were contained in the Progress Report.

26. The Delegation of Belgium, speaking on behalf of Group B, stated that the document CDIP/10/2 entitled, "Progress Reports" provided an overview of 13 projects carried out by WIPO as part of the DA. The document also made specific reference to 19 recommendations of the DA. The Group had taken note of all the activities included in the reports and welcomed the efforts made by the Director General and his staff in achieving the goals for the period covering July 2011 to June 2012.

27. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, stated that document CDIP/10/2 provided a comprehensive assessment of the work carried out by

WIPO in 2012 for the implementation of the DA. The EU and its Member States had taken note of all the activities included in the report and welcomed the efforts made by the Director General and his staff in achieving the goals for the preceding year as set out by the Member States. The EU and its Member States looked forward to continuing the work within the Committee and other relevant WIPO bodies to further consolidate the DA along with the overarching issue of intellectual property protection.

28. The Delegation of Brazil, speaking on behalf of the DAG, stressed that the Pilot Project for the Establishment of “Start-up” National IP Academies played a critical role in developing and enhancing IP institutional capacity. The project was closely related to the implementation of recommendation 10 of the DA. Thus, it was a critical and very important project from the perspective of developing countries. The Group was glad that Phase II of the project which was approved in the last session of the Committee had begun. The Group noted that Phase II would increase the number of Member States assisted in establishing self-sustaining training centers. There was also the possibility for the project to be replicated in future by other Member States that were interested in creating their own training institutions. This was also relevant to the sustainability of the project. Hence, the Group was happy that this positive feature was incorporated into the project. In the last session of the Committee, the Group and some other delegations had highlighted the need to promote a fair balance between IP protection and the public interest. This guideline was reflected in recommendation 10. The Group thanked the Secretariat for providing information on the development of modules that took that dimension into account. The Group had taken note of the information. Nevertheless, the Group requested the Secretariat to provide further details with regard to the content of those modules and whether the modules were already in place. This was an important issue for the Group. The Group also noted that the report contained three proposals for the consideration of Member States. The proposals were related to certain risks that were identified in the course of implementing the project. The first recommendation was on the development of a project reporting template for reporting to future CDIP sessions. The Group agreed that a reporting template was important and supported the recommendation. The second recommendation pertained to monitoring and assistance to be provided by the WIPO Academy in the first two years after the end of the cooperation period. The Group noted that the start-up academies would then be running on their own and the proposal was aimed at monitoring their first steps to make sure that they were self-sustainable. The Group welcomed the idea and proposed that the WIPO Academy should report to the Committee on the monitoring and assistance provided to assist those institutions. When the mechanism was put in place, the Member States would like to be informed on how the academies were functioning. This was very important for the Group as its members were interested in the sustainability of the national IP academies in the future and would be very glad to learn about how the academies were continuing to work after the end of the project. Finally, the Group had noted the recommendation to engage *ad hoc* Consultants. The Consultants could play a role in mitigating any risk of discontinuation. The risk was identified by the project manager. The Group also believed that the recommendation had budgetary implications as the Consultants had to be hired. The Group wanted to know of the implications for other activities that were already planned under the project. The Group understood that the project had been allocated a budget and this new element was identified in the course of project implementation. Although the Group agreed that it was important to have such *ad hoc* Consultants, it would like to know if this would impact on the activities that were being carried under the project.

29. The Delegation of Brazil speaking in its national capacity, expressed support for the suggestion put forward by GRULAC for permanent budgetary resources allocated to the program. The idea was consistent with many of the objectives being pursued within the CDIP and other areas of the Organization. The Delegation referred once again to the recommendation to engage *ad hoc* Consultants. The Delegation viewed it as a possible amendment to the project’s TORs. Although the recommendation had budgetary implications and could potentially impact on other activities within the project, it was only mentioned in a

document that was embedded in a larger CDIP document. The Delegation believed that this did not give adequate visibility to the recommendation. To indicate the importance of the recommendation to Member States, the recommendation should be regarded as a proposed amendment to the TORs approved in the last session of the Committee. The Delegation reiterated that it would like to know if the allocation of funds to engage *ad hoc* Consultants would have a negative impact on the activities of the national academies. If there was, the Delegation suggested that the budget for the project should be increased in order to preserve the activities that were approved in the TORs. If there were any problems with those activities, the Delegation would favor an adjustment to the budget.

30. The Delegation of Algeria, speaking on behalf of the African Group, stated that the project was an example of what the Group wanted to achieve when the DA was adopted. The project aimed to strengthen national and regional institutional and human resource capacity through further development of infrastructure and other facilities with a view to making national institutions more efficient and promote a fair balance between IP protection and the public interest. The Group welcomed the progress made and took note of the information contained in the Progress Report which provided a detailed overview of the Secretariat's work. The report was in line with the request made by Member States at the last CDIP session. The Group had also taken note of the proposal by the Secretariat to establish an expert Working Group to develop a reporting template for IP training institutions that were established with the assistance of the project. The Group referred to the proposal for the WIPO Academy to monitor and assist institutions in the first two years after the end of the cooperation period. The Group stressed that the monitoring and assistance provided to those institutions should be subject to reporting in every CDIP session. Referring to the proposal to engage *ad hoc* Consultants, the Group emphasized that beneficiary countries should be able to engage as many *ad hoc* Consultants for the purposes of training as may be required. The numbers should not be limited and the Consultants need not be the same Consultants that were engaged during the implementation of the project. The Group was ready to discuss the proposal with the other groups.

31. The Delegation of the United States of America expressed its pleasure to learn of the progress on that important project. The Evaluator noted that internal restructuring in Member State participants had led to the replacement of key personnel. This was, of course, a challenge faced in any technical assistance project that relied on crucial personnel to carry the program forward. The Delegation was interested to hear from the Secretariat how it proposed to design projects to manage that risk in future.

32. The Delegation of Egypt expressed support for the statements made by the Delegations of Algeria and Brazil on behalf of the African Group and the DAG respectively. The Delegation reiterated that the project was extremely important for developing countries. The Delegation was prepared to cooperate with WIPO and hoped that the collaboration would result in positive progress. The Delegation emphasized that efforts were made at the national level to ensure the success of the project. It provided some details of the activities that had taken place in Egypt. Referring to the training of trainers, the Delegation mentioned that more than 10 trainers had been selected. They were trained between November 4 and 8, 2012. A WIPO staff member also visited Egypt in the same period. Distance learning methods were being used. Many experts would also be providing assistance, especially with regard to the provinces and the areas outside Cairo. A Director had also been appointed. The Delegation thanked WIPO for its work and supported all the efforts that were made. The project was very important and deserved permanent funding from WIPO.

33. The Delegation of Spain expressed its commitment to engage constructively in the work of the Committee. As this was the second time that the Chair was presiding over the Committee, the Delegation was certain that he remembered the comments that it had made in the last session of the Committee on the availability and translation of documents. Those comments were supported by various other delegations. The Delegation noted with regret that the

concerns that it had highlighted in the last session had not been addressed. The Delegation reiterated its concerns. With regard to the availability of documents, the Organization's rules required documents to be made available two months in advance. This was intended to allow delegations sufficient time to study the documents and prepare for the meetings. However, the Committee had difficulties in meeting that obligation. Referring to the availability of translations, the Delegation underlined that the requirement for documents to be made available two months in advance also applied to the availability of those documents in the six official languages. The Committee also had difficulties in meeting that obligation. For example, in the 12 days before the start of the session, three documents were not available in Spanish, including document CDIP/10/2. Some documents were also not fully translated. The late translation of documents was a discrimination against those particular languages. A further problem concerned the provision of summaries for important documents such as evaluation reports. Those documents were important to the work of the Committee and were only 16 to 28 pages long. When it had asked for that practice to be justified, the Delegation was told that it was based on WIPO's language policy. However, the Delegation stressed that there was nothing in that policy or any rule that provided for this. It only applied to exceptionally long documents. Documents of 16 to 28 pages were less than half the average length of a WIPO document. Thus, these could not be considered to be exceptionally long documents. In concluding, the Delegation requested that for documents where only summaries were available, those documents should be fully translated. As the matter was raised in the past and no changes were made, the Delegation requested the Secretariat to clarify the legal basis or internal instruction for that practice and the measures to be taken to ensure that it did not happen again.

34. The Delegation of the Dominican Republic referred to the positive impact of the project in the Dominican Republic and the expectations surrounding the project. The Delegation provided some details of the activities that had taken place in the country this year. The *Academia Nacional de la Propiedad Intelectual* (ANPI) was launched on August 28, 2011. Since then, ANPI had carried out a number of activities. The Committee was previously informed of the activities that took place in 2011. This year, a curriculum for the training of trainers in intellectual property field under module 3 was prepared. It was done between April 23 and 27. The activity was coordinated by the Secretariat and involved technicians from ANPI, UNCTAD and the national customs authority. The advanced teaching module was launched in July. The event was coordinated by the Secretariat. Eighteen ANPI officials participated in the activity and there were inputs from the Commission on Unfair Practices. Training was provided by international experts under the auspices of the Secretariat. Distance learning courses for trainers were also carried out through the Secretariat. ANPI also hoped to conclude some other planned activities by the end of the year. The Delegation also highlighted that the WIPO Regional Meeting of Heads of Industrial Property Offices of Latin America was held in the Dominican Republic. These were just a few examples of the activities that were carried out. The Delegation stressed that these reflected its country's commitment to the project and the importance that was attached to it. Above all, the activities served to illustrate the multiplying effects of the project. In concluding, the Delegation expressed its full support for the statement made by the Delegation of Peru on behalf of GRULAC.

35. The Delegation of Paraguay took note of the progress achieved under the project. Referring to the statement made by GRULAC, the Delegation reiterated that the project should be made permanent by the PBC in order for more countries to be involved in the initiative.

36. The Delegation of Peru echoed the concerns expressed by the Delegation of Spain. The availability of documents in Spanish was an ongoing problem. The Delegation was keen to contribute more to the discussions. Thus, it was important for the Secretariat to respect the rules concerning the translation of documents. The Delegation thanked the Secretariat for its cooperation with regard to the pilot project. The Delegation expressed support for the statement made by the Delegation of Brazil. Users should be able to access any WIPO publication for the purposes of research. There should be horizontal cooperation between countries. That would

improve the culture of intellectual property. The Delegation informed the Committee that training courses were carried out for IP officials in Peru in March and July of this year. Various aspects of internal and external policies were covered. The Delegation emphasized the importance of the project for its country. The Delegation hoped that the project would continue in the future. Funds should be made available to allow the project to continue and for other countries to be involved in order for them to benefit. The project was an important experience for its country.

37. The Delegation of Tunisia expressed support for the statement made by the Delegation of Algeria on behalf of the African Group and thanked the WIPO Academy for its efforts to assist Tunisia in establishing a national start-up IP academy. The Delegation informed the Committee of some recent activities in its country. A rich and varied program had been prepared for 2013. The aim was for its national academy to become completely independent by the end of 2013. The program covered several areas, including the training of trainers, adaptation of modules to national legislation and so on. The last session for the training of trainers took place in Tunis at the end of October. In concluding, the Delegation thanked the Secretariat for the continued assistance to its country.

38. The Delegation of Argentina associated itself with the statements made by GRULAC and the African Group. The Delegation highlighted the importance of the project for its region and for developing countries in general. The Delegation was pleased that three countries in its region were benefiting directly from Phase II of the project. Without prejudice to what had been said so far, the Delegation was in favor of the implementation of the project. The Delegation also highlighted that the project was part of the ongoing efforts by the Organization to strengthen the human resources in developing countries. The Delegation stated that its country had benefited from these activities. The Delegation was very satisfied with the activities and commended the efforts of the Development Sector, in particular, the WIPO Academy and its Director who was responsible for leading the project. The Delegation was interested in the sustainability of this very important project in the medium and long term.

39. The Delegation of Ecuador stressed that it was extremely important to assist national efforts to promote a fair balance between IP protection and the public interest. For that reason, the Delegation supported the project. The Delegation also expressed support for the statements made by GRULAC and the African Group. This was an extremely important project for its region. The Delegation emphasized that the project should be sustainable and the Organization's support must continue.

40. The Delegation of Ethiopia expressed its appreciation for the strong and sustained commitment of the Director General to promote IP for development. The work of the Committee was of top priority for the LDCs, including Ethiopia. The Delegation endorsed the statement made by the Delegation of Algeria on behalf of the African Group. The Delegation commended the expansion of activities and noted that under the Director General's leadership, the Organization had launched some landmark projects to assist LDCs to access to technology. These included the establishment of Technology and Innovation Support Centers (TISCs); access to research, development and innovation; access to specialized patent information; and capacity-building in the use of appropriate technologies, scientific and technical information. Within the framework of the Pilot Project for the Establishment of "Start-up" National IP Academies, the Ethiopian Intellectual Property Office (EIPO) had identified as a priority, the translation and offering of the general distance learning course of the WIPO Academy. The Delegation was confident that the Organization would continue to support LDCs in developing human and institutional capacities in the coming years, including in the area of automation. The Delegation put on record its request for Ethiopia to be one of the beneficiaries of the Project on Capacity-building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges. The Delegation stressed that the knowledge industry was emerging as a crucial sector at the global level and LDCs like

Ethiopia emphasized the development of a sound and balanced IP system in order to benefit from the growing role of IP in economic, technical and social development. In this regard, the Project on Capacity-building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges would greatly assist Ethiopia to enhance its skills and talent in this area. The Delegation called for WIPO's continued technical assistance and was grateful to the Organization for the support provided with regard to IP and innovation policies, infrastructure development and the establishment of TISCs in Ethiopia. The Delegation pledged its continued support to the Organization. The Delegation looked forward to constructive engagement and expressed its full support and commitment to achieve progress in the Committee.

41. The Delegation of Costa Rica stated that although Costa Rica was not one of the six countries involved in Phase II of the pilot project, the Delegation emphasized that the project was important. A national IP academy was established in Costa Rica with the assistance of WIPO. Mr. Geoffrey Onyeama, Deputy Director General, had visited the country in connection with the development of its national IP strategy. With the additional help of a consortium of public and private entities, the authorities had taken the first steps to put in place a basic structure for the academy. It was currently working on two yearly work programs from 2012 to 2014. The Delegation expressed its support for the statement made by GRULAC. The pilot project should be a permanent WIPO program to allow other countries such as Costa Rica to benefit from the project in future. The Delegation was confident that the Organization's support for the project would guarantee its success. Lastly, the Delegation hoped that there would be more of these projects.

42. The Chair invited the Secretariat to respond to the questions and suggestions from the floor.

43. The Secretariat (Mr. Di Pietro) referred to the issue raised by the Delegation of Brazil on modules concerning the DA in the context of the training programs and courses being developed in the framework of the start-up academies. The Secretariat stated that an explanation was included in the report under the section on Risks and Mitigation. The Secretariat also informed the Committee that it planned to conduct special modules on the DA at the national and sub-regional levels. These would begin quite soon in Lima. The topics covered under these programs included IP and public policies; IP and flexibilities in the field of patent protection; IP and human rights, patents and public health; use of flexibilities in the field of public health; copyright and access to cultural goods and education; technological measures of protection and exceptions to copyright and related rights; copyright, the internet and access to information in the 21st century; IP and technology transfer; use of technological information; IP and anti-trust law; enforcement of intellectual property rights in developing countries; protection of traditional knowledge, folklore and other cultural expressions and access to genetic resources; and so on. These were some of the special modules that had been developed and would be introduced at the national level so as to provide insights into the development dimension of intellectual property. So far, these were extremely well received by the beneficiary countries. The Secretariat then referred to the issue raised by the Delegation of Brazil in connection with the possible financial impact of engaging special Consultants following the end of the cooperation period. The Secretariat clarified that this would only be in relation to the Dominican Republic. The financial impact would not be big and it would be done through certain cost efficient measures. At this stage, the Secretariat did not think that there was a need to propose an amendment to the budget for the project. Referring to the comment made by the Delegation of the United States of America, the Secretariat reiterated that the problem frequently arose when carrying out technical assistance, particularly with developing countries. In the case of the start-up academies, the target groups for training included the coordinators of the training institutions and the trainers. The number of national coordinators had been increased to two or three while the training hours were decreased. The number of trainers had

to be increased because of the risk that some could eventually leave the institution.

44. The Secretariat (Mr. Baloch) referred to the issue raised by the Delegation of Spain which was supported by some other delegations, on the timely availability of documents and in particular, with regard to the Spanish versions. The Delegation of Spain enquired as to when a document was considered to be voluminous in the context of the decision by the General Assembly. The Secretariat explained that in order to provide coverage in all languages in all WIPO Committees and taking into account the decision by the Assembly, the limit set by the Translation Division was about 10 to 12 pages, beyond which a document was considered to be voluminous and a summary of the document was prepared. In some cases, the view of the DA Coordination Division, or for that matter, any functional division that supported or serviced a Committee may differ with that of the Translation Division with regard to a working document. In such cases, the division concerned had to seek the special approval of the Director General for the document to be translated. The Delegation of Spain mentioned two documents. In the case of one document, there was a big difference with regard to the form in which the document had been made available in the English language in comparison with the other languages. Special approval was required for that document to be translated. The Delegation of Spain also stated that the Committee had not been able to correct the situation. The Secretariat made several points in this regard. First, the Secretariat referred to the number and nature of documents that were presented to the Committee. The Secretariat had briefly worked out that there was a significant difference between the number of documents presented to the CDIP and some other WIPO Committees. If Delegations so wished, the exact numbers could be worked out, including the number of pages. The Secretariat believed that the numbers would indicate a bit of a burden in terms of the CDIP documents. In addition, while the number of documents and work pressure were subject to fluctuation and increase, the human resources of the Development Agenda Coordination Division (DACD) were not infinite. Second, the Secretariat highlighted the need to examine the process for the preparation of documents. The DACD required the support and cooperation of all the other divisions in the Organization in that regard. This was due to the fact that it was a coordination division. The other divisions also had their own work and priorities. Third, a number of projects were ongoing and the preparation of documents began three to four months before each CDIP session. However, adequate time should also be accorded to the project managers and other colleagues who work on the DA recommendations for the implementation of their activities. As such, there was a need to maintain a proper balance between the time given to them to achieve some progress and the need for them to revert to the DACD for the preparation of documents. For example, the preparation of documents for the next CDIP session would begin around the end of January. However, this had to be balanced with the need to ensure that colleagues were given sufficient time to implement their activities. As was the case in other CDIP sessions, the Division would need to establish a delicate balance between how much time to give to them and when documents should be submitted. The Secretariat underlined that the sheer number of documents and the need for these to be coordinated, prepared and translated continued to be a challenge for the Division. Having said that, the Secretariat accepted that there was room for improvement and the Division would continue to try to do its best. The Secretariat had analyzed the dates when each document was published in the respective languages and acknowledged that there was room for improvement. The Secretariat assured the Committee that it would continue to do its best in that regard.

45. The Delegation of Spain thanked the Secretariat for its response as well as the honest presentation of the problems and challenges faced by the DACD. The Delegation agreed that the Committee dealt with a large volume of documents and it was a challenge for the Translation Division. The Delegation shared that concern. However, the Delegation would like the Secretariat and the Committee to reflect on the important issues concerning the availability of documents and translations. The Delegation recognized that there were a large number of documents on the Agenda and some were very long. However, it was not an excuse to go against the norm. The Secretariat pointed out that a document which was longer than 10 or 12



pages was considered to be voluminous. The Delegation stated that the rule was devoid of substance as a result of this interpretation. Nevertheless, the Delegation appreciated that the problem had been officially recognized and there was a willingness to improve. The Delegation reiterated its request for the Secretariat and the Committee to reflect on the need to abide by the norm.

46. The Chair thanked the Delegation of Spain and took note of the suggestion to delve further into the issue to meet the requirements of the norm. The Chair concluded the discussions given that there were no further comments from the delegations.

#### Consideration of Annex I - Specialized Databases' Access and Support - Phase II

47. The Secretariat (Mr. Roca Campaña) provided an overview of the progress achieved under Phase II of the project entitled, "Specialized Databases Access and Support". The Progress Report was included in Annex I of document CDIP/10/2. The project's three main deliverables included sustaining the training program implemented in Phase I; enhancing the usage and further developing access to specialized patent and non-patent databases through the Access to Specialized Patent Information (ASPI) and the Access to Research for Development and Innovation (ARDI) programs; and establishing a knowledge management platform to facilitate the exchange of information, experiences and best practices at the national, regional, and international levels. Progress on the three deliverables was on track. The Secretariat had organized 32 training activities in the period under review. These included 19 in Africa, one in the Arab region, three in the Asia Pacific region, four in Latin America and the Caribbean and five in certain countries in Eastern Europe, Caucasus and Central Asia. To date, 37 functioning national networks had been launched and the Secretariat was increasing its efforts in order to meet demand. The use of ARDI and ASPI had increased since last year, including in the period following the examination of the figures in May. The Secretariat informed the Committee that the knowledge management platform to facilitate the exchange of information and best practices among developing countries participating in the project would be presented and launched in the side event that would take place during the lunch break.

48. The Delegation of Algeria, speaking on behalf of the African Group, welcomed the efforts to establish TISCs and to enhance access to specialized patent and non-patent databases in African countries. The project was important for the Group as it aimed to stimulate innovation and economic growth through facilitating access to technological information in developing countries and LDCs as well as by strengthening a country's capacity to effectively exploit such information. The Progress Report stated that a total of 55 on-site training events had been undertaken, including activities in Phase I. The Group also noted that 35 TISC networks had been launched. The report also mentioned that a communications strategy for the TISC project had been drafted. The Group noted that an important new element described in the communications strategy was the development of a knowledge management / sharing platform ("eTISC") to support TISCs and TISC networks established through the project. The number of active users of ARDI had also increased by over 100% to 70 institutions. The Group took positive note of the progress. The Group requested the Secretariat to present the training materials, presentations, list of speakers and so on to the Committee. The Secretariat should also provide a list of all countries that had established TISCs or signed Service Level Agreements (SLAs) as well as those that had received training, with a clear indication as to which component was achieved under Phase II of the project. In addition, the Group stated that it was important for the Secretariat to present the draft communications strategy for TISCs. The Group also sought clarification on work that had been undertaken with regard to training on other aspects of innovation support in addition to access to technology databases and also in relation to cooperation with IGOs and NGOs. The report stated that work was in progress with respect to these areas. However, the project self-evaluation indicated that progress had not been achieved on those fronts. As such, clarification was required. The Delegation proceeded

to make a statement in its national capacity. The Delegation stressed that Algeria was particularly interested in the project. It had already put in place six support centers, three in universities and another three in key entities. The Delegation expressed its firm support for the project and was closely following its progress. The Delegation would continue to work closely with the Secretariat within the framework of the project.

49. The Delegation of Cuba highlighted the importance of the project and the budget that was required for it to continue into the second phase of implementation. The TISC project was important to strengthen national capacities. The project created national networks where IP Offices would play a key role. The ARDI and ASPI databases supported the role of a TISC. However, not all developing countries were able to access the databases. The Delegation informed the Committee that as of next year, Cuba would no longer fulfill the requirements for access. A notification had been received in this regard. The Delegation requested the Secretariat to reassess the requirements for accessing these important databases. The requirements should be relaxed, particularly, as development was the key concern of the Committee.

50. The Delegation of El Salvador thanked Mr. Roca Campaña for his work in implementing the project. The TISC project was established in El Salvador during his visit in July. The national project was currently under implementation. A TISC was established in the innovation and technology transfer entity of the Ministry for the Economy. It would facilitate the prompt establishment of a TISC network. The Delegation stressed that the implementation of the project was a national priority. In concluding, the Delegation thanked the Deputy Director General, Mr. Onyeama, and Mr. Roca Campaña for assisting in the conclusion of the initial phase of the project in El Salvador.

51. The Delegation of the Russian Federation viewed the results achieved under Phase II of the Project on Specialized Databases Access and Support to be significant. Progress had been achieved in the establishment of TISCs. A virtual knowledge management / sharing platform was also developed to support TISCs and TISC networks established under the project. Some of the training activities mentioned in document CDIP/10/2 were conducted in the Russian Federation. These included teaching seminars with the participation of representatives from the Secretariat. The Delegation also informed the Committee that during the St. Petersburg International Innovation Forum in September 2012, a meeting entitled, "Congress of Technology and Innovation Support Centers in Russia" was held. The meeting was organized as there were already 71 TISCs in the country. The Delegation stressed that project should be further developed because it was very important. The project contributed to the narrowing of knowledge gaps and the strengthening of Research and Development at the national level. The Delegation assured the Secretariat that it would continue working with the Secretariat to help increase the scientific and technological potential of Member States.

52. The Delegation of Nigeria expressed its gratitude to the Secretariat for agreeing to establish a TISC in Nigeria. The Delegation stated that it was a laudable project and would benefit Nigeria and other African countries. Its authorities were ready for the launch. The Delegation aligned itself with the position of the African Group with respect to the project.

53. The Delegation of the Dominican Republic expressed its appreciation to the Secretariat for selecting the Dominican Republic for the implementation of the project as well as for the work carried out with the Committee which had a major impact on its country. The Delegation informed the Committee of some activities that had taken place in the Dominican Republic in relation to the project. A TISC was inaugurated in the Dominican Republic in June, 2011. Its aim was to provide support for local innovators and researchers, including in relation to patents and trademarks. A number of research centers were contacted in order to establish focal points for cooperation. A national TISC network was being developed. Two focal points were established to provide information and training for TISCs. Four agreements were concluded to

establish TISCs in national universities. The officials had also been on a number of visits to other research centers and universities. These included the Ibero American University of the Caribbean and the Institute for Industry and Biotechnology. The Santo Domingo University and the Intech Technological Institute were also involved. Various visits were carried out to establish an inventory of research projects in order to ascertain the state of technology for specific projects. Reports were developed on certain projects which were of interest. These included information on the patents that were relevant to a specific project. A training project was being implemented for the stakeholders that were interested in TISCs. From 2013, a number of activities would be carried out, including online and on-site courses; training courses on patents and licensing; and specialized courses on patent information and the management of intellectual property assets. The authorities were currently working with the representatives of 15 research institutions and universities that had expressed an interest in taking part in the training courses. There was also a project which involved working with the focal points in various departments and in the different regions of the country. In concluding, the Delegation hoped that WIPO would continue to provide the necessary support in order to make the project successful.

54. The Delegation of Ecuador highlighted its country's participation in the project and echoed the statement made by the Delegation of Cuba. The Delegation stressed that access to the ARDI and ASPI databases should not be limited. The requirements should be reconsidered and relaxed to allow more countries to take part. The Delegation thanked the project managers for their enthusiasm in promoting the project. The project assisted developing countries in using the patent system. The Delegation stated that its authorities were working with universities and business development centers to develop a network to promote the filing of local patents. The authorities also hoped to open a center for technology transfer next year. The Delegation emphasized that projects such as these should form part of the ongoing activities of WIPO as they really did help to develop intellectual property in a positive way and provided support for universities, research institutions, micro-enterprises and small and medium enterprises (SMEs).

55. The Chair invited the Secretariat to respond to the various comments.

56. The Secretariat (Mr. Roca Campaña) referred to two issues raised by the Delegation of Algeria on behalf of the African Group. The first concerned the presentation of training materials to the CDIP. The Secretariat stated that all the training materials would be made available through the eTISC knowledge management / sharing platform to be launched during the side event in the afternoon. The materials were also available on the TISC webpage on WIPO's web site. However, the material could also be presented and made available upon request. With regard to the complete list of countries where a TISC or national network had been established, the Secretariat stated that it was possible for this to be made available on the TISC webpage. The same could be said for the communications strategy. These could be shared with the Member States. The Secretariat also highlighted that the communications strategy included the development of the eTISC knowledge management platform, one of the key deliverables under Phase II of the project. This was also mentioned in the Progress Report. With regard to other aspects of innovation support training, the Secretariat stated that as mentioned in the project document for Phase II, the training would be coordinated. Although training would focus on patent information services, it would also include other areas of innovation support which were of interest to the centers. The training would be coordinated with other WIPO programs. The training also included areas such as trademarks and copyright. The main courses on innovation support, IP asset management, commercialization and technology transfer, and patent drafting would be coordinated with the Innovation Sector. In countries where a TISC national network had been established, the Secretariat would also try to involve network staff in the activity. The Secretariat reiterated that it had all the information concerning the number of countries that had signed SLAs, the different courses and so on. The information could certainly be provided. It was just a question of letting the delegations know where the information was located. On training, the Secretariat recalled that there was a lot of

focus on access to technology databases in Phase I. However, in Phase II, training was based mostly on requests from the TISCs. Training activities could be coordinated with other WIPO colleagues. The Secretariat referred to the issue raised by the Delegation of Cuba on ARDI. ARDI provided access to scientific and technical journals. The Secretariat confirmed that Cuba would be graduating out of the eligibility criteria defined by all other partners, including the World Health Organization, the Food and Agriculture Organization, the United Nations Environment Program, and the publishers. The Secretariat stressed that it was not just up to WIPO to decide on the eligibility criteria. The criteria included gross national income, human development index and the requirement for a country to be an LDC in order to be eligible for free access. When a country graduated out of the criteria, the Secretariat would need to consult the publishers on the matter. It was difficult but the Secretariat would do its best. However, that was the situation at the moment. The Secretariat recalled that the Delegation of Ecuador had also mentioned ASPI. The Secretariat stated that in the case of ASPI, it had closer relations with the commercial patent database providers and an arrangement for preferential rates could perhaps be reached more quickly. Lastly, the Secretariat informed the Committee that the PPR for 2010-2011 included a list of TISC networks established in different countries up to 2011. The list had been updated following the approval of Phase II by the Committee at its last session in May. To date, TISC networks had been launched in 37 countries.

57. The Chair thanked the Secretariat for its response and concluded the discussions on this Item given that there were no additional comments from the delegations.

Consideration of Annex III - Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations

58. The Chair opened discussions on the Progress Report for the project on Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations (CMOs). He invited the Secretariat to introduce the document.

59. The Secretariat (Mr. Ouedraogo) recalled that the project included three initial components. The first component was on the creative industries. That component was successfully completed in 2010 and a report was presented at the sixth session of the CDIP. The second component was on the harmonization of distribution rules, methods and processes for the members of the Caribbean Copyright Link (CCL). That component was also completed in 2010 and a report was submitted to the Committee in 2011. Progress in the implementation of the third component on enhancing the performance and networking of CMOs was slow. Details of the deliverables were provided in Annex III of document CDIP/10/2. At the end of August 2012, the budget utilization rate for the entire project was 54%. The Secretariat drew attention to the section on deliverables in page three of the document. The section also contained details of some of the challenges encountered in the implementation of the last component. The strategic reorientation of that component was submitted to the sixth session of the CDIP. The reorientation was tied to the re-engineering of the WIPOCOS software in a modern software environment. The software was used in CMOs in nine West African countries participating in the project. There orientation was also tied to the networking system and architecture. The building of a common database for the West African CMOs also required linking the database in terms of copyright documentation, licensing and distribution of royalties to the rest of the world. The Secretariat reiterated that, as explained in previous sessions of the CDIP, the implementation of this part of the project was closely linked and coupled with the WIPOCOS redevelopment project. In this context, the Secretariat proposed that the West African Network (WAN) project should be re-focused in order to provide a platform for the West African CMOs as a pilot project that could eventually be replicated and used in other groups of

countries worldwide. As mentioned in the Progress Report, the refocusing would be in three directions. The project would require new business goals, new deliverables and scope as well as a new implementation strategy. The details concerning these were contained in the report. A revised implementation timeline extending to 2015 was also included in the report.

60. The Delegation of Congo, speaking on behalf of the African Group, thanked the Secretariat for the clarity of its presentation on the project as well as the revised implementation timeline. The Group attached particular importance to the project. One of the objectives of the project was to assist CMOs to effectively manage copyright documentation, licensing and distribution within their territories. It also enabled CMOs to integrate with regional and global networks in developing the WIPOCOS system to support copyright management through a modern technological platform while developing solutions with selected business partners. The Group had taken note of the constraints and difficulties involved in the implementation of that part of the project. The Group was concerned that there were delays in implementation. However, it was pleased to note that the project would deliver WIPOCOS software for the management of copyright by the CMOs in the WAN member countries. The new software would support the requirements of the WAN CMOs and could also eventually be used by other CMOs in West and Central Africa. The first group of countries to benefit from the project was in West Africa. The Group was aware of the spin-offs from the project and the potential for it to address the digital divide. The Group stressed that the loss of revenue as a result of the lack of databases was of great concern to its members, especially in terms of its effect on the future of copyright in their respective countries. The deployment of the new WIPOCOS software would increase transparency in the distribution of royalties. The fees should be channeled to the rightful beneficiaries. In light of all these elements, the Group believed that countries could benefit from the results of the project. As such, the Group accepted the re-engineering of the project and the revised schedule for implementation. The Group hoped that the initial delays in implementation would not be further extended. The Group urged the Secretariat to take every step to ensure that WIPOCOS was a permanent feature of the Organization's activities and it should be implemented in other countries upon request. In concluding, the Group also voiced certain concerns. The Group noted that WIPO's partnership with Google had been discontinued. The Group wanted to know if the remaining budget of 46% was sufficient to cover future expenses under the project. The Group referred to Page 11 of the French version of the document which provided details of the activities that had been carried out under the project and sought clarification on the meaning of the asterisk included in relation to points 3, 4, 5 and 6.

61. The Delegation of the United States of the America noted that the project Evaluator was quite frank in his assessment of the reasons for the implementation delays in the project. The Delegation noted that WIPO had entered into discussions with CISAC and SCAPR, potential key partners in the creative industries. The Delegation thought that this was a positive step forward, even if it further delayed implementation. The Delegation observed that the project delays to date were largely attributed to technological issues. However, data management for collecting societies was not merely a technological challenge. It was rather an operational challenge and the Delegation believed that CISAC's and SCAPR's experience in handling these issues around the world may be an essential component for project success.

62. The Delegation of Senegal expressed support for the statement made by the Delegation of Congo on behalf of the African Group. The Delegation underlined the importance of the project for the African region, especially with regard to the pilot project to assist CMOs in West Africa. The Delegation believed that the project would assist in providing access to information on copyright works and support the requirements of the CMOs in terms of documentation and the distribution of royalties. The Delegation had taken note of the delays in implementation and hoped that the project would be extended until 2015. The Delegation also supported the new directions proposed in the report contained in Annex III of document CDIP/10/2. In view of the potential success of the projects described in the other Annexes of that document, the Delegation hoped that this project would not be an exception. The Delegation noted that

46% of the budget still remained.

63. The Delegation of Burkina Faso expressed support for the statement made by the Delegation of Congo on behalf of the African Group. Burkina Faso was a member of WAN and attached great importance to the project. It aimed to assist CMOs to effectively manage copyright documentation, licensing and distribution within their territories. It would also enable CMOs to integrate with regional and global networks in developing the WIPOCOS system to support copyright management through a modern technological platform. Although the Delegation was also disappointed with the delays in implementation, it believed that the re-engineering of WIPOCOS in a modern software environment and its deployment would facilitate the updating of the WAN database and enhance the system. The Delegation noted that the West African countries were the first members of the pilot project. Despite the delays, the Delegation acknowledged that the implementation of the project was extremely important. For that reason, the Delegation accepted the revision of the project and the new schedule for implementation.

64. The Chair invited the Secretariat to respond to the various comments.

65. The Secretariat (Mr. Ouedraogo) thanked the Delegations for their support with regard to the reorientation of the project. The Secretariat also thanked the delegations for their comments on the implementation of the project. Referring to the question put forward by the Delegation of Congo on behalf of the African Group and the statement made by the Delegation of the United States of America, the Secretariat stressed that the implementation of the project did not only involve technology. It also required operational experience, business knowledge, capacity-building and technical assistance for the CMOs participating in the project. Both the Organization and Google had realized that these must be taken into account and the system to be deployed should also be consistent with the needs of the CMO. The Secretariat explained that these considerations led to the delays in the delivery of the project. These were also some of the reasons why the project was reoriented without the partner mentioned in the intervention by the Delegation of Congo. The Secretariat was well aware of the challenges. That was why in the reorientation, it had opted to redeploy the project internally within the Organization in order to be in control of the development of WIPOCOS. However, as rightly pointed out by the Delegation of the United States of America, the Secretariat relied on partners such as CISAC and SCAPR which had tremendous experience in the operational aspects of collective management. Referring to the budget, the Secretariat reiterated that 56 per cent had been utilized. In addition to the activities related to the CMOs in West Africa, the funds were also used for the implementation of activities concerning the creative industries as well as the Caribbean CMOs. Almost 15 per cent of the budget was used for the implementation of the project for the CMOs in West Africa. The activities included technical missions, the deployment of business rules and business tools as well as capacity-building and training for the staff of the nine CMOs in the countries concerned. The Secretariat believed that the remaining 46 per cent of the budget was exactly what was needed for the redevelopment of WIPOCOS within the Secretariat and to deploy the system as a pilot project in the nine CMOs concerned in West Africa. The Secretariat also highlighted that while the WIPOCOS software could be implemented in other regions, with regard to West Africa, the software would not only be deployed but would also be used to create the database and data exchange systems for the nine CMOs. The Secretariat believed that the objectives of the project would be reached. The Secretariat referred to the question put forward by the Delegation of Congo, on behalf of the African Group, on the asterisk included under several points in the self-evaluation section of the report. The Secretariat clarified that there should be two asterisks instead of one with respect to those points as it believed that the objective that was sought in the initial part of the project was not reached at the operational level. The Secretariat apologized for the errors. Lastly, the Secretariat referred to the importance of the project. In its view, the future of copyright and copyright management in terms of documentation, licensing and distribution, would involve a

powerful global network. The Secretariat believed that the Organization should serve its Member States in building such an infrastructure.

66. The Chair thanked the Secretariat for its response and concluded the discussions given that there were no further comments from the delegations.

Consideration of Annex IV - Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of Development Activities

67. The Chair opened discussions on the Project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of Development Activities. He invited the Secretariat to introduce the document.

68. The Secretariat (Ms. Bachner) recalled that the initial stages of the project had focused on strengthening the results framework in the Program and Budget in order to provide a stronger basis for monitoring and evaluating WIPO activities, including in the area of cooperation for development. Following the introduction of a more robust and outcome-oriented measurement framework, efforts were concentrated on enhancing monitoring mechanisms in the period covered under the report. The focus was on strengthening the monitoring of the work plans. A system was developed to provide an integrated view of all activities in the Organization. The 2012 work plan mechanisms and tools provided for the first time, a comprehensive organization-wide view of the annual work plans. It facilitated the analysis of the activities from various perspectives. For example, in the context of the expected results, details of the program responsible for implementing an activity as well as the areas of implementation that contributed to a particular result, and from a country perspective, details of the programs that were either implementing or were planning to implement activities in a particular country. The Secretariat had concentrated on the monitoring mechanism to ensure that information on the implementation of the work plans was kept up to date. Budgetary information was also integrated for the first time into the work plans and the monitoring mechanism. Efforts had also been concentrated on the indicators to ensure that the baselines were updated in preparation for the implementation of the Program and Budget for 2012/13. The Secretariat recalled the discussions in the PBC on the updating of the baselines and stated that it had worked to ensure that the baselines reflected the situation at the end of 2011, before the start of the new biennium. Efforts were also made to ensure that colleagues in the Organization were putting in place the required mechanisms. In that context, the validation carried out by the Internal Audit and Oversight Division (IAOD) was highlighted by the Secretariat. The IAOD had recommended that the data collection mechanisms be strengthened to ensure that performance data with regard to the various indicators in the Program and Budget would be available. There was significant focus on this area in the period under review. The Program Management and Performance Section had also worked closely with the DACD on the independent evaluations of the DA projects. Significant efforts were made to ensure that the evaluations were carried out in accordance with the guidelines.

69. The Delegation of Brazil, speaking on behalf of the DAG, recalled that the main objectives of the Project were to design, develop and establish a sustainable and coherent results-based framework to support the monitoring and evaluation of the impact of the Organization's activities on development; to strengthen the capacity for objective development impact assessments of the Organization's activities; and to conduct a review of WIPO's existing technical assistance activities in the area of cooperation for development to help establish some baselines for further work. This was an important project and the Group was following the developments with great interest. The Group acknowledged that a number of important activities had been implemented. However, as indicated in the Progress Report included in Annex IV of document CDIP/10/2, a number of other important activities were not yet in place. In this context, the Group referred to the activities that were related to recommendations 33 and

38 of the DA. The information generated by the monitoring and evaluation mechanisms should also be made available to support decision-making and to enhance the accountability of the organization. The information would help Member States to assess the Organization's contribution to the implementation of the DA. In that regard, the Group highlighted the need for the project to be implemented in a timely and comprehensive manner. The Group understood that it was a very big and complex project. However, it was important for the project to be fully implemented. The Group referred to the Deere-Roca Report on the External Review of WIPO's Technical Assistance Activities in the Area of Cooperation for Development. This was one of the outputs of the project and the Group recalled that the Committee would be discussing the implementation of the recommendations of that report in the course of the week. The Group noted that some of the work had been completed. As for the rest, the Member States had to decide on how to proceed. The Group requested for clarification on some matters concerning the project. The Group referred to page 8 of Annex IV where it was indicated that a number of indicators or performance data were not yet available and would be assessed in 2012/13. As 2012 was coming to end, the Group wanted to know how these were going to be implemented and if any information could be given in terms of timetable and whether there were any delays in implementation. The Group was also interested to know how the next steps of the project would be carried out. The Group recalled that the duration of the project was 24 months. In concluding, the Group reiterated that the project touched on some very important DA recommendations and it was following the developments with keen interest.

70. The Secretariat (Ms. Bachner) acknowledged that there were still some outstanding deliverables under the project. The Secretariat explained that it was very difficult to focus on planning, monitoring and evaluation in parallel as monitoring and evaluation was dependent on the quality of the planning frameworks. For that reason, the Secretariat had opted to do these in stages. The Secretariat began by concentrating on the quality of the planning framework and believed that significant progress had been made. The Secretariat acknowledged that there was still room for improvement but there was significant progress as far as the Program and Budget for 2012/13 was concerned. Now that implementation had begun, the Secretariat was focusing on the monitoring and evaluation mechanism. The Secretariat reiterated that it was very difficult to focus on monitoring and evaluation without a robust measurement framework in place. Thus, the strategy had been to ensure that a framework was put in place before improvements to the monitoring and evaluation mechanism were made. That was why, as indicated on page 8 of Annex IV, there were some cases where performance data was still not yet available for assessment. Those activities had begun with the implementation of the Program and Budget for 2012/13. The Secretariat also acknowledged that there was a slight delay in the implementation of project. This was also due to the phased approach mentioned earlier. The Secretariat further stressed that the change to a results-based organizational culture was work in progress. It was not something which happened overnight. It affected the pace in which program management improvement initiatives could be introduced, including through the project. The introduction of too many changes in a short space of time could negatively affect the sustainability of improvement initiatives. This was mitigated by focusing on a process of incremental change. However, the Secretariat was certain that it would be able to report on the indicators in the next Progress Report. Information would be provided for the Committee to make an assessment. The Secretariat referred to page 6 of Annex IV and mentioned that there was another deliverable which also required implementation. This concerned awareness-raising at the national level. As mentioned earlier, the focus had been on getting things right at the level of the Secretariat. This was required before carrying out awareness-raising events on the benefits of monitoring and evaluation at the country and regional levels. It was important for the Secretariat to have a good idea of what was required before these were carried out.

71. The Chair thanked the Secretariat for its response and concluded the discussions on the project given that there were no additional comments from the delegations.



Consideration of Annex V - Project on Intellectual Property and Product Branding for Business Development in Developing Countries and Least-Developed Countries (LDCs)

72. The Chair opened discussions on the Project on Intellectual Property and Product Branding for Business Development in Developing Countries and LDCs and invited the Secretariat to introduce the document.

73. The Secretariat (Mrs. Toso) stated that the project was in its second year of implementation and would be entering its final implementation phase next year. The project had brought the Secretariat in contact with the local communities and businesses in the three countries that were selected for the project, namely, Thailand, Panama, and Uganda. The Secretariat had worked closely with a range of stakeholders in the different countries and communities. Three communities were selected in each country. The experience had revealed the difficulties that local communities and small businesses faced in meeting the challenges of competitiveness and in placing their products on the market through the appropriate use of IP and branding strategies. The Secretariat began its work by developing IP and branding strategies for each of the selected products. The Secretariat had worked with international Consultants and local experts to develop those strategies. The knowledge and expertise of the Consultants were extremely important in that regard. Several challenges were met. These were mainly due to the difficulty of bringing on board all the stakeholders that were involved in the promotion and branding of the selected products. There was a wide range of stakeholders from the grass-roots to the policy making level. At times, the coordination of the various groups at the national level had proved somewhat difficult. However, a lot had been learnt by bringing together all the different stakeholder groups, including those that were not directly linked to each other, and there was now a much stronger understanding of the branding challenges faced by the various stakeholder groups. Thus, the creation of stakeholder groups was an achievement. The project's other achievements could be measured in terms of the number of intellectual property titles that were registered with respect to the selected products. These included collective marks, certification marks, and in one case, a geographical indication. The way forward involved focusing on the third objective of the project. This was on awareness-building. The Secretariat hoped that the objective would be met next year, in particular, through the organization of a conference on intellectual property and branding for local community development. The issues to be covered would include the use of branding for advancing business development needs as well as the development needs of countries. The Secretariat stated that the preparations for the conference were underway. The promotional materials for the conference were already prepared. The Secretariat also mentioned that three video documentaries had been produced under the project. These were effective tools of communication and were produced for the purpose of documenting and raising awareness on the challenges and opportunities faced by each community in the branding and commercialization of their products.

74. The Delegation of Thailand informed the Committee of some of the developments that had taken place in its country with regard to three selected products. Thailand was one of the three pilot countries selected for the implementation of the project. In March, the first series of capacity-building workshops on the concept of branding was completed. An international Consultant recruited by WIPO had presented the IP and branding strategies for the three selected products. These were to be considered by the national authorities for endorsement. In June, the project manager visited Thailand to discuss the implementation of the project with the relevant authorities and agencies as well as to meet with potential partners that would support the project in the future. The agreed work plan between now and the conclusion of the project in 2013, included activities related to the registration of marks for the products both domestically and in potential markets abroad. It also included the last series of capacity-building workshops on product design, marketing, and business planning scheduled to take place in January 2013. In addition, the project would be showcased in an international conference. The Delegation affirmed Thailand's commitment to complete the project. The Delegation hoped that the project

could produce a model for the branding of local products and contribute to sustainable community development in the long run. The Delegation emphasized that Thailand was keen to share its experiences and best practices with other countries that were interested to take part in the project in the future.

75. The Delegation of Senegal, speaking on behalf of the African Group, stated that the project was of special importance to the Group. It recalled that the primary aim of the project was to support small and medium-sized enterprises (SMEs), especially those resulting from the association of local groups of farmers and producers in developing countries and LDCs, in the design and implementation of strategies for the appropriate use of IP in product branding. This was particularly important in view of the role SMEs in economic development and their limited ability to access to markets, especially in the case of agricultural producers. Although it was recognized that branding had an impact on the marketing of products, the Group would like to see an assessment of this. The Group noted that the project would assist in strengthening capacities in the selected countries. As such, measures should be taken to further strengthen capacities, including through the organization of workshops. The Group thanked the Secretariat for providing details of the preparations for the conference on intellectual property and branding for local community development and expressed its appreciation for the results achieved under the project. This included the preparation of a tool to assess a product's qualities and branding potential as well as to inform the branding strategy choices for the product concerned. It also included the registration of marks to strengthen the marketing of the respective products. The Group noted that the overall assessment of the results and outcomes for the project was positive despite the modest progress that had been recorded thus far. The Group recognized that the project held great potential for farmers and producers. Certain countries had difficulties in placing their products on the international market. The Group hoped that the potential benefits of the project would be realized. The Group noted that a very limited number of countries were involved in the project and hoped that more countries would be able to participate in the future.

76. The Delegation of the Republic of Korea noted that the project seemed to be progressing well as a result of the continued efforts of the project manager and the active participation and cooperation of the beneficiary Member States. The Delegation also noted that the project was meeting most of its elements and was achieving the expected goals. The Delegation recalled that the project was based on its initial proposal. Hence, the Delegation was pleased to inform the Committee that the Republic of Korea planned to host a joint conference with WIPO in Seoul next April. The conference on brands would be in support of the successful completion of the project. As such, the Delegation requested for the continued interest and participation of Member States in that conference.

77. The Delegation of Pakistan expressed its appreciation on the way in which the project was moving forward and the manner in which it had been implemented in the three countries. The Delegation enquired as to whether any work had been done on an impact assessment of the project in terms of its effects on the local producers.

78. The Delegation of Paraguay took note of the steps to be taken in relation the project in the coming months and next year. The Delegation expressed support for the statements made by other delegations for the project to reach out to more countries. The Delegation hoped that this would be done when there was an opportunity to do so.

79. The Chair invited the Secretariat to respond to the questions.

80. The Secretariat (Mrs. Toso) referred to the question from the Delegation of Pakistan on impact assessment, the Secretariat highlighted that the project was still under implementation. The basis for the branding of the selected products was still being established. However, the Secretariat had requested the experts to develop indicators to assess the impact of the

strategies, at least over a five-year timeframe. The proposed indicators were included in the design of the strategies. In addition, the conference to be convened next year would be preceded by a one day expert meeting. All the international and national Consultants that had worked on the project in the selected countries would meet to discuss their proposed impact indicators and the different approaches that were adopted in each case. The Secretariat hoped that the meeting would result in guidelines for a methodology as well as a model that could be used in the implementation of future branding projects. During the meeting, the experts would also evaluate the questionnaire that was developed for the project in Thailand and offered to the other two countries. The questionnaire was translated into Spanish for implementation in Panama. The questionnaire would be evaluated and refined if necessary. It would be regarded as one of the tools produced under the project. The questionnaire would be used by the Organization in the implementation of similar projects in other countries. On the issue of extending the project to other countries, the Secretariat stressed that it had tried to respond to the large number of requests for assistance in other countries. This had been done in a cost-effective manner. For example, when a mission was undertaken for the implementation of the project in Thailand, the Secretariat also used it as an opportunity to advise Vietnam, a country that had expressed a very strong interest in the project. The Secretariat was sensitive to the fact that other countries were interested in benefiting from the inputs and methodologies developed under the project and had tried to make its services available to other countries, in addition to the three that were initially selected.

81. The Chair thanked the Secretariat for its response and concluded the discussions as there were no further comments from the delegations.

#### Consideration of Annex VI - Project on Capacity-building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges

82. The Chair opened discussions on the Project on Capacity-building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges. He invited the Secretariat to introduce the document.

83. The Secretariat (Mr. Shenkoru) provided an overview of the progress in the implementation of the pilot phase of the project in Bangladesh, Nepal, and Zambia. Various steps had been completed. The project had entered its final phase and the national implementing agencies should be ready to assume their share of responsibilities. Two urgent development challenges or need areas where appropriate technology could effectively contribute to improve living conditions were identified in each country. They were identified following the meetings of the national expert groups and the national multi-stakeholder groups. The meetings also involved the participation of WIPO and the international experts. The two need areas identified by the government of Bangladesh were advanced ground improvement techniques by cement and lime treatment for land having soft / weak soil; and appropriate technology for conversion of municipal wastes into land filling materials for combating environment hazards. The two need areas identified by the government of Nepal were biomass briquetting for easy access to clean, green alternative fuel for cooking and space heating, and post-harvest drying of cardamom to improve the living conditions of small farmers and marginalized communities through income generation. The two need areas identified by the government of Zambia were run off rain water harvesting for small scale irrigation and solar water distillation for easy access to clean drinking water. The search for the required technical and scientific information to identify the appropriate technologies with respect to each of the need areas was completed with the cooperation of the patent offices in a number of countries, namely, Switzerland, Germany, the United States of America, Austria, Japan and India as well as the European Patent Office. Further to its initiative, the government of the Republic of Korea was also closely involved in the implementation of the project, including through the provision of expert advice. The selection of the most appropriate technology as a solution for the

development challenges identified in each of the countries had been completed. Business plans had been prepared in each country for implementing the selected technologies. The implementation process involved the transfer, acquisition, adaptation and development of the respective technologies. The preparation of the plans had facilitated the entry of the project into its final phase. The Secretariat thanked those involved in the implementation of the project, and the Director General and Deputy Director General for their guidance and support in implementing the project.

84. The Delegation of Nepal recalled that it had supported the adoption the Project and had requested the Secretariat to consider Nepal's participation in the project on a priority basis. It thanked the Director General, Mr. Francis Gurry, for his prompt and positive response to its request. The Delegation stated that the project was an important initiative in Nepal. The efforts that were made to implement the project were appreciated by the government and other stakeholders. Technology can help to address development needs and priorities. It can assist in making the economy more efficient and competitive. However, the Delegation underlined that LDCs like Nepal faced many challenges in using technology for development. It sought to overcome the challenges through building national capacity in the area of innovation and creativity. This was required to access knowledge and innovation information systems. Skills must be developed to examine the information and to analyze its application in the context of the country's specific development needs. Capacity-building was required in the identification of national institutional needs and in the use of appropriate technologies for development purposes. Skills must be developed to allow for the preparation of conducive national policies and strategies for technology-based development, and most importantly, to benefit from the effective implementation of commitments on technology transfer. The Delegation noted with appreciation the implementation of the appropriate technology project in Nepal. Its government was pleased with the progress and approach adopted for the implementation of the project, including with respect to country ownership. The two identified need areas, namely, biomass briquetting for easy access to clean, green alternative fuel for cooking and space heating, and post-harvest drying of cardamom to improve the living conditions of small farmers and marginalized communities through income generation were important. The identification of these need areas was widely supported in its country. Referring to the technological solutions proposed by the national and international WIPO experts, the Delegation recognized that the experts had sought to recommend technology that was appropriate in the context of the country. The Delegation stated that the proposed technological solutions were expected to bring social and development benefits for its rural communities and were also relevant to the protection of the environment and biodiversity. The Delegation thanked the LDCs Division for working in close partnership with the relevant national stakeholders in the implementation of the project. The Delegation was pleased to inform the Committee that during the recent national multi-stakeholders meeting, the government had indicated that considerations would be given to provide seed funds from the country's technology development fund to facilitate the deployment of the proposed technologies in the field. The Delegation stressed that Nepal sought to continue its partnership with WIPO to expand and to undertake similar projects in other development areas. The Delegation also expressed support for the establishment of a link between the government and research institutions and universities to facilitate the use of their research results. The Delegation stated that one of the immediate spill-over effects of the project was the conversion of the National Expert Group on Appropriate Technology into the National Expert Group of Nepal on Intellectual Property. The Multi-stakeholder Group on Appropriate Technology was also converted into the National Multi-stakeholder Committee of Nepal on Intellectual Property, with a view to contributing to national institution building on intellectual property. In concluding, the Delegation reiterated its sincere appreciation to WIPO for selecting Nepal as one of the pilot countries for the implementation of the project. The Delegation appreciated the attention given by the Director General to the special needs of the LDC Member States and providing WIPO support and expertise in building their innovation base. The Delegation requested WIPO to expand its support in the coming years to the other

development need areas of the LDCs and focus on assisting them to work on broader structural constraints and challenges.

85. The Delegation of the Republic of Korea was pleased that progress had been achieved on key elements of the project. The Delegation noted that two technology need areas were identified in each of the three beneficiary Member States. The technical landscape reports were completed and business plans were under review. The Delegation commended the project manager and experts involved in the project for their efforts. However, the Delegation had some concerns with regard to the last stage of the project on the implementation of the selected technologies. Although it was stated in the Progress Report that implementation was the responsibility of the beneficiary countries and was outside the scope of the project, the Delegation doubted whether the beneficiary countries had the necessary resources to develop and optimize the selected technologies. The Delegation believed that the development of technologies and products required expertise and significant experience in the relevant field. Hence, the Delegation urged the Secretariat to play an active role in the implementation of the appropriate technologies *inter alia* through identifying the most appropriate research institution to develop the technology. The Delegation also urged the Secretariat to take into consideration the circumstances of LDCs when undertaking projects of a similar nature in future.

86. The Delegation of Bangladesh stressed that developing national capacity in the area of science and technology was of utmost importance to Bangladesh. The Delegation stated that Bangladesh was implementing Vision 2021 through which it sought to become a middle income country by 2021. One of its main development priorities was to create and promote a technology and knowledge inspired development pathway. In that context, the Delegation had strongly supported the adoption of the WIPO DA project on appropriate technology. The Delegation appreciated the focus of the project which sought to facilitate capacity-building through concrete activities, including the search for technical and scientific information in patent and relevant databases to identify appropriate technical solutions to meet key national development priorities. The Delegation also stated that Bangladesh appreciated WIPO's support in undertaking this useful initiative to gain practical experience in using intellectual property to support the development needs of LDCs. The Delegation reiterated that the two need areas identified by the government of Bangladesh were advanced ground improvement techniques for infrastructure development in soft, low-lying marshy land, and appropriate technology for converting municipal wastes into land-filling materials for combating environmental hazards, in other words, to turn waste into a resource. The project sought to contribute towards addressing those problems. The Delegation was pleased with the project's needs-based approach. The Delegation also appreciated the way the project had been implemented at the country level, through which the participation of broad-based stakeholders, including relevant government ministries and departments, private and public sector research and development institutions and universities, as well as industry representatives was ensured. The Delegation also appreciated the fact that the national expert group was given the central role in the management and implementation of the project at the country level. The Delegation thanked the project manager, the LDCs Division and the WIPO team that worked with their authorities for the successful completion of the national phase. The Delegation also thanked the countries that cooperated in the search for appropriate technologies, especially the Republic of Korea, for their continued engagement. The Delegation hoped that Bangladesh would be able to benefit from the technological solutions proposed in the technical landscape report as well as the recommended implementation strategies included in the business plan. However, the Delegation also stated that in order to ensure that outcome, further support may be required from WIPO and other development partners. The Delegation hoped that WIPO and other partners would be forthcoming in extending their support with regard to the next steps that were required to implement the technologies in the countries concerned. The Delegation stressed that Bangladesh and other LDCs would benefit immensely from international cooperation to meet crucial development challenges. In concluding, the Delegation reiterated its sincere thanks to WIPO for selecting Bangladesh as one of the pilot countries for the implementation of

the project. The technological capacity and knowledge building process in Bangladesh would benefit immensely from the experience gained through the project. The country sought to build on that and to continue with their joint efforts in the area. In that context, the Delegation requested WIPO and the Member States to continue with the project which was of benefit to the LDCs, by broadening its scope and by making it a regular development program.

87. The Delegation of Zambia wished to put on record the appreciation of the government of Zambia for the positive response by the Director General, Mr. Francis Gurry, to its request and the necessary measures that were taken for the implementation of the project in Zambia. The Delegation viewed the project on appropriate technology as a pioneering initiative and a model for the Organization's development partnership with Zambia. The concept and operational activities in the field should be shared with other similar projects involving country experts, stakeholders from different development organizations as well as the public and private sectors. The Delegation stated that the project also had a number of spill-over effects. A country like Zambia faced numerous challenges in using technology for development. The organizational arrangements for the implementation of the project, including the choice of international and national experts; establishment of a national expert group and a multi-stakeholders group composed of representatives from the public and private sectors; and the selection and analysis of need areas, helped to overcome the immediate challenges for the implementation of the project. The technical and scientific information made available by the Organization for the identified need areas as well as the draft business plan prepared by the national expert provided opportunities for the national experts and the national multi-stakeholders group to engage in the discussions and analysis of the problem areas and the consideration of different solutions. The discussions in the expert group focused on the two identified problem areas. The discussions included an appropriate national policy and institutional framework to build capacity in the use of technical and scientific information based solutions to address identified need areas as well as development challenges. The Delegation emphasized that the identification of appropriate and affordable solutions that were suitable for the two need areas and consistent with the country's level of development was crucial in order for technology to contribute to development. In this context, the expert group thoroughly discussed and reviewed the presentations made by the national and international experts in relation to the two identified need areas, namely, run off rain water harvesting for small scale irrigation and solar water distillation for easy access to clean drinking water. The expert group worked on selecting the most appropriate technologies in these two areas. Draft business plans were also discussed. The Delegation thanked WIPO and the governments of Japan, USA, Germany, Austria and Switzerland as well as the EPO for their cooperation in identifying and making available patent information on appropriate technologies with respect to the two need areas. The Delegation also thanked other governments and organizations for their generosity in that regard. The Delegation stated that the expert group had unanimously agreed that the Ministry of Health would be the lead national agency in the implementation of the project on solar water distillation. The Zambian Agriculture Research Institute under the Ministry of Agriculture would be the lead agency for the implementation of the project on the harvesting of runoff rainwater. The national expert group and national multi-stakeholders group had requested the national expert as well as the international expert to finalize the projects for implementation, taking into account the outcome of the discussions at their meetings. The Delegation reiterated that the identification of appropriate and affordable solutions which were suitable for the identified need areas and consistent with Zambia's level of development was crucial in order for technology to contribute to development. The Delegation informed the Committee that Zambia had assumed ownership of the national projects. The Delegation also stated that in his consultations with WIPO officials, the Minister of Trade had expressed an eagerness to start implementing the projects as soon as possible. The government believed that based on the estimated costs, the projects were affordable and could be funded through loans from the private sector or through public finance. As the potential benefits to rural communities and the nation as a whole were immense, the expert group and the national stakeholders group had recommended the immediate implementation of the projects on a pilot scale in all provinces under the guidance of the lead

ministries. It was anticipated that the implementing agency would ensure that a group of interested small scale entrepreneurs would be involved in the production of solar distillers and a rainwater harvesting system in the provinces. The expert group would also organize outreach programs to present and explain the implementation of the appropriate technology at a grass-roots level. The Delegation noted that the work of the expert group would not be linked to the ongoing work of WIPO for LDCs. Nevertheless, the expert group would receive the necessary support, as appropriate. The Delegation stated that through the implementation of the project, its government sought to move beyond merely providing access to knowledge and would explore the possibilities of effectively delivering appropriate technologies to the people, communities and organizations in Zambia who need them by coordinating not only the access and retrieval of technical and scientific information, but also in providing effective and practical implementation of such technology through appropriate know-how and skills transfer. The Delegation stated that one of the immediate spillover effects of the project was its contribution in terms of inspiring local invention, innovation and creativity. The Delegation stated that its government was particularly pleased with the focus and approach adopted in the implementation of the project. According to the Delegation, country ownership was the most useful aspect of the approach. The Delegation noted with appreciation that all the project deliverables and milestones were achieved through active participation by the national expert group and the national multi-stakeholders group. Those groups would assume the main responsibilities for the implementation of the project at the national level. The Delegation mentioned that one of the immediate spillover effects of the project in Zambia was technological capacity-building. Participatory discussions were already underway in that area. In concluding, the Delegation expressed once again, its sincere appreciation to WIPO for selecting Zambia as one of the pilot countries for the implementation of the project, and thanked the Director General for the attention he had given to the special needs of LDCs and providing WIPO support and expertise in building their innovation base.

88. The Chair invited the Secretariat to respond to the comments.

89. The Secretariat thanked the Delegations of Nepal, Bangladesh, Republic of Korea and Zambia for their statements. The Secretariat referred to the issue raised by the Delegation of the Republic of Korea and stated that it had taken note of the concern expressed by the delegation and it would be taken up at the appropriate level within the Organization.

90. The Chair thanked the Secretariat for its response and concluded the discussions on this Item.

#### Consideration of Annex VII - Project on Intellectual Property and Socio-Economic Development

91. The Chair opened discussions on the Project on Intellectual Property and Socio-Economic Development and invited the Secretariat to introduce the document.

92. The Secretariat (Mr. Fink) recalled that the project was initiated in 2010 and consisted of a series of studies on the relationship between intellectual property protection and various aspects of economic performance in developing countries. The studies sought to narrow the knowledge gap faced by policymakers in those countries in designing and implementing a development-promoting intellectual property regime. The Secretariat informed the Committee that in the period covered in the Progress Report, the two country study projects in Brazil and Chile had made significant progress in reaching the envisaged IP micro data capacity and the analytical phase had already begun. The deliverables were expected to be completed on schedule. In addition, since the last Progress Report, country studies were launched in China, Thailand and Uruguay. Fact-finding missions and interviews with relevant stakeholders had allowed for an assessment of available data and the analytical needs of national policymakers. Project plans had been developed with the respective authorities and the implementation of the plans had begun in all three cases. Finally, consultations to define the scope of a study on the role of IP in

Egypt's information and communications technology (ICT) industry were under way. The Secretariat pointed out that the project had invested significantly in data and some were long-term investments. The Secretariat believed that the outputs of these investments would lead to long-term benefits. The Secretariat referred to the quality of the raw data underlying the construction of new statistical databases. In some cases, more work was required than what was initially anticipated, especially with regard to the cleaning and harmonizing of applicant names. Nevertheless, the Secretariat was pleased to report that the development of all envisaged databases was largely on track. The Secretariat suggested that one way of moving forward would be for each country study to follow its own specific implementation plan. The plans were developed in consultation with the relevant counterparts and research partners in the respective countries. In the case of Brazil and Chile, where the country studies were most advanced, the Secretariat expected the development of the statistical databases to be finalized soon. The Secretariat stated that this stage had already been reached in the case of Chile and the project teams were in the process of drafting the final reports. The reports would provide micro evidence on the use of intellectual property. The other projects were at the stage where databases were still being assembled. The Secretariat reiterated that according to the implementation plans, all of those projects remained on track. However, the Secretariat pointed out that the overall implementation of the project was delayed with respect to the approved timeline. The delay was due to two factors, an initial delay in recruiting a project officer and longer than anticipated time frames for governments to consult on the substantive direction of the studies. As such, the Secretariat requested the project implementation deadline be extended by six months until the end of 2013. The revised timeline would not require any further funding in terms of personnel costs as the recruitment of the project Consultant was delayed by six months. As such, a six month extension would amount to the same and the project would still be completed within the budgetary biennium.

93. The Delegation of Uruguay stated that its country was keen on the progress of this project and its impact on the development of the intellectual property system in the country. Therefore, the Delegation was reluctant to accept a delay in the project implementation as proposed in the document and as pointed out by the Secretariat in its presentation.

94. The Delegation of Chile expressed support for the comments made by GRULAC and the Delegation of Spanish on the availability of documents in Spanish. The Delegation understood that a large number of documents were prepared for the Committee. The Secretariat had provided a preliminary response to the issue and explained the difficulties involved in the preparation and translation of documents. Nevertheless, the Delegation would be following this issue very closely in order to ensure that Spanish documents were made available in a timely manner. The Delegation turned to the Project on Intellectual Property and Socio-Economic Development and thanked the Office of the Chief Economist of WIPO for the work carried out under the project. According to the Delegation, the Progress Report in Annex VII of document CDIP/10/2 provided an adequate reflection of the work carried out in Chile in relation to the project. The Delegation was grateful for the numerous visits carried out by the WIPO experts. These had encouraged progress with respect to work that was carried out with the National Institute for Intellectual Property and the National Statistics Institute of Chile. A lot of work had taken place with regard to the development of statistical databases. The statistical information provided the basis for the analytical work that was underway. As the studies were not yet completed, it was premature to evaluate the impact of the project. However, the Delegation agreed that there may be some results in the first few months of next year. Lastly, the Delegation highlighted the importance of the project for its country, particularly as it provided for empirical and theoretical analysis with regard to designing and implementing a development-promoting intellectual property regime in Chile.

95. The Delegation of Burkina Faso, speaking on behalf of the African Group, stated that the Group attached great importance to the project which sought to narrow the knowledge gap faced by policymakers in developing countries in designing and implementing a development-



promoting intellectual property regime. The project analyzed the relationship between IP protection and various aspects of economic performance in developing countries. The Group welcomed the project, including the four studies that were under way and the ongoing consultations to define the scope of a study on the role of IP in Egypt's ICT industry. The Group looked forward to the results of the study to be carried out in Egypt. The Group fully supported the project's activities and hoped that the Secretariat would do its utmost to improve the quality of the tools used to develop statistical databases under this project. The Group was in favor of extending the project by six months in order for all the activities to be implemented.

96. The Delegation of Brazil, speaking on behalf of the DAG, stated that the project was linked to recommendations 35 and 37 of the DA. The recommendations were included under Cluster D on assessment, evaluation and impact studies. The Group believed that the knowledge that was being developed under the project would be helpful to policymakers dedicated to implementing development-friendly IP regimes. The Group took positive note of the interest shown by various government agencies in a number of Member States in the project, as mentioned in the Progress Report. The Delegation stated that its country, Brazil, was one of the case studies in the project. The government was looking forward to the results of the project. The Delegation was certain that the results would be helpful for Member States. The Group joined the Delegations of Uruguay and Burkina Faso in supporting the request on page 3 of Annex VII to extend the project in order for all the deliverables to be properly carried out.

97. The Delegation of the United States of America noted that activities were under way in Brazil, Chile, Thailand, Uruguay and Egypt. The Delegation requested for clarification and further information on the specific industry sectors or topics that were being discussed in Chile and Brazil.

98. The Delegation of Ecuador stated that the project was extremely useful for developing countries. Information on the extent to which intellectual property was important for each country in its region was necessary in order to foster economic development in the region. For that reason, the Delegation stressed that it was extremely important for the studies to be replicated in other countries. The methodology could also be replicated. It could also provide a basis for recommending new methodologies for such studies.

99. The Delegation of China stated that its country appreciated the opportunity to participate in the project. The Delegation pointed out that China, as a developing country, had established a new IP system. However, this had only been done in the last 30 years. Although this was a very short period of time, the Delegation stressed that the IP system in China had contributed to innovation, scientific development and economic development, and its influence was still growing. The Delegation stated that issues such as IP creation, improving the use and management of IP, and how to effectively use IP to promote economic and social development, deserved more consideration at WIPO. The Delegation emphasized that the Chinese Intellectual Property Office (CIPO) would continue to cooperate with WIPO in carrying out research and studies.

100. The chair invited the Secretariat to respond to the questions and comments from the floor.

101. The Secretariat (Mr. Fink) referred to the question put forward by the Delegation of the United States of America on the topics that were addressed in the projects in Chile and Brazil. The Secretariat stated that in both cases, the project developed databases on the basis of the operational data in the intellectual property offices of the two countries. The data was linked with data from the respective statistical institutions on firm performance. The first common step in both projects was to compile a descriptive overview of intellectual property in terms of its use in both countries. The idea was to get an insight into the sectors that used the different types of intellectual property in each country and to also gain a better understanding, again at a purely

descriptive level, of how economic performance or a firm's performance, was linked to the use of various types of intellectual property. This provided a basis for the analytical studies following the creation of the databases. In those two countries, the Secretariat had responded to the interests expressed by the governments. In the case of Chile, there were going to be two studies. One was on trademarks and the study would try to explain what determined the rapid growth of trademarks used in Chile as well as the intensive use of trademarks in the country. The Secretariat informed the Committee that Chile had one of the highest ratios of trademark filings per gross domestic product. The idea was to shed as much light as possible on the reasons for that. The second study would focus on the extent to which the local pharmaceutical industry made use of the intellectual property system to innovate. In the case of Brazil, there was going to be one follow-up study that would essentially estimate the returns from patenting at the firm level. With regard to the methodology, the Secretariat pointed out that it would depend on the topics that were being addressed in the various countries. However, as new empirical data was required, the creation of databases was an important element that was common to all the studies. In most cases, that relied on information that existed in the intellectual property offices and in many cases, had not previously available for economic analysis. The second step was to take a close look at the data. There was already a lot that could be learnt at the descriptive level, things that may seem rather basic, such as who were the largest applicants in the different countries. This was information that did not necessarily exist before. When it came to the analytical studies, the specific methodologies used for investigation would depend on the available data as well as the issue to be addressed. The Secretariat stressed that it was relying on state-of-the-art econometric techniques to try to determine the causal relationships as well as the types of empirical relationships that can be ascertained. The Secretariat would be happy to provide further information if required.

102. The Chair thanked the Secretariat for its response and concluded the discussions given that there were no further comments from the delegations.

#### Consideration of Annex VIII - Project on Intellectual Property and Technology Transfer: Common Challenges - Building Solutions

103. The Chair opened discussions on the Project on Intellectual Property and Technology Transfer: Common Challenges - Building Solutions. He invited the Secretariat to introduce the document.

104. The Secretariat (Mr. Rainey) recalled that the Project was linked to recommendations 19, 25, 26, and 28 of the DA. The Secretariat informed the Committee that in the period following the CDIP session in May, only one event had taken place under the project. However, the event was significant. The first regional consultation on technology transfer took place in July. It was conducted in Singapore for the Asian region. Nineteen countries from Asia participated in the consultations. The Secretariat received significant feedback on technology transfer issues concerning developing and developed countries in Asia. Five regional consultations were planned under project. The second regional consultation was scheduled to take place in Algeria on January 29 and 30, 2013. The Secretariat also stated that work was under way on six studies that were planned under the project. The studies dealt with technology transfer and IP rights, in particular, technology transfer from developed to developing countries and the policies in that regard. The experts had been contacted and work was under way to develop the studies. The studies should be completed by the middle of 2013. The Secretariat stated that 17% of the budget had been utilized as of end August, 2012. The rate of utilization was on track. The project would wrap up in the third quarter of 2013. Following the regional consultations, an Expert Forum would be organized to review recommendations and proposals resulting from the project and arrive at proposals for follow-on actions. The Secretariat reiterated that the regional consultations were proceeding according to schedule.

105. The Chair thanked the Secretariat for introducing the document. The Chair concluded the item given that there were no comments from the floor.

#### Consideration of Annex IX - Project on Open Collaborative Projects and IP-Based Models

106. The Chair opened discussions on the Project on Open Collaborative Projects and IP-Based Models and invited the Secretariat to introduce the document.

107. The Secretariat (Mr. Jazairy) recalled that the project was linked to recommendation 36 of the DA, "To exchange experiences on open collaborative projects such as the Human Genome Project as well as on intellectual property models". The project was now entering its third stage. The Secretariat recalled that the first stage of the project focused on the development of a taxonomy-analytical study of open collaborative projects and IP-based models. The study included a thorough review of relevant studies and literature on the topic of open innovation. The aim of the study was to map, Cluster, analyze and correlate different open collaborative initiatives and the IP models on which they were based. The study was completed by a team of experts from Imperial College, Stanford University and the European School of Management and Technology in Berlin. The study made a number of recommendations which would provide a useful basis for the development of an in-depth evaluation study. The study also incorporated comments made by the CDIP. The second stage of the project was on the organization of open-ended meetings with Member States. Two meetings were organized. It included an informal event on May 11, 2012, in conjunction with the ninth session of the CDIP, as well as a formal WIPO meeting on June 18, 2012. The program for the second meeting can be found on the WIPO web site. Experts from Imperial College, the Permanent Mission of Bolivia to the United Nations Office in Geneva, the South Center and the University of Geneva participated in that meeting. It was attended by delegates from the Permanent Missions and representatives from NGOs. The third stage of the project concerned the organization of an expert meeting to exchange best practices on open collaborative projects for public as well as private ventures. The meeting would be held in the first quarter of 2013. The dates would be communicated to the Member States in due course. Preparations for the meeting were currently underway. An equal number of experts from developed and developing countries would participate in the meeting. The meeting costs would be covered through the remaining budget allocated for this year. The ultimate objective of the project was to establish an interactive platform for the exchange of information and experiences on open collaborative projects as well as on IP models. The project expert from Imperial College had put together a team from both the Computing and the Business Schools at Imperial College and had started to assist in building the online tool for the project. The two-way digital portal would consist of a web site and a web forum. The Secretariat stated that the project's outcomes would be integrated into relevant WIPO activities. The project could also serve as a building block for the development of collaborative networks for innovation.

108. The Delegation of Bolivia thanked the Secretariat for the invitation to participate in the meeting with Member States on open collaborative projects and IP-based models in June. The Delegation attached great importance to recommendation 36 of the DA as it provided an opportunity to discuss alternative innovative models that were based on free access to knowledge. The use of these models was increasing throughout the world, including in the development of advanced technologies. These models had been used successfully in the most sophisticated and dynamic sectors of the economy. Thus, the Delegation was pleased that an opportunity had been provided to discuss these models in WIPO. The Delegation noted that a large number of experts on technology, innovation and IP would gather in 2013 to participate in the debate. The Delegation had some concerns with regard to the way in which the project had been implemented. With regard to the first phase concerning the preparation of the study, the Delegation believed that the purpose and intention of recommendation 36 had been somewhat distorted. The Delegation pointed out that the basic purpose of that recommendation was to discuss models that would create public products and not monopolies. The purpose was

relevant to the work of the CDIP. However, the Delegation noted that the study seemed to focus far more on the private sector and industry. The study provided a lot of information on collaboration among enterprises that resulted in a patent or involved intellectual property. The Delegation pointed out that there was nothing open about such forms of collaboration as they were protected and access was limited. The study focused a lot on those experiences and not on genuine open collaborative projects. The Delegation also noted that the expert who was selected to conduct the study was an expert on trade from the private sector. He was not an expert on activities that were carried out in universities and the public sector. The Delegation had raised its concerns in the meeting with Member States in June. The Delegation also had concerns with regard to that meeting. As mentioned in the Progress Report, only seven Member States participated in the meeting. As a result, the discussions were limited. The Delegation stated that it was invited to present a project in the WHO. The Delegation made the presentation in a room that was almost empty. The Delegation pointed out that the meeting coincided with the diplomatic conference to finalize the new treaty for audiovisual performers in Beijing. Many delegates were occupied in those negotiations and the invitation for the meeting with Member States was also sent out very late. The circumstances led to a poor attendance at the meeting. The Delegation further added that the duration of the meeting was limited to one afternoon. The Delegation recalled that in 2003, 70 experts had sent a letter to WIPO requesting for a meeting to discuss their models. None of those experts were present at the meeting. The Delegation also recalled that the Human Genome Project was specifically mentioned in recommendation 36. However, that project was not on the Agenda and was not discussed at the meeting. Thus, the Delegation was somewhat disappointed by the meeting and the manner in which it was organized. The exchange of experiences on open collaborative projects was at the heart of recommendation 36 and that meeting provided the first main opportunity for Member States to do so. Unfortunately, the meeting was only attended by seven delegates. As such, the Delegation was of the opinion that the activity had not been properly implemented. Therefore, the Delegation requested the Secretariat to consider the possibility of organizing another meeting for Member States, either before or after the expert meeting in 2013. The proposed meeting would give Member States the possibility to discuss and exchange experiences, in accordance with recommendation 36. Finally, with regard to the expert meeting, the Delegation encouraged the Secretariat to invite not only experts from the private sector and industry, but also experts from public research centers and universities who were involved in open collaborative projects, especially those who sent the letter in 2003. The Delegation understood that the list of participants had not been finalized. However, the Delegation believed that Craig Venter would be invited to participate. The Delegation pointed out that when governments agreed to participate in the Human Genome Project, it was thought that their collaboration would lead to open access with regard to information on the sequencing of the human genome. At the time, Craig Venter was heading a rival project to privatize the human genome and to sequence it before the public project managed to do so. Thus, the Delegation was surprised that Craig Venter would be invited to participate in the expert meeting on open collaborative projects, particularly as the Human Genome Project was specifically mentioned in relation to that activity.

109. The Delegation of Pakistan shared the views expressed by the Delegation of Bolivia. The Delegation stressed that many of the points were valid. As a way forward, the Delegation urged the Secretariat to share the details for the next meeting in order for the Member States to be informed with regard to the timing for the meeting and the experts to be invited.

110. The Chair invited the Secretariat to react to the comments.

111. The Secretariat (Mr. Jazairy) thanked the Delegations of Bolivia and Pakistan for their comments. The Secretariat referred to the comments by the Delegation of Bolivia. The Secretariat would do its best to ensure that the focus of the project was balanced. The project should not only cover the private sector, but also the public sector as well as individual initiatives, including the Prize Proposals submitted by the Governments of Bangladesh,

Barbados, Bolivia and Suriname to the WHO Expert Working Group on Research and Development Financing. Referring to the meeting with Member States in June, the Secretariat informed the Committee that it had made a video of the presentations that were delivered at the meeting. This could be made available to allow those who were unable to attend to listen to the presentations. The Secretariat referred to the Delegation's proposal for a further meeting to be organized for Member States. The Secretariat made an alternative suggestion. Member States could be invited to attend the expert meeting. It would provide an opportunity for them to make comments and receive feedback with regard to the various initiatives. The Secretariat would ensure that number of experts from developed and developing countries participating in that meeting would be balanced. The coverage of the issues to be discussed in the meeting would also be balanced. The Secretariat assured the Delegation that its comments on experts and participants would be taken into account. The Secretariat referred to the comments by the Delegation of Pakistan. The dates for the expert meeting had yet to be finalized. However, it was likely that the meeting would take place at WIPO Headquarters in Geneva in the first quarter of 2013.

112. The Delegation of Bolivia thanked the Secretariat for its response. The Delegation believed that it was a good idea to open the expert meeting to Member States. Many experts would be participating and it would be very interesting for Member States to attend. The Delegation also suggested that time could be allocated during the expert meeting for Member States to express their views. The Delegation reiterated that the suggestion by the Secretariat was good and could have a very positive impact.

113. The Chair thanked the project manager and concluded the discussions given that there were no further comments from the delegations.

#### Consideration of Annex X - Project on Patents and Public Domain

114. The Chair opened discussions on the Project on Patents and Public Domain and invited the Secretariat to introduce the document.

115. The Secretariat (Mr. Baechtold) recalled that the Project on Patents and Public Domain was based on recommendations 16 and 20 of the DA. Those recommendations aimed to support and preserve the public domain. In the context of patents and the public domain, the project sought to examine and explore the role of a rich and accessible public domain and the impact of certain enterprise practices in the field of patents on the public domain. The project would supplement the findings of the Study on Patents and the Public Domain which was undertaken under Project DA\_16\_20\_01. It would do so by studying the effects of the patent system in the context of the public domain at the micro level. A study was under way to analyze, in particular, the impact of certain enterprise practices in the field of patents on the public domain and the important role of a rich and accessible public domain. The study was being prepared by an external expert. The study was expected to be available in April 2013 and the project was proceeding in accordance with the timeline for implementation.

116. The Delegation of Algeria, speaking on behalf of the African Group, stressed that the link between patents and the public domain was of vital importance. The public domain should be taken into account in the preparation of all WIPO standards and rules. However, this would require an analysis of the implications and benefits of a rich and accessible public domain. The Group supported the preparation of guidelines which could assist interested Member States in identifying subject matter that had fallen into the public domain within their respective jurisdictions. The Group referred to the study on the impact of certain enterprise practices in the field of patents on the public domain and the important role of a rich and accessible public domain. The Group noted that the study was being prepared by an external expert and looked forward to examining the study at the next session of the Committee.

117. The Chair concluded the discussions on the project given that there were no further comments from the delegations.

#### Consideration of Annex XII - Project on IP and Brain Drain

118. The Chair opened discussions on the Project on IP and Brain Drain. He invited the Secretariat to introduce the document.

119. The Secretariat (Mr. Fink) recalled that the project consisted of two components. The first component involved mapping the international mobility of knowledge workers using information on the nationality and residency of inventors in patent documents. The main aim of the mapping exercise was to build several indicators with regard to the international mobility of knowledge workers and brain drain, and to compare them with mobility measures for other skilled workers. The second component concerned the convening of an international workshop to discuss the main findings of the mapping exercise and to encourage a debate on the potential relationships between the migration of knowledge workers and the associated brain drain, on one side, and IP protection, international diffusion of knowledge, innovation and development, on the other. The workshop was also expected to develop a future research Agenda which would be submitted to the Committee for its consideration. The Secretariat was pleased to report that the project was on track. The mapping of inventors with a migratory background was well under way. There were some initial concerns on the quality of the available data in terms of information on the residence and nationality of inventors. However, it was now clear that although the PCT data did not offer complete information, there was sufficient data to allow for a meaningful analysis. Relevant data had been put together and preliminary indicators had been constructed, taking into account prior literature on migration and brain drain. The Secretariat was in the process of preparing a draft research report. The Secretariat had also made significant progress in organizing the international workshop which was now expected to take place in late April 2013. Key workshop topics as well as the relevant experts for each theme had been identified. The experts to be invited would be from academia and international organizations, in particular, organizations that were identified in the initial project proposal. The topics envisaged for the workshop included the international mobility of knowledge workers and the associated brain drain; using IP data for economic analysis and to track migratory patterns of inventors; IP protection and the international mobility of talent, *diaspora* networks, knowledge flows and brain drain; immigrant entrepreneurs, returnee entrepreneurs and innovation; and IP and the international mobility of talent from an African perspective. The last topic took into account the special interest of the African countries in this issue. In concluding, the Secretariat reiterated that the project was on track. The Secretariat was looking forward to finalizing the working paper and holding the expert workshop in April 2013.

120. The Delegation of Morocco, speaking on behalf of the African Group, stated that this was a very important project for the Group. Africa was particularly affected by brain drain. It handicapped the countries in the region by depriving them of skilled labor. The consequences were serious, particularly with regard to sustainable economic development. At previous sessions of the CDIP, the Group had raised a number of concerns with regard to the project. The Group recalled that recommendation 39 referred to studies on brain drain and for recommendations to be made accordingly. The Group believed that the project, as described, would not identify the real causes behind the brain drain. Studies should be conducted to examine whether the trend could be reversed. The Group stressed that patents were not the only IP titles and the project did not have a solid basis. The Group emphasized that its members needed to adopt measures that would help to stop the brain drain. The Group reiterated that migration was a complex issue and lack of respect for IP rights did not explain the brain drain phenomenon. For instance, many African students did not return to their home countries after completing their studies in developed countries because of the lack of infrastructure and technologies. The Group was also of the opinion that the lack of access to

knowledge protected through patents and other IP rights in Africa was also a reason for the brain drain as it was easier to access these resources in the developed countries. The Group believed that in order to create a “brain gain”, more analysis was required into the reasons for the brain drain. As such, the Group would like the study to also focus on those aspects. The Group welcomed the efforts by the Secretariat in organizing the African workshop in 2013. However, the Group had reservations about the program. The Group would like to discuss this when the results of the study was made public. For instance, the proposed theme on IP protection and the international mobility of talent implied that the brain drain phenomenon could be linked to the lack of protection for IPRs. The proposed themes would not make it possible to determine the interaction between IP and the brain drain phenomenon, and how the trend could be reversed. The Group suggested that an in-depth analysis should be carried out later on.

121. The Delegation of Peru, speaking on behalf of GRULAC, believed that the project was of great interest to all developing countries. Many were affected by the brain drain phenomenon. The study proposed by the Secretariat on the causes of the phenomenon was important as it would help to increase their knowledge of the issue and do something to reverse it. The Group noted that in addition to the study, a workshop was also planned under the project. However, so far, it appeared to only involve Africa. The Group would like to participate in the events planned for 2013 under the project. The region should be involved in those events.

122. The Delegation of India shared the concerns raised by the Delegations of Morocco and Peru on behalf of the African Group and GRULAC respectively. The concerns highlighted the importance of the topic for all developing countries. The Delegation understood that the project document and methodology were based on the assumption that the lack of strong IP rights in a country may encourage inventors to migrate to countries that offered greater protection for IP. However, the Delegation understood that migration was a complex phenomenon and the lack of strong IP rights did not seem to be a significant factor. The brain drain may be due to students who migrate to gain technological knowledge and skills in institutions in developed countries. The lack of such technological knowledge in their home country was also a significant factor. The Delegation also believed that excessive protection of IP rights in countries at low levels of technological capacity can stifle opportunities for technological learning and this can, in turn, motivate migration. The Delegation referred to the development of the Indian pharmaceutical and software industries. Many members of the *diaspora* returned to establish industries with technical knowledge acquired in developed countries despite the lack of strong IP protection in the country. The Delegation requested for these aspects to be adequately addressed in a study. The Delegation inquired as to when the program for the international workshop would be presented to the Committee for discussion.

123. The Chair invited the Secretariat to respond to the comments.

124. The Secretariat thanked the delegations for their comments and perspectives on the project. It recalled that the project was based on recommendation 37 of the DA which states that WIPO may conduct studies on the protection of intellectual property to identify the possible links and impacts between intellectual property and development. The Secretariat highlighted this because it was quite important for its work in this area to be linked to intellectual property, given that various other international organizations were working on issues concerning migration and brain drain. It would also be difficult to address the issue from a general perspective. The Secretariat recalled that when the project was discussed and approved by the Committee, it was agreed that the two-track approach would be adopted and this involved the preparation of a research study. It was also recognized that the research study would be quite limited in scope. It would be restricted to a mapping exercise which made interesting use of patent data in a way that had not been done before. The Secretariat pointed out that although quite a lot could be learnt from analyzing the data, it was also recognized that the mapping exercise on its own would not say anything about the possible causal effects of migration. The study would not go into the determinants of migration, and in particular, to what extent the

intellectual property policy regime in different countries may play a role in that regard. That was why a workshop was included as a second element in the proposal. The purpose of the workshop was to discuss these issues in a much broader context, and to at least initiate some thinking on possible links to the intellectual property regime, without any preconception as to what the possible links may be, recognizing that there were many determinants of migration flows. Many of the points that were mentioned by the various delegations would be discussed at the workshop without any such preconception. The workshop would bring together relevant experts from academia and international organizations to discuss these matters in a data-oriented way. The Secretariat had contacted other international organizations and academics that worked in this area. The program for the workshop had not been finalized as yet. However, the Secretariat expected the workshop to evolve around the topics that were described in the Progress Report and mentioned in the Secretariat's presentation. The Secretariat believed that the six points included in the Progress Report and outlined in the presentation did respond to the points raised by the delegations. However, if this was not the case, the Secretariat would be happy to accommodate any additional views on this.

125. The Chair thanked the Secretariat for its response and concluded the discussions on the project given that there were no additional comments from the delegations.

#### Consideration of Annex XIII - Project on IP and the Informal Economy

126. The Chair opened discussions on the Project on IP and the Informal Economy and invited the Secretariat to introduce the document.

127. The Secretariat (Mr. Wunsch-Vincent) stated that the objective of the project was to facilitate a better understanding of how innovation occurred in the informal economy and to examine the possible links between IP and the informal economy. The project would produce four studies, as approved by the CDIP in its last session and described in the project implementation report in June. The studies would provide conceptual guidance and case study evidence on how innovation occurred in the informal economy and the possible role of IP rights in that process. The first study was a conceptual study. The study was being prepared by the Secretariat and external experts from academia. It would highlight how innovation occurred in the informal economy, the role of innovation in the informal economy and the possible links between IP and the informal economy. The conceptual study would be complemented by three country case studies. The Committee had taken up the Secretariat's suggestion for those studies to focus on Africa. Thus, studies would be conducted on the herbal medicine sector in Ghana, metal manufacturing sector in Kenya and the chemical sector in South Africa. As described in the Progress Report and the implementation report, a team of qualified experts had agreed to work on the studies. They included local African experts and international experts. As mentioned in the implementation report, an international workshop would be held in South Africa next week to provide an opportunity for the experts and the Secretariat to discuss and harmonize the methodology for the three country case studies. The Secretariat was pleased to inform the Committee that, as mentioned in the Progress Report, the Institute for Economic Research on Innovation (IERI) in Pretoria, South Africa, had volunteered to host the workshop. The Agenda for the workshop was almost finalized. A copy would be left with the Chair for the Committee and soon it would also be made available on the CDIP web page. The Secretariat informed the Committee that the conceptual study had been made available to the experts and would be discussed at the workshop next week with the intention to improve the study. As mentioned, a common framework for conducting the three country case studies would be developed during the workshop. The country case studies involved different sectors and one of the difficulties of the project stemmed from the fact that the informal sector was very diverse in its activities not only across countries but also across sectors. Thus, a common methodology was important and it would be the key outcome of the workshop. Following the conclusion of the workshop, the Secretariat would continue finalizing the conceptual study and the experts



would begin conducting the three country case studies. These would then be presented to the Committee for its consideration.

128. The Delegation of Senegal, speaking on behalf of the African Group, believed that many inventive and innovative activities took place in the informal sector. As such, it was useful to examine the nexus between IP and the informal economy. It would help to guide policies in that area. The project was particularly suitable in enhancing the Group's understanding of the links. The Group supported the objectives of the project, including assessing how existing IP policy instruments influenced innovation in the informal economy and what IP-related policy measures could help to increase output and employment. The Group believed that the project should not only be aimed at increasing output and employment. The Group believed it should also be aimed at helping those in the informal sector to move into the formal sector. There was also a need to examine how those in the informal sector could better promote their inventions and discoveries. The Group thanked South Africa for agreeing to host the workshop. The Group was certain that there would be a fruitful exchange of views between the IP sector and the informal sector at the workshop.

129. The Secretariat thanked South Africa and the countries involved in the project for their support and the delegations for their feedback.

130. The Chair concluded the discussions on the project.

#### Consideration of Annex XI - Project on Enhancing South-South Cooperation on IP and Development among Developing Countries and LDCs

131. The Chair opened discussions on the Project on Enhancing South-South Cooperation on IP and Development among Developing Countries and LDCs. He invited the Secretariat to introduce the document.

132. The Secretariat (Mr. Roca Campaña) informed that during the period under review, a number of activities had been undertaken in accordance with the implementation timeline. First, convening of the First Inter-Regional Meeting on IP Governance; Genetic Resources, Traditional Knowledge and Folklore (GRTKF); and Copyright and Related Rights. The meeting was organized in cooperation with the government of Brazil in August. The three-day meeting was attended by 32 developing countries and LDCs as well as a number of developed countries and international and regional governmental and non-governmental organizations. Second, various activities were undertaken with regard to the introduction of new functionalities in the WIPO IP Technical Assistance Database (IP-TAD) and the IP Development Matchmaking Database (IP-DMD) as well as the design of a WIPO web page on South-South Cooperation. Preparatory work was undertaken to identify the best way forward with regard to the introduction of new functionalities on South-South Cooperation and also on the development of a WIPO web page on South-South Cooperation to provide a one-stop facility on all activities in the area of South-South Cooperation on IP. Based on the work that was undertaken, it was agreed that the most effective and appropriate way forward would be to start by addressing the question of the design and content of the web page, which should be closely linked to the development of the functionalities as required in the project document. In this regard, the Secretariat had initiated a review of other South-South platforms, including the United Nations Special Unit for South-South Cooperation (SU/SSC) and the dedicated web pages of the United Nations Environmental Program (UNEP). The Secretariat also attended the seventeenth session of the United Nations High-level Committee on South-South Cooperation which was held in New York in May. The Secretariat attended the meeting to gather information on the current status of South-South Cooperation in the UN system and on other South-South initiatives at the national, regional, and international levels; and to establish links with the SU/SSC and identify potential collaboration opportunities to strengthen South-South Cooperation in the field of IP. Finally, on September 28, the Secretariat convened the first annual conference on South-South

Cooperation on IP and Development to review the outcomes of the first Inter-Regional Meeting and provide guidance to the upcoming meetings and conferences to be organized in the framework of the project. The Secretariat reiterated that the project was on track both in terms of activities undertaken and in terms of budget expenditure.

133. The Delegation of Egypt, speaking on behalf of the African Group, recalled the important objectives of the project which included promoting development-oriented IP technical and legal assistance; IP institutional capacity-building; domestic innovation capacity-building; facilitating access and dissemination of knowledge and technology, and the use of IP flexibilities; and understanding the link between IP and competition policies. The Group stated that the progress achieved on the project provided a strong foundation for institutionalizing and mainstreaming South-South Cooperation as an integral part of WIPO activities, and as a separate program in the future budget. This was an important objective for the Group. The Group recalled that several proposals were made during the inter-regional meeting in Brazil and the first annual conference in Geneva. These merited implementation by the Organization, in particular, as part of the P&B for 2014/15 in order to ensure meaningful results for the project. The Group highlighted some of the proposals. First, the need for a policy, legal and institutional framework to enable South-South Cooperation and set common policies based on existing experiences and capacities in the South, addressing common challenges in the field. Second, pursue a regional approach among like-minded countries as well as bilateral mutual recognition agreements which can be useful tools to regulate exchanges between TK-source and TK-user countries, on the basis of the principles of national treatment and reciprocity. Third, the need for additional studies to be undertaken to identify common trends, challenges and opportunities for cooperation and to better understand the economic and social impact of copyright exceptions and limitations for developing countries and LDCs. Fourth, the experiences and lessons learned from developing countries and LDCs in the framework of such meetings and other activities should be consolidated into publications, handbooks, policy guides or any other type of useful material. For the purpose of monitoring and evaluation, the Group stated that it was important for the Secretariat to present regular reports on its activities to promote South-South Cooperation. These should be presented to the Committee at least once a year as well as to the General Assembly. The Group referred to the project document and requested for clarification on the status of implementation with regard to South-South training and capacity-building activities. These were included in parts (b) and (c) of the project document. The Group welcomed Egypt's offer to host the second inter-regional meeting in May 2013. The Group requested the Secretariat to compile all the proposals and recommendations made during the meeting in preparation for the second annual conference on South-South Cooperation. The conference should be held immediately before the twelfth session of the CDIP in November 2013 in order for it to be cost efficient as well as to ensure efficiency in the management and organization of this important event.

134. The Delegation of Belgium, speaking on behalf of Group B, referred to the organization of the First Inter-Regional Meeting on IP Governance; Genetic Resources, Traditional Knowledge and Folklore (GRTKF); and Copyright and Related Rights. The Group remained confident that the inclusiveness of meetings provided a wider variety of views and experiences. Therefore, increased attendance within the existing budget should be encouraged. The Group would welcome further detailed budgetary information on the cost of organizing the first meeting. Sound financial transparency was the second principle to which the Group would like to adhere.

135. The Delegation of Brazil, speaking on behalf of the DAG, recalled the convening of the First Inter-Regional Meeting on South-South Cooperation which was held in Brasilia in August. The meeting was organized by WIPO, in cooperation with the government of Brazil. The meeting was attended by almost 40 countries. It provided a valuable opportunity for developing countries and LDCs to exchange experiences on South-South Cooperation. The Group also recalled that the first annual conference on South-South Cooperation on IP and Development was held in Geneva in September to review the outcomes of the First Inter-Regional Meeting

and to further explore the modalities for South-South Cooperation. The Group looked forward to the discussions at the next inter-regional meeting in Cairo which would provide a deeper understanding of South-South Cooperation. The Group was confident that the series of meetings would produce relevant recommendations to help Member States and the organization in designing effective South-South Cooperation activities. The Group also highlighted some other components of the project. These included the development of a web page on South-South Cooperation, the introduction of new functionalities in existing systems and the establishment of an interactive network among key stakeholders in developing countries and LDCs as part of the dedicated web page. The Group thanked the Secretariat for the information provided on activities undertaken in those areas. The Group drew attention to the elements of the project on supporting and assisting developing countries and LDCs to provide training and capacity-building to other developing countries and LDCs, and increasing the use in WIPO technical assistance and capacity-building activities of resource persons and experience sharing from developing countries and LDCs. Finally, the Group recalled that South-South Cooperation was recognized as a strategic and effective tool in other areas. Thus, there should be no difference with regard to intellectual property.

136. The Delegation of South Africa aligned itself with the statements made by the African Group and the DAG. The Delegation requested for certain clarifications with regard to the project. The Delegation referred to the project's budget and understood that the Progress Report was slightly out of date as it was drafted well before the session. The document indicated that only 13 per cent of the budget had been spent. The Delegation understood that for the first annual conference on South-South Cooperation, the participation of developing countries was linked to funding under the PCT union. For that reason, the Delegation would like to know the exact amount that was spent on the conference, including details concerning the funding of participants. The Delegation also wanted to augment the proposal made by the African Group that the next conference should be held before the twelfth session of the CDIP to ensure that attendance was increased. It was mentioned on page 7 of the Progress Report that only 32 developing countries attended the first conference. The Delegation also sought clarification with regard to the focal point for South-South Cooperation. It was mentioned on page 8 of the Report that the project manager was the current focal point for South-South issues in the Organization. The Delegation drew attention to the word "current" which seemed to imply that the project manager was temporarily appointed as the focal point. The Delegation recalled the initial proposal for a focal point to be appointed within the WIPO Secretariat to follow-up on South-South Cooperation. The short term appointment of the project manager as the focal point did not appear to take that requirement into account. As such, clarification was required on the issue of the focal point and the reason for the inclusion of the term "current".

137. The Delegation of Peru, speaking on behalf of GRULAC, referred to the suggestion by the African Group for the proposals to be compiled. The Group considered this suggestion to be very important. Benefits would be derived by turning the proposals into initiatives to foster South-South Cooperation. The Group also believed that the dates for the first annual conference were perhaps not the most appropriate. As such, the dates for the next conference should take into account the issues that had been raised in order for it to be organized at a more appropriate time. Lessons had been learnt from previous experience and these should benefit future activities.

138. The Delegation of Belgium, speaking on behalf of Group B, noted that the Progress Reports were still under discussion. The TORs and the date for the next conference would be discussed later, at an appropriate time.

139. The Delegation of South Africa referred to an earlier statement made by the African Group. The Group had stated that the TORs for the meeting should not be subject to discussion because it was their understanding that this had been agreed in the seventh session of the CDIP. The Delegation highlighted that this was documented in the Summary of the Chair

for that session as follows, “the TORs for the meeting must be decided upon before any work on the meetings was undertaken, at regional coordinators level before the end of January 2012”. As the said meeting was held in January 2012, the Delegation did not understand why the TORs should be subject to another discussion. There was an explicit agreement in this regard. As such, the Delegation would like to proceed with the TORs that were agreed before the first inter-regional meeting was held.

140. The Delegation of Egypt, speaking on behalf of the African Group, expressed support for the statement made by the Delegation of South Africa. The Group recalled the Committee’s conclusion on this issue as well as the precedent established through the organization of the first inter-regional meeting in Brasilia and the first annual conference in Geneva. The Group noted that the model was working well. Hence, changes were not necessary at this late stage. The Group also recalled that the project document adopted by the Committee also listed the topics that would be discussed in the meetings to be organized under the project. Thus, the Group encouraged all partners to adhere to the agreement and to support the progress made on this project which was important for developing countries.

141. The Delegation of Belgium, speaking on behalf of Group B, drew attention to the need for the Committee to work through a very long and detailed Agenda for the session. The Group urged all delegations to focus on the very good and detailed Progress Reports. The Group believed that a good practice had been established. All delegations had agreed that the TORs for the next inter-regional meeting would be discussed at an appropriate time by the regional coordinators but not at that moment as the Committee was still discussing the Progress Reports. The Group stressed that the reports focused on what had been done and not what should be done. The Committee would discuss the TORs at an appropriate time. There should be some discipline and the Group looked forward to working towards a speedy conclusion to the meeting.

142. The Delegation of Brazil supported the views expressed by the Delegation of South Africa and the Delegation of Egypt on behalf of the African Group that the TORs should not be discussed by the Committee.

143. The Delegation of South Africa referred to the statement made by the Delegation of Belgium on behalf of Group B, which referred to the need for delegations to exercise discipline. The Delegation agreed with that point. However, the Delegation also stated that discipline was about agreeing and honoring what had been agreed. In this case, an agreement was reached in the seventh session of the CDIP. The Delegation urged all members to honor that agreement. The Committee should move forward without reneging on agreements made in the past.

144. The Chair invited the Secretariat to respond to the questions and comments.

145. The Secretariat (Mr. Roca Campaña) referred to the question put forward by the Delegation of Egypt on supporting and assisting developing countries and LDCs to provide training and capacity-building activities to other developing countries and LDCs, including in the training of patent examiners and other officials as well as the sharing of information. In this context, the Secretariat recalled that it was agreed that this would initially be provided through introducing new functionalities in the WIPO IP-DMD database to enable matchmaking of the needs and offers. This was also mentioned in the project document. The Secretariat was working on the new functionalities to be included in the database. The Secretariat also explained that for the time being, the project budget did not include funds for developing countries and LDCs to provide training and capacity-building activities to other developing countries and LDCs in the specified areas. Nevertheless, the Secretariat highlighted that within the framework of the Organization’s regular budget a lot of activities were carried out for developing countries and LDCs in areas such as the training of patent examiners, the judiciary

and competition authorities as well as the sharing of information among IP Offices. The Secretariat referred to the question concerning the budget for the project and explained that the budget for 2012, had been utilized for the implementation of two main activities, i.e., the inter-regional meeting and the annual conference. For the inter-regional meeting, WIPO had financed the participation of 26 representatives from developing countries, in accordance with the practice established in the Organization. WIPO had also funded the participation of the speakers. The meeting was organized in cooperation with the government of Brazil. The government had financed some of the costs related to the organization of the meeting. With regard to the annual conference, the Secretariat recalled that project document stated that the first conference would be organized immediately before the General Assembly. Thus, as discussed in the Committee, in order to save costs, the Organization would only provide DSAs for participants from developing countries that were participating in the General Assemblies through funding from the PCT Union or Madrid Union. The Organization provided additional DSAs for two participants per country as the conference was organized on the Friday before the General Assembly. The funding of the participants was in accordance with the same principle of "25 plus one". Some countries had two participants because their participation in the General Assembly was funded by the PCT Union or the Madrid Union. The Organization also financed the interpretation costs, coffee breaks and the participation of three speakers. The speakers had taken part in the first inter-regional meeting. They briefed the participants and gave presentations on the proceedings of the inter-regional meeting during the conference. The Secretariat explained that the Progress Report indicated the status at the end of August. The budget utilization rate in the report was only 13% as the conference was held in September. The Secretariat reiterated that the implementation of the project was on track and the budget was being utilized as approved. The Secretariat referred to the comment made by the Delegation of South Africa with regard to the focal point. The Secretariat stated that the project manager was the focal point for South-South issues in the Organization for the duration of the project. This was because the project was the only activity or mandate that the Secretariat had with regard to South-South Cooperation. When the implementation of the project was completed, things could change and perhaps other decisions would be taken. That was why the term "current" was included with respect to the focal point.

146. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for the clarifications. The Delegation requested for further elaboration and information on those points in future Progress Reports, especially with regard to the implementation of the various components of the delivery strategy, including supporting and assisting developing countries and LDCs to provide training and capacity-building activities to other developing countries and LDCs, as mentioned by the Secretariat. The Group had also requested for further information on part (c) of the project document on increasing the use in WIPO technical assistance and capacity-building activities of resource persons and experience sharing from developing countries and LDCs. Part (c) also required the Secretariat to better coordinate its work on South-South Cooperation with the Regional Bureaus. The Group would like further information to be provided on that activity. The Group also referred to the issue raised by the Delegation of South Africa with regard to the focal point for South-South Cooperation. This was an important aspect of the project document. A long term perspective was required on this issue.

147. The Delegation of South Africa referred to page 4 of the Progress Report. It contained a description of the activities undertaken by the focal point. The Delegation would appreciate further information because as mentioned earlier, the focal point was responsible for establishing links with the UN system on South-South Cooperation. That was why the UNDP and other South-South Cooperation related initiatives were mentioned in the project document. The Delegation would appreciate reports on these activities as it was keen to know what was happening in terms of establishing links and coordinating the work of the organization on South-South Cooperation with the UN system. The Progress Report only provided a brief description of what the project manager had been doing. The Delegation reiterated that the work of a focal

point should be undertaken by someone who was appointed on a permanent basis as it involved linking the work of the Organization with the activities of the UN system.

148. The Chair thanked the Delegation of South Africa and concluded the discussions on the project given that there were no further comments from the delegations.

Progress Report on recommendations for Immediate Implementation (the 19 recommendations)

149. The Chair opened discussions on part (b) of the document on Progress Reports. That part of the report highlighted the main achievements in the implementation of the 19 recommendations for immediate implementation. He invited the Secretariat to introduce that part of the document.

150. The Secretariat (Mr. Baloch) provided an overview of the Progress Report contained in Annex XIV of document CDIP/10/2 on the implementation of 19 recommendations identified for immediate implementation without requiring additional human or financial resources. The Secretariat recalled that the structure and content of this part of the document was discussed in the last few CDIP sessions with the view to making it more appropriate to the demands and expectations of the delegations. The structure of the current document was very well received and appreciated by delegations at the eighth session of the CDIP. The report was presented in a tabular format. A table with two columns was included under each recommendation. The column on the left was on the implementation strategies. It was based on what the Committee had discussed and given as guidance to the Secretariat in the first and second sessions of the CDIP. The column on the right was on the achievements. The Secretariat explained that following the Committee's guidance, instead of listing the activities that had been carried out, the achievements were described in a succinct manner. As in the case of the report for the eighth session of the CDIP, the Secretariat had also tried to rely on the IP Technical Assistance Database (IP-TAD). Thus, instead of reproducing information, a reference or link to IP-TAD was included where required in the report. In addition, in order to better integrate the report with the broad organizational structure that had evolved as a result of the RBM project, the report also included links and references to the Organization's PPR. In concluding, the Secretariat reiterated that the structure of the document was based on the report for the eighth session of the CDIP which had been a successful experience. The Secretariat suggested that perhaps the Chair could invite the Committee to consider the recommendations separately.

151. The Chair took up the Secretariat's suggestion and invited the Committee to consider the implementation of recommendation 1.

152. The Delegation of Egypt, speaking on behalf of the African Group, made an overall statement on the contents of Annex XIV with regard to the implementation of the 19 recommendations. The Group requested for clarification on the implementation of recommendations 13, 14, 15, 21 and 35 as the Progress Report did not provide any information on the implementation strategies and achievements with regard to those recommendations. The Group referred to recommendation 1 and requested the Secretariat to clarify the process for designing, implementing and evaluating the national IP strategies and plans that were underway. With regard to recommendation 3, it was not clear from the Progress Report as to how WIPO was promoting a development-oriented IP culture as part of its outreach activities, publications and educational materials. Thus, the Group requested for an explanation to be included on this particular aspect of the recommendation in the next Progress Report. The Group referred to recommendation 4. The Group would like to know if WIPO was making the appropriate links and whether there was any synergy in the development of appropriate national strategies to address the needs of SMEs and scientific research institutions as part of its assistance to Member States on national IP strategies and plans. With regard to recommendation 6, the Group sought clarification as to whether the roster of Consultants was only limited to those Consultants that were recruited under special service agreements, as

mentioned in the report, or if it included all Consultants contracted by WIPO. The Group referred to recommendation 7. The Group appreciated the Secretariat's work on this recommendation and, if possible, would like the assistance and advice provided by the Secretariat to be compiled in order for the benefits to extend beyond the beneficiary countries. Lastly, on future work under recommendation 11, the Group would like more focus to be given to fostering the links between industry, academia and SMEs, in particular, through promoting the links as well as the employment of researchers in industry and other related activities aimed at strengthening collaboration in research and development for the commercialization of new local innovations.

153. The Delegation of Brazil, speaking on behalf of the DAG, recognized that the Report took into account earlier comments and this was good. The Group did not go into the substantive issues as these were mentioned in the statement made by the Delegation of Egypt on behalf of the African Group. The Group expressed support for those comments. In terms of the contents of the report, the Group was aware of the practice of including cross references and links to other reports. The Group encouraged the Secretariat to continue to do so and to increase the practice as this would help to provide further details with regard to the activities that were being developed. The Group cited some examples. The Report included references to meetings that were held last year in relation to the implementation of the recommendations of the DA. In this context, it would be useful to also include links to the home page for each event. The Group stated that this would allow delegations to obtain further information on the participants and the experts that had taken part in the event. However, the most important aspect would be to also include links to the presentations made and the articles discussed in the event. The inclusion of these links would be good for the delegates in Geneva as well as their colleagues in the capitals as it would allow them to have a better understanding of the activities being carried out by WIPO. The links to articles and presentations would be very useful as the substantive information could assist the IP Offices and government agencies that deal with these issues in their countries.

154. The Chair invited the Secretariat to respond to the comments.

155. The Secretariat referred to the questions raised by the Delegation of Egypt on behalf of the African Group. The Delegation had requested for clarification on the process for designing, implementing and evaluating the national IP strategies and plans that were underway. The Secretariat recalled that the project manager, Mrs. Francesca Toso, had earlier explained the project to the Committee. The Secretariat also recalled that the project was approved by the Committee. The strategy and implementation process were also shared with the Committee over a period of time. The Secretariat suggested that the project manager be recalled to explain the process once again. This could either take place at a bilateral level or within the Committee. The Secretariat referred to recommendation 3. The Delegation of Egypt mentioned that it was not clear from the Progress Report how WIPO was promoting a development-oriented IP culture as part of its outreach activities. The Secretariat took note of that observation and would try to make that aspect more explicit in future reports. On recommendation 4, the Delegation wanted to know whether the Secretariat was making the appropriate links and whether there was any synergy in the development of appropriate national strategies to address the needs of SMEs and scientific research institutions as part of its assistance to Member States on national IP strategies and plans. The Secretariat would also try to address this aspect more specifically in future reports. More inputs would be sought from the Innovation Division as it was responsible for dealing with SMEs. The Secretariat referred to the roster of Consultants. The Secretariat recalled that the roster was explained in the past. It included the SSA contracts of Consultants recruited to work in the field. The roster did not include Consultants at the Organization's headquarters. On recommendation 7, the Secretariat noted the Delegation's request to include a compilation of the assistance and advice provided by the Secretariat to Member States. On recommendation 11, the Secretariat assured the Delegation that it would also focus on the links between industry, academia and SMEs in future reports. The Secretariat referred to the

recommendation made by the Delegation of Brazil on cross referencing and linkages. The Secretariat reiterated that the current structure of the document was reached through the guidance of the Committee. The Secretariat would discuss the links to the meetings and other events with the Delegation. The Secretariat believed that IP-TAD provided all the necessary information. Perhaps it also included links to the various events organized by the Organization. If it did not, the Secretariat suggested that perhaps it would be preferable for the links to be included in IP-TAD in order for all the information to be centralized in one location.

156. The Delegation of Bolivia recognized that the format of that section of the document had been improved. The quality was reaching a good level and it was now possible to understand the changes with respect to content and to focus on the activities. However, there was still room for improvement. In that context, the Delegation highlighted the need for more information to be provided in order to examine the changes and assess how these had taken place. For example, recommendation 1 of the DA stated that WIPO technical assistance should be development-oriented, demand-driven and transparent, taking into account the priorities and the special needs of developing countries. In that context, the Delegation recalled that in the previous format, the Secretariat provided a list of activities and it was impossible to know whether or not the activities were indeed development-oriented. In the current format, it was mentioned in the achievements that the activities were indeed development-oriented, demand-driven and so on. However, this was not enough. The Delegation stated that the Secretariat should also explain how this was achieved, in other words, what changes were made to ensure that these activities were development-oriented. The Delegation highlighted the need for that statement to be backed up by evidence. Perhaps a new methodology was introduced for assessing technical assistance or it may be that the contents of technical assistance had changed. The Delegation was interested to know more in terms of the measures that were taken and so on. The Delegation referred to the comment made by the Delegation of Egypt on the national IP strategies and plans that were adopted in 16 countries. The Delegation stated that information was required on the quality of the strategies. The strategies should be development-oriented, demand-driven and transparent. It was important for this aspect to be addressed as it provided an indication of the extent to which the strategies were consistent with the requirements of recommendation 1. The Delegation referred to recommendation 3 and the comment made by the Delegation of Egypt in relation to that recommendation. The Delegation noted that it was mentioned in the achievements that an increased number of stakeholders were reached through the WIPO web site and various publications. However, information was lacking in terms of quality because the objective of recommendation 3 was not only to achieve greater public awareness of intellectual property but also to promote a development-oriented IP culture. That aspect was not reflected in the achievements. In addition, it would also be interesting to see how that was also taken into account in the process of reaching those stakeholders. On recommendation 6, the Delegation would like to know whether the information provided in the roster of Consultants included declarations on conflict of interest and information on previous professional experience. The Delegation recalled that the purpose of the roster of Consultants, as specified in recommendation 6, was to ensure that the Consultants were neutral and accountable. That was the objective. Thus, it was not enough to only include the names of Consultants. What was really required was information concerning their other professional commitments and interests. The Delegation referred to recommendation 13. The Delegation was interested to know that WIPO's legislative assistance was development-oriented, demand-driven and so on. The Delegation was aware that this issue had been discussed in other forums. It was said that the legislative assistance provided was confidential because it was specific to countries. Thus, it was difficult to disclose the specific assistance that was provided to a particular country. However, the Delegation enquired as to whether there were other documents. Perhaps there were standard templates for providing legislative assistance and these could be made available to the Member States. The Delegation suggested this because it would be very interesting to assess the extent to which recommendation 13 was being applied. At the moment, this was not possible as the achievements only included a statement that the legislative assistance provided took into account those requirements, nothing was included for



this to be assessed. The Delegation suggested that documents on legislative assistance may be published on the WIPO web site. The Delegation was not referring to confidential documents but rather standard documents or templates for legislative assistance. That would be very helpful.

157. The Delegation of South Africa made some suggestions to improve that section of the report. The Delegation acknowledged that significant improvements had been made but it also took note of what the Secretariat had said in terms of the report being succinct and not too elaborate. It agreed with this to an extent as it noted that cross-referencing had been introduced in the format and it was in relation to the PPR. However, the Delegation stressed that some elements were not reflected in the PPR. The report should not be voluminous. Although the document should be succinct and to the point, the Delegation highlighted that it should also not be abstract as was the case in some instances. For example, it was mentioned in the achievements under recommendation 3 that WIPO educational materials for young people in national and international schools were increasingly used by Member States. The Delegation stated that this was the first time it had come across this. The Delegation had not seen this in the PPR and did not know where evidence could be found for this to be substantiated. The Delegation observed that a number of achievements were included without any evidence to support them. They were just abstract statements. The Delegation would appreciate more evidence to be provided. The Delegation cited an example where this was included. It was mentioned in the achievements under recommendation 12 that development, including DA projects and recommendations, had been mainstreamed in the Program and Budget for 2012/13. This was evidenced by the development share of the expected results where 40 out of the 60 organizational expected results for the biennium had a development share. The Delegation stated that this was an evidence of achievement. The Delegation noted that the Delegation of Bolivia had also mentioned that references were included but there was no evidence. Although the Delegation took note that in some instances, there was a cross reference to the PPR, it would appreciate information to be included in future reports to substantiate the achievements. This was the most important part of the document and it involved assessing the progress achieved on the recommendations. As such, the Delegation reiterated that it was very important for it to be improved. The Delegation subscribed to the statements made by the African Group and the DAG.

158. The Delegation of Pakistan shared the view that significant improvements had been introduced in the report. The Delegation did not go into the details as these were mentioned by other delegations. The Delegation made two comments on the format. First, it noted that the implementation strategies and the corresponding achievements were included under each recommendation. This provided a very good overview of the actions that had been taken. However, the Delegation underlined the need to keep in mind that the achievements were not exhaustive with regard to any recommendation and more activities would need to be undertaken on every recommendation in due course. Second, the Delegation highlighted the need to conduct, at some point, an impact assessment of the achievements and activities that were undertaken with respect to each recommendation. The Delegation recalled that this matter was previously raised by some delegations.

159. The Chair invited the Secretariat to respond to the additional comments.

160. The Secretariat (Mr. Baloch) recognized that the Delegation of Bolivia was looking for evidence of improvement. The Secretariat would try to present the activities in a way in which the qualitative different would be indicated. The Secretariat recalled that this was mentioned by the Delegation with regard to recommendations 1 and 3. On recommendation 6, the Secretariat recalled that the Code of Ethics was discussed in the last session of the Committee during its consideration of the completion report on IP-TAD. recommendation 6 was addressed in two ways. The first was through the development of a Code of Ethics by the Organization and through incorporating the requirements of that recommendation in the contracts given out to

Consultants. The second was to include as many details as possible in the roster of Consultants. The Secretariat recalled that it was mentioned in the past that the privacy policy prohibited the Secretariat from publishing information on those individuals without their consent. Their consent was required and this was still a work in progress. The Secretariat would try to ascertain from the colleagues concerned as to how many Consultants had agreed to allow the Organization to provide details about them and how many requests were still pending. As mentioned in the past, the Organization had sent a communication to all the Consultants to seek their permission. The Secretariat noted that the Delegation also mentioned the need for information on their other professional commitments and interests. The Secretariat would request the colleagues who were dealing with the issue to get in touch with the Delegation and perhaps the Committee could also look at what it may require in terms of the information to be included in that roster of Consultants. With regard to recommendation 7 and a standard template for legislative assistance, the Secretariat recalled that the issue was discussed in the Committee as well as in various other forums within WIPO. The Secretariat informed the Committee that during the discussions in the last session of the PBC, the colleagues who were responsible for providing technical assistance were called to explain their approach. There were no standard templates. The Secretariat highlighted that a standard template would be contrary to recommendation 1 which stated that WIPO should provide assistance in accordance with the needs of a specific country. However, the Secretariat could request the concerned colleagues to meet with the Delegation or even come before the Committee, time permitting, to provide the details, if required. The Secretariat thanked the Delegation of South Africa for its valuable comments. The Secretariat stressed that it was always a bit of a challenge to determine how much detail was appropriate in a document that was required to be short and to the point. With regard to information on the use of WIPO educational materials for young people in national and international schools, the Secretariat drew attention to the PPR for 2010-11. A baseline was included under Program 19 on page 94 with respect to the use of such materials. It was mentioned that the materials were used in 10 Member States in 2008 and 2009. A list of countries was also provided. It was also stated in the performance data that WIPO educational materials for young people were used in 14 Member States and a list of countries was also included. This was referred to in the Progress Report submitted to the Committee. The Secretariat acknowledged that there was always room for improvement and opinions could differ on how much detail was appropriate in terms of the information provided and the required elements. The Secretariat remained in the hands of the Committee. It was up to the Committee to decide on how the Report should be structured and how much information should be included. The Secretariat reiterated that it had begun by listing the activities and then over a period of time a structure was developed. The Secretariat recalled that the process began in the third session and the Committee was now in its tenth session. The Secretariat would be pleased if the structure could be improved to the extent that all delegations would be happy with the report. The Secretariat referred to the observation made by the Delegation of Pakistan on impact assessment. The Secretariat thanked the Delegation for the comment. The Secretariat highlighted that as a result of the RBM project, evaluation was now a relatively easy exercise. The Organization was also gradually moving towards impact assessment. Yesterday, in the presentation of the Progress Report for the RBM project, the project manager had mentioned that it involved a cultural change and a gradual process was required to achieve the desired results. However, the Secretariat assured the Committee that impact assessment was on the Agenda of the Organization. The IAOD and the Program Performance and Evaluation Section were working in that direction. The Secretariat thanked the Delegations of Bolivia and South Africa for their suggestions with regard to the qualitative changes that were introduced. The Secretariat referred to the suggestion made by the Delegation of South Africa to improve the presentation of the report. The Secretariat noted that the Delegation had requested for more evidence to be included in the Report. In that context, the Secretariat suggested that the referencing could be improved and instead of including general references to the PPR, each reference would be specific to the statement that was included. The evidence was contained in the PPR and it included performance data which was validated by the IAOD. The Secretariat referred to the example mentioned by the Delegation of South Africa which referred specifically

to certain elements of the PPR. The Secretariat reiterated that specific references could be included to improve the overall presentation of the Report. With regard to impact assessment, the Secretariat stated that there was definitely a need for a holistic assessment of the implementation of the recommendations. The Program Performance and Evaluation Section would be working closely with the DACD to examine how a more qualitative assessment of the implementation of the recommendations could be conducted.

161. The Delegation of Bolivia recognized that changes had been introduced to improve the qualitative aspects of the report. However, further improvements were required and perhaps the first step would be to provide more evidence. For example, with regard to technical assistance and the need for it to be development-oriented, a list of activities was previously provided. In the current Report it was stated in the context of the achievements that the technical assistance was development-oriented. However, evidence was required to substantiate that statement. The Delegation suggested that perhaps questionnaires or documents used for technical assistance could serve as a reference in this regard. Internal meetings could also be convened to examine whether the technical assistance provided was in accordance with development needs. The Delegation stressed that it was not enough to simply state that the technical assistance was development-oriented. The Delegation reiterated that the objective was to go beyond the qualitative statements and to provide the evidence. That would help Member States to understand the qualitative changes that were introduced. This would be the objective for the next report. The Delegation referred to the roster of Consultants. The Delegation noted that the information provided included the name, nationality, language and expertise of the Consultant. However, that information did not allow for an assessment of the neutrality and objectivity of the Consultant. Information was required on the Consultant's profession and whether he or she was from academia, the private sector or the public sector. Information was also required on the Consultant's previous commitments. This was essential when a country contracted a Consultant or when a Consultant went to the country for a workshop. For example, if a workshop were to be held on plant protection in Bolivia, the authorities would need to know whether the Consultant was working for Monsanto as that company was also involved in selling seeds. It would also help to understand where the Consultant was coming from when he or she made a statement. The information was essential to assess the neutrality and objectivity of Consultants. As such, the Delegation wondered whether the database could be expanded because there was currently no information on the profession, commitments or attachments of the Consultants. Hence, it was not possible to verify the neutrality of the Consultants.

162. The Delegation of South Africa thanked the Secretariat for the clarifications provided in response to its earlier intervention. The Delegation recalled that when the PPR was presented, some delegations were hesitant to approve it, stating that the document should merely be noted. It stated that this was because the information was not sufficient to convince those delegations that the document should be approved. As such, the Delegation stressed that it was very important that there should be evidence to support the statements. The Delegation reiterated that most of the statements were abstract. For example, on recommendation 3, the implementation strategy included promoting a development-oriented IP culture and generating greater public awareness about IP. In that context, the Delegation highlighted the need to understand how that was actually translated to the achievement whereby young people in national and international schools were increasingly using WIPO educational materials. The Delegation emphasized that it was not just numbers that were required but also evidence that it was indeed development-oriented. The Delegation could go through the document but it was not necessary as the Delegation of Bolivia had already done so. The Delegation shared the concerns raised by the Delegation of Bolivia. The Delegation emphasized that it was very important to keep the process in the Committee separate from the process in the PBC. The Delegation understood that there would be improvements to the report and its request was for more information to be provided. In this regard, the Delegation stated that some of the information was not even in the PPR.

163. The Chair invited the Secretariat to respond to the two additional comments.

164. The Secretariat (Mr. Baloch) thanked the Delegations of Bolivia and South Africa for their comments. The comments were useful and the Secretariat would bear them in mind for the next Progress Report. The Secretariat recalled that the IP-TAD project was approved in the Third Session of the CDIP or thereabouts. The expectations as well as the information to be included in the database were discussed in the presence of the project manager at that time. However, the Secretariat would enquire as to whether it was possible to expand the database to include further information and if so, what was required in terms of financial resources and so on. The Secretariat could also request the colleagues responsible for the database to meet with the Delegation of Bolivia to discuss the matter. The Secretariat would inform the Committee of any further developments with regard to the database.

165. The Chair thanked the Secretariat for its response and concluded the discussions on the Progress Reports. The Chair recalled informing the delegations that he would propose a short conclusion to reflect the discussions on each document. The conclusion proposed for document CDIP/10/2 was as follows:

“Under Agenda Item 6, the Committee considered document CDIP/10/2 entitled, “Progress Reports” and took note of the progress achieved on 13 projects under implementation. The Committee agreed to the revised timelines for the following projects:

- (a) Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations;
- (b) Project on Enhancement of WIPO’s Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of Development Activities; and
- (c) Project on Intellectual Property and Socio-Economic Development. The Secretariat provided explanations as requested and took note of the comments made by the delegations on the various aspects of the Progress Reports. The committee also took notice of progress on the implementation of 19 recommendations for immediate implementation. The Secretariat was requested to provide certain clarifications and enhance further the quality of the report.”

Consideration of document CDIP/10/12 - Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda recommendations

166. The Chair opened discussions on the Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda recommendations. He invited the Secretariat to introduce the document.

167. The Secretariat (Mr. Baloch) recalled that at the sixth session of the CDIP, Member States had agreed on the Coordination Mechanism and monitoring, assessing and reporting modalities which *inter alia* requested other WIPO bodies and committees to include in their report to the WIPO General Assembly, a description of their contribution to the implementation of the Development Agenda recommendations. Accordingly, a report contained in document WO/GA/41/13 rev. was considered by the WIPO General Assembly this year and forwarded as document CDIP/10/12 to the Committee for discussion. The document was being presented to the Committee for its consideration.

168. The Delegation of Brazil, speaking on behalf of the DAG, stated that the document contained a compilation of statements made by delegations when discussing the issue in specific WIPO Committees. The Group regretted the fact that the PBC and the CWS were not recognized by all Member States as relevant bodies in the context of the implementation of the DA recommendations. As a consequence, those Committees did not report on this issue. The Group recalled that the Coordination Mechanism and monitoring, assessing and reporting modalities were established by the General Assembly in 2010, with the view to fulfill the second pillar of the mandate of the CDIP. The Group underlined that for the mechanism to be effective and strong, it should provide Member States with an analytical view of how the recommendations were being implemented in all areas of the Organization's work. The Group recalled that in the last session of the Committee, the African Group had proposed the elaboration of a report by the Secretariat summarizing the main points raised by the different delegations. It would allow for a more meaningful and comprehensive assessment and Member States would be able to identify areas where further efforts were required as well as to examine possible improvements. The Group also recalled that the decision that established the Coordination Mechanism also called for an independent review of the implementation of the DA recommendations to be undertaken at the end of the 2012/13 biennium. In that regard, the Group proposed that the reports described in the contribution of the relevant WIPO bodies to the implementation of the respective DA recommendations be used as one of the sources of information for the purpose of the independent review.

169. The Delegation of Belgium, speaking on behalf of Group B, took note of the document. The Group still considered that the existing flexible modalities for reporting already allowed for reporting on the implementation of the WIPO DA recommendations that were relevant. Moreover, it had witnessed that these modalities had been able to function in a successful way at the Standing Committee on the Law of Patents (SCP), the Standing Committee on Copyright and Related Rights (SCCR), the Standing Committee on the Law of Trademarks (SCT), the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (the IGC), the Advisory Committee on Enforcement (ACE) and the PCT Working Group. Therefore, the Group failed to see the added value of modified reporting modalities.

170. The Delegation of Egypt, speaking on behalf of the African Group, stressed that the issue was of priority, especially with regard to enhancing the quality of reporting by WIPO Committees on their contribution to the implementation of the DA recommendations. The Group reiterated that document CDIP/10/12 merely contained reproductions of statements made by different delegations in the committees. There was no added value and it was certainly not different from the minutes of the meetings. In the last session of the Committee, the Group had requested the Secretariat to prepare a template for the WIPO committee reports in order to identify the exact recommendations addressed by each committee and the specific manner in which a committee had contributed to the effective implementation of the 45 DA recommendations. The Group noted that there had not been any progress on this issue. The Group highlighted that the aim of the Coordination Mechanism was to ensure that the DA was mainstreamed and adhered to by all bodies. That objective was not fully realized. The Group was also concerned that the PBC and the CWS were not part of the Coordination Mechanism established by the General Assembly to contribute to the implementation of the DA recommendations, especially with regard to the development of IP standards for national offices, providing technical assistance and capacity-building for developing countries and LDCs, and the preparation of the Program and Budget. The Group stressed that these were crucial activities and they should be guided by the DA recommendations. Last but not least, the Group believed that this matter should be included as a standing Agenda Item in the SCP, SCT, SCCR and ACE. The Group noted that the issue was introduced in those committees on an *ad hoc* basis. It was important for it to be included as a standing Agenda Item in those committees, especially in their sessions preceding the annual meeting of the General Assembly. The Group looked forward to progress on this important matter.

171. The Delegation of India aligned itself with the statement made by the Delegation of Brazil on behalf of the DAG. The Delegation stressed that an effective Coordination Mechanism for monitoring, assessing and reporting on the implementation of the DA, as mandated by the General Assembly, was a key issue for the Committee. The Delegation highlighted that the aim of the DA was to ensure that development considerations formed an integral part of the Organization's work and the Coordination Mechanism should promote this. The Delegation was encouraged by the progress achieved in this direction in the past and hoped that would be improved with consensus in this session. Referring to document CDIP/10/12, the Delegation also recalled that in the last session, several delegations, including the African Group, had highlighted the need for a structured and reader-friendly report to be prepared by the Secretariat summarizing the main points raised by the different delegations. The Delegation reiterated the request for a structured presentation of the report to allow for a meaningful analysis of the information provided by the relevant bodies. The Delegation also stated that the PBC and the CWS should be recognized as relevant bodies in the context of the implementation of the DA recommendations. This was particularly in view of the fact that the DA recommendations represented an integral part of the PBC's substantive work. The Delegation stated that with each and every program indicating its links to the DA, it would be an anomaly if the PBC was an exception to the established WIPO policy to mainstream development into all WIPO activities and organs and did not report to the General Assembly on the advances it was making in mainstreaming the DA.

172. The Delegation of the United States of America aligned itself with the statement made by Group B. The Delegation thanked the Secretariat for providing the document containing the interventions from the various committees on those committees' contributions to the DA recommendations. The Delegation stated that it was a helpful review of the issues, the points of consensus and some of the points of disagreement that existed in these committees regarding their work in relation to the DA. The Delegation was pleased to see that in most of these committees, there had been real progress in making contributions to the implementation of the DA recommendations. The Delegation looked forward to continuing to work towards this end in all of these committees.

173. The Delegation of Pakistan believed that the compilation was a very good effort towards the intended mainstreaming of the DA into the work of all relevant WIPO Committees. However, the Delegation believed that the compilation was not an end in itself. It was merely a means to an end. The Delegation believed that all Member States had the same end in mind and that was the use of IP for development. The Delegation observed that the statements shared two inherent elements. They included comments and suggestions. The Delegation stressed that all the efforts that were made would go to waste if those comments and suggestions were not used. The Delegation believed that there was a need for a structured format in order for the comments and suggestions to be utilized. The Delegation stated that this could be done by the Member States or the Secretariat could be requested to do so. The Delegation believed that there was a need for the comments and suggestions to be used. The Delegation fully agreed with the Delegation of the United States of America that there were points of consensus and points of disagreement with regard to the issues. There was a need to identify and focus on the point of consensus in those statements in order to move forward. The Delegation also agreed with some other delegations that the PBC and CWS should be included in the reporting mechanism. The Delegation found it difficult to understand how the PBC could be irrelevant to the DA as it dealt with all the programs and the entire budget of the Organization. Lastly, the Delegation fully supported the statement made by the Delegation of Brazil on behalf of the DAG. The Delegation agreed that the statements should be utilized and one of the ways to do so would be for them to be used in the independent review.

174. The Delegation of Iran (the Islamic Republic of) supported the statement made by the Delegation of Brazil on behalf of the DAG. The Delegation considered the establishment of a

Coordination Mechanism to enable the Committee to oversee the integration of the DA in all areas of the Organization's work as a significant achievement. This was in accordance with the mandate given by the General Assembly for the Committee to monitor, assess, discuss and report on the implementation of all recommendations adopted, and for that purpose it shall coordinate with relevant WIPO bodies. The Delegation noted that the ultimate objective of the mechanism was to facilitate coordination among the committees. The Coordination Mechanism should not be seen as a problem but rather as a solution to eliminate duplication in the work of the committees and to enhance coordination among them. In that context, the Delegation viewed document CDIP/10/2 to be important and it should be considered carefully. The Delegation recalled that there was no agreement in previous discussions on how to proceed in this regard. The Delegation stated that it was important to work on a methodology for reporting to facilitate discussions in the Committee. The Delegation highlighted that without an agreement on the modalities, the Committee's discussions on the Coordination Mechanism would be more complex and it would be difficult to reach concrete results. The Delegation believed that the Coordination Mechanism was an important pillar of the Committee and guaranteed its success. The Delegation stressed that without the proper functioning of the mechanism, the Committee would fail to implement its mandate to oversee the implementation of the DA and the mainstreaming of its recommendations into WIPO activities. The Delegation stated that the Committee should also discuss and designate the relevant committees which were required to report on their contribution to the implementation of the DA. The Delegation considered all WIPO Committees to be relevant for reporting purposes. The Delegation highlighted that two important committees, i.e., the PBC and the CWS were not participating in the implementation of the decision by the General Assembly. The Delegation reiterated that these committees were relevant to the implementation of the DA recommendations and should report on their contribution.

175. The Delegation of Belgium, speaking on behalf of Group B, reiterated the Group's long standing position that neither the PBC nor the CWS were subject to the Coordination Mechanism. The Group stressed that the Coordination Mechanism never called on all committees to report. Only relevant bodies were called to report. The Group stated that this clearly implied the existence of non-relevant or irrelevant bodies with respect to the DA. Nevertheless, the Group was willing to continue discussions regarding the claimed relevancy of the CWS to the implementation of the DA recommendations. However, the Group believed it would only be appropriate to do so in the margins of the CWS and fully expected that those discussions would not interfere with the work of the Committee. The Group stressed that the CDIP was not the appropriate forum for these discussions. As the Group had always said, it was up to the WIPO bodies to determine their relevancy. The Group referred to the proposal for a structured format for reporting. As mentioned in the Group's previous statement, the current reporting was very successful. It was very flexible. As such, the Group did not see the merit of a new changed format for reporting.

176. The Delegation of the Principality of Monaco fully endorsed the statements made by the Delegation of Belgium on behalf of Group B. The Delegation was fully satisfied with the implementation of the Coordination Mechanism. It lived up to the expectations and reflected the activities of all the WIPO bodies that were identified as being relevant to the implementation of the recommendations. The Delegation congratulated the WIPO bodies on their implementation of the recommendations. This proved that they were on the right track. Referring to the statement made by the Delegation of Belgium on behalf of Group B, the Delegation stated that the nature and work of the PBC was such that it already reported on the implementation of WIPO activities, including activities related to the implementation of the DA. It pointed out that to require the PBC to submit to a mechanism that was different from its own would only result in duplication and that was something that should be avoided. The Delegation noted that the need to avoid duplication and to use existing structures was included in the General Assembly decision on the Coordination Mechanism. The Delegation echoed the comment made by the Delegation of Belgium that it was up to the committees themselves to decide whether or not

they were relevant to the DA. The Delegation stated that the CDIP was not the appropriate forum to discuss that.

177. The Delegation of Switzerland associated itself with the statements made by the Delegation of Belgium on behalf of Group B. The Delegation thanked the Secretariat for preparing the document for this Agenda Item. The document fully corresponded with the needs of the exercise. On the basis of the current document, the Delegation welcomed the work done by the committees. The Delegation recalled that last year, those committees were judged to be relevant in respect of the Coordination Mechanism because they covered development as well as relevant issues that may be of concern to them. The Delegation believed that the implementation of the Coordination Mechanism was fully satisfactory. It met the requirements of the decisions that were taken and the needs described for the Coordination Mechanism. The Delegation reiterated that the PBC was not relevant and should not be part of the mechanism. An explanation had been given as to why the CWS was not relevant and the same reasons applied to the PBC. The Delegation stressed that it was up to each committee to decide if it was relevant to the Coordination Mechanism and that was why there should be an *ad hoc* item on this every year. With regard to the reporting, the Delegation considered what had been done to date to be satisfactory.

178. The Delegation of Algeria expressed support for the statements made by the Delegations of Brazil and Egypt on behalf of the DAG and the African Group respectively. The Delegation thanked the Secretariat for document CDIP/10/12 which contained the statements made by different delegations on the contribution of each committee to the implementation of the DA recommendations. The Delegation described the context for the discussions. First, there was a General Assembly decision in 2010 on the Coordination Mechanism for WIPO bodies. It concerned their contribution to the implementation of the DA. Second, there was the matter of the “implementation” of the Mechanism. In some committees, a limited number of delegations shared their comments with other delegations on the contribution of that particular committee to the implementation of the DA. However, there was no discussion following the statements made in those committees. Other delegations did not comment on them. Thus, the Delegation observed that the General Assembly decision was only implemented to the extent that in some committees, some delegations made statements on what they saw as the contribution of that committee to the implementation of the DA. As such, the Delegation did not believe that the General Assembly’s decision was being implemented. The Delegation attached great importance to the Mechanism. The Delegation had insisted on it and although it was almost three years since its adoption, the Mechanism had not been implemented. The Delegation reiterated that there were two committees that had yet to adopt the Mechanism. The two committees were the PBC and the CWS. The Delegation was also of the opinion that the committees that had adopted the Mechanism were not really implementing it. In concluding, the Delegation supported the proposals made by the Delegations of Egypt and Brazil to strengthen the reports of the committees that had adopted the Mechanism and stressed that thought must be given to strengthening the Mechanism.

179. The Delegation of Germany aligned itself with the statement made by the Delegation of Belgium on behalf of Group B. The Delegation highlighted that it too did not see the need to include the PBC and the CWS in the Coordination Mechanism.

180. The Delegation of Cuba expressed support for the statements made by the Delegations of Brazil and Egypt on behalf of the DAG and the African Group respectively. The Delegation highlighted the importance of applying the Coordination Mechanism and the related modalities to all WIPO bodies including the PBC and the CWS.

181. The Delegation of South Africa associated itself with the statements made by the African Group and the DAG. The Delegation highlighted two issues. First, it drew attention to the fact that the Committee still did not have a list of relevant bodies. The Delegation had heard some



delegations mentioning that there were committees that were judged to be relevant and those delegations were satisfied. The Delegation could not recall such an exercise being undertaken. The Delegation also noted that with regard to those committees that were reporting, some delegations had mentioned that the Agenda Item should not serve as a precedent because the reporting was *ad hoc*. The Delegation stated that the decision of the General Assembly on the Coordination Mechanism was not being followed. Second, the Delegation pointed out that the Coordination Mechanism had various parts. A number of bullet points were included and the Delegation pointed to one which instructed the Director General to report to the Committee on progress in the implementation of the DA recommendations. The Delegation stated that the Director General had been doing so and drew attention to the fact that his reports included the activities of the PBC. The Delegation did not understand why the Director General was reporting on the activities of the PBC if that Committee was not considered to be relevant for the DA as the Report was entitled, "Director General's Report on Implementation of the Development Agenda". The Delegation also pointed out that the issue of standards was also included in the Director General's report. Thus, the Delegation was not convinced by the arguments put forward by some delegations. The Delegation had been hearing the same arguments since the adoption of the Coordination Mechanism. The Delegation referred to document CDIP/10/12 and stated that there were many areas which could be discussed. The Delegation also highlighted that the decision on the Coordination Mechanism included a bullet point which stated that the Committee could instruct the relevant WIPO bodies to identify the ways in which the DA recommendations were being mainstreamed in their work and to urge them to implement the recommendations accordingly. The Delegation observed that the Committee had not done so. Not all relevant bodies were reporting to the Committee. Although the Committee had reports from some of the bodies, the Delegation believed that the Committee could not move until the issue of who should report was resolved. The Delegation believed that this exercise had to be undertaken at the level of the General Assembly as it concerned a General Assembly decision. The Delegation did not agree with the argument that it was up to each committee to decide whether or not it was relevant. The Delegation did not subscribe to that view. A committee did not decide on its mandate. Each and every committee was given a mandate by the General Assembly, the main decision making body of WIPO. As the discussion was going around in circles and the issue was not being resolved, the Delegation stated that the issue had to be taken up at the level of the General Assembly. Progress in identifying the relevant bodies was required in order for the Committee to proceed on some of the bullet points which were included in the decision on the Coordination Mechanism. The Delegation reiterated that the reporting also had to be user friendly. The Delegation was not satisfied with the current format. The format had to be user-friendly in order for the Committee to move forward and implement some of the provisions in the decision on the Coordination Mechanism.

182. The Delegation of Pakistan stated that the Delegation of South Africa had rightly pointed out that that the Committee was going around in circles on this issue. The Delegation referred to the comment made by the Delegation of the Principality of Monaco that the PBC already reported on how development activities were being implemented and that there would be duplication if it were to be included as part of the Coordination Mechanism. The Delegation underlined that duplication was never requested. The request was for the PBC to be considered relevant for the Coordination Mechanism and that point was also reinforced by various other delegations. At this stage, the Delegation did not believe that the Committee would be able to reach an agreement on this issue. The Delegation was being practical. However, the Delegation believed that document CDIP/10/12 should be utilized. There was no point in having that document if it was not used. The statements should be utilized and Member States need to agree on how these could be used otherwise the Committee would need to refer the matter to the General Assembly.

183. The Delegation of Venezuela stated that the Coordination Mechanism should be applied to all the committees of the Organization. The decision on the Coordination Mechanism did not

make any distinction with regard to its application and it was not up to the Committee to make any interpretations in this regard. According to the Delegation, committees such as the PBC that believed they were outside the Coordination Mechanism were extremely important in the implementation of the DA. This was because the PBC depended to a large extent on the programs carried out by the Organization under the DA.

184. The Delegation of Canada aligned itself with the statements made by Group B and the Delegations of the Principality of Monaco and Switzerland. With regard to the PBC and the CWS, the Delegation also believed that these committees were not relevant. It was up to the committees to decide on whether or not they were relevant.

185. The Delegation of the United Kingdom expressed support for the comments made by the Delegation of Belgium on behalf of Group B. The Delegation firmly believed that the current reporting mechanism was sufficient.

186. The Delegation of the Russian Federation stated that it was up to each WIPO committee to decide on the manner in which its report was presented on this item. At this stage, the Delegation was fully satisfied with the reporting and thanked the Secretariat for the excellent document.

187. The Delegation of Japan associated itself with the statement made by the Delegation of Belgium on behalf of Group B. The Delegation echoed the comment made by the Delegation of Belgium that the CDIP was not the appropriate forum for this discussion. The Delegation pointed out that there were still a lot of outstanding items on the Agenda, including many projects that required evaluation or discussion by the Committee. The Committee should concentrate on those issues in a time effective and efficient manner.

188. The Delegation of France associated itself with the statements made by the Delegation of Belgium on behalf of Group B. The Delegation found the current Mechanism to be satisfactory and sufficient.

189. The Chair read out the proposed conclusion with respect to this item for the Committee's consideration. The conclusion was as follows: "Under document CDIP/10/12, the Committee discussed the description of the contribution of the relevant WIPO bodies to the implementation of the respective DA recommendations. Different views were expressed regarding the term "relevant bodies" and the structure of the document."

190. The Delegation of Egypt thanked the Chair for the proposed conclusion. The Delegation acknowledged that it captured the fact that there were different views on this issue, especially between the members of Group B and the members of the African Group, DAG and others. However, the Delegation would like to seek an effective solution to the issue. The Delegation reiterated that the issue was discussed in the CDIP and other committees. It was also appearing in the General Assembly. Thus, clarity was required in terms of the best way of addressing the issue. The Delegation believed that when the Committee was faced with a problem, it should try to resolve it and not leave it for the future. Therefore, the Delegation encouraged an effective solution in terms of the process to discuss this issue and for a solution to be reached.

191. The Chair enquired as to whether the Delegation of Egypt would otherwise agree with the conclusion that he had read out.

192. The Delegation of Egypt stated that it had acknowledged that the conclusion captured the difference in views. However, there was also the underlying issue of the decision by the General Assembly which required effective implementation. The Delegation reiterated that

several delegations believed that this was not the case. As such, the effective implementation of that decision should also be highlighted in the conclusion.

193. The Delegation of South Africa recalled that it had raised several points earlier. Apart from the structure of the document, the Delegation had also touched on the list of relevant bodies. The Delegation understood that the list required discussion and would like to hear the views of other delegations on this, particularly as there was also another view that the Committee had apparently made a decision on the relevant bodies. The Delegation understood that there was no such agreement and would like to discuss the issue further. The Delegation agreed with the Delegation of Egypt that a precise decision was required on this matter. This should be made as soon as possible. The Delegation recalled that it had also alluded to the fact that the mandate was given by General Assembly. Thus, perhaps it would be appropriate for the Committee to go back to the General Assembly in order to resolve the issue of the relevant bodies. The Delegation stressed that the Committee was unable to properly implement the decision by the General Assembly if that matter was not resolved. The Delegation reiterated that there had been no reaction to the points which were raised. The Delegation stated that if the members did not react, it meant that the matter must be included in the conclusion of the Chair, as appropriate. The Delegation stated that if the Committee was going to go further with regard to the decision by the General Assembly, Member States could be invited to submit proposals on the list of relevant WIPO bodies that had to report to the General Assembly. The Committee would then have a starting point for its discussion.

194. The Delegation of Belgium, speaking on behalf of Group B, stated that the Group would very much like to consider and take on the language proposed initially by the Chair. The Group recalled its earlier remarks. At this point, the Group could not accept the reference to the General Assembly. The Group had repeatedly made it clear that it was up to the WIPO bodies to determine their relevancy. The Group believed that the Chair had come up with good and balanced language. The Committee had agreed to disagree. At this stage, the Group was not willing to go further than that.

195. The Delegation of Brazil, speaking on behalf of the DAG, thanked the Chair for the proposed language on the decision of the Committee on this issue. The Group pointed out that many delegations had expressed concerns on whether the mandate of the General Assembly with regard to the Coordination Mechanism was being properly fulfilled. The Group observed that many delegations did not agree that the mandate was being fulfilled. In addition to the different views expressed with regard to the relevant bodies, the Group pointed out that there was also the suggestion for a more structured report. That suggestion was also supported by the Group. The Group noted that the Chair's draft conclusion did not refer to the different views expressed on the implementation of the mandate of the General Assembly. It reiterated that it was not sure whether the mandate of the General Assembly was being fully implemented and this view was also shared by some other Member States as evident from their interventions.

196. The Delegation of Switzerland expressed support for the statement made by the Delegation of Belgium on behalf of Group B. The Delegation noted that Group B had reacted to the various points. On the issue of relevant bodies, the Delegation recalled that the members of Group B had stressed that it was up to each Committee to decide on its relevancy and that matter should not dominate the Committee's discussion. The Delegation believed that a response had been provided to all the points that were raised and the conclusion proposed by the Chair reflected the discussion that had taken place in the morning.

197. The Delegation of South Africa recognized that views differed on the issue. However, it stressed that the issue needed to be resolved because the General Assembly decision originated in the CDIP. The Delegation recalled the background to that decision. The issue was discussed at the third session of the CDIP. It was proposed that the second pillar of the CDIP's mandate should be discussed. That pillar referred to the need to monitor, assess,

discuss and report on the implementation of all recommendations. Certain countries were invited to submit proposals. In the fourth session, the Delegations of Pakistan, Brazil and Algeria submitted a joint proposal on the Coordination Mechanism. In the fifth session, the Committee agreed that the matter should go to the General Assembly. A decision was negotiated in the General Assembly in 2010. The Committee came close to agreeing on a list of relevant bodies in the sixth session but the discussions were stalled. The Delegation stressed that the issue should be resolved as soon as possible and Member States should be invited to submit formal proposals because at that time, the proposals were made in the informal sessions and hence, the lists were not recorded. The Delegation reiterated that Member States could be invited to submit lists in the next session and the matter could then be referred to the General Assembly.

198. The Chair concluded the discussions on this item.

Consideration of Document CDIP/10/7 - Evaluation Report on the Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity

199. The Chair opened discussions on the Evaluation Report on the Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity. He invited the Secretariat to introduce the document.

200. The Secretariat (Mr. Rajaobelina) provided an overview of the evaluation report contained in document CDIP/10/7. The Secretariat informed the Committee that the evaluation of the Project was carried out by the Internal Audit and Oversight Division (IAOD) with the assistance of an external expert. The IAOD was an independent body of the Secretariat. The project had three main objectives. These included strengthening national IP institutional capacity, strengthening institutional capacity at the regional and sub-regional level, and enhancing the capacities of IP and SMEs support institutions. The budget for the project was 3,091,000 Swiss francs with 2,209,000 Swiss francs allocated to non-personnel costs and 882,000 Swiss francs to personnel costs. Six key conclusions were reached on the basis of the results of the evaluation. First, overall, the project was reasonably well designed and professionally managed. However, there were some shortcomings in the project design and management challenges that affected the overall performance of the project. The project was designed and implemented by merging three distinct projects with no overall goal towards which they were meant to contribute. The lack of such an overarching goal and the merging of three stand-alone projects led to no synergies being achieved and to a situation where internal WIPO coordination was not optimum. There was insufficient communication within the project management team and between the project managers and the stakeholders. The stakeholders felt that for certain specific activities there was no information on further project developments. Second, at the output level, the project performed reasonably well with at least half of the expected outputs from the project produced or completed and another 30% partially produced or completed. As such, the project made an important contribution and benefited the target beneficiaries. Third, at the outcome level, only one of the three expected outcomes were substantially realized. The outcome expected of the IP strategies component was significantly realized. The other two expected outcomes were not realized. This resulted from the lack of risk mitigation strategies and the fact that the outcomes were either poorly framed or over ambitious for this type of project and the time that was allocated. In the case of the SME component, while the development of methodologies and tools progressed in a timely manner, the piloting phase was delayed due to the slow response of the selected countries. Fourth, the project objectives and activities were very relevant to the target beneficiaries and other stakeholders. The project scored high on relevance because of the process used to develop it and the main activities chosen for its implementation. The CDIP's interactive process in designing the project helped to ensure that it was relevant to the key stakeholders. Fifth, comparing the overall level of project performance (80% of project outputs were produced / completed or partially produced / completed) with budget utilization (48.7%), on the whole the project was implemented in a cost-

efficient manner. There was value for money. Sixth, there was a reasonably good chance for the project results to have lasting effects. Although the full impact of the project could not be fully assessed during the evaluation, certain signs indicated that the project had the potential to have lasting effects. For example, the methodologies and tools developed under the project had already found general acceptance not only among the pilot countries but also among other Member States. On the basis of the conclusions, the evaluation made five recommendations. First, more rigorous designing and management should be implemented for new projects. The projects should have one overarching goal as well as clear assumptions, risks and risk mitigation strategies, communication strategy and transition plan. Second, from a results perspective, new projects should have a clear and logical link between outputs and outcomes and the use of a logical framework should be considered in this regard. To avoid a disconnect between the outputs and outcomes of the project and also to ensure that the outcomes were ambitious but realistic, consideration should be given to using logical frameworks or finding another way to ensure a logical link between outputs, outcomes and impact. This included indications of how the delivery strategies chosen would ensure that the outputs led to the expected outcomes and impact. When different components of a project cannot be logically or realistically linked to one overarching goal, such components should be implemented as separate projects even if they were derived from one DA recommendation. Third, the interactive process for developing projects should be continued and encouraged as it ensured that the projects were relevant. Fourth, to properly assess whether project were cost-efficient, a system that allowed for monitoring and reporting on specific WIPO DA project activities (currently in development) should be implemented. Project managers should also make an effort, as part of project monitoring, to track expenditure based on cost categories and activities in the approved projects. Fifth, for longer-term sustainability, a transition plan should be developed to integrate the project initiatives into the regular P&B or to transfer the responsibility for activities or follow-up to the beneficiary Member States. There was strong evidence that the work undertaken under the project had the potential to produce long-term positive effects. The IAOD would continue to monitor the implementation of the recommendations on a regular basis. The IAOD thanked the external expert and the various divisions of the Organization for their excellent cooperation during the evaluation.

201. The Delegation of Egypt, speaking on behalf of the African Group, noted that the report contained the results of the evaluation carried out by the IAOD, a division of the Secretariat, with the assistance of an external expert. The Group recalled that the project was adopted at the third session of the CDIP in April 2009. The main objectives of the project were to strengthen national, sub-regional and regional IP institutional capacities and to enhance the capacities of IP and SMEs support institutions. The Group fully shared the six key conclusions that were reached on the basis of the findings and assessment of the project by the experts. The Group regretted that none of the three expected outcomes were fully realized notwithstanding the fact that this was a three-year project. Only one of the expected outcomes was significantly realized. This was related to the IP strategies component. The two other expected outcomes were not realized. These included the successful establishment of a sub-regional / regional mechanism for cooperation in the field of IP and the successful integration of IP into the business strategies of SMEs in the target countries / regions. On the basis of the conclusions and taking into account the overall purpose of the DA and the broader WIPO organizational goals, the Group supported the five recommendations made by the experts. The Group also called for prompt action with regard to the implementation of two objectives of the project. These included strengthening institutional capacity at the regional and sub-regional level through cooperation to facilitate the effective management of search and examination of IP applications through work sharing or pooling of resources, and enhancing the capacities of IP and SMEs support institutions so that these institutions can better address the needs of SMEs.

202. The Delegation of Spain appreciated the emphasis on the sustainability of the results. It had always maintained that it was crucial that when projects were adopted and implemented, there should be a special emphasis on sustainability in order for the projects to have long-term

effects. The ultimate aim of the projects was to allow the beneficiary countries to continue with the activities or to follow through without requiring external assistance in the future. The Delegation also highlighted the need to create synergies between the various divisions of the Organization in order for the implementation of the projects to be optimized. This would require improvements in the governance and management of projects approved by the Committee. The Delegation requested for clarification on the identity and background of the external Consultant as well as the criteria used to select Consultants.

203. The Delegation of the United States of America appreciated the useful report prepared by the IAOD on this important project to build IP institutional and user capacity. The Delegation believed that the concepts behind all three components to create a useful methodology for countries to develop IP strategies, to support regional cooperation on IP management, and to further understand and support the importance of IP to SMEs were all well-conceived and much needed. However, the Delegation was concerned by the conclusions raised in the IAOD report. The project was originally a 24-month project but had now been under implementation since April of 2009. The Delegation did understand that there had been an interactive process with the CDIP in refining the project and that there had been some unavoidable delays. However, the Delegation would like to better understand the strategy and time line for further implementation of the project.

204. The Chair invited the Secretariat to respond to the questions that were raised.

205. The Secretariat (Mr. Rajaobelina) thanked the delegations for their comments on the report. The Secretariat noted that some of the comments were on the recommendations. The Secretariat reiterated that the IAOD would follow-up the recommendations, particularly with regard to improving the synergies within the Organization and transition plans to allow the beneficiary countries to continue with the activities or to follow through without requiring external assistance in the future. The IAOD used an external expert for most of the evaluations as it did not have enough resources to do so on its own. Experts were recruited through competitions and through searching. The criteria included previous work experience. The IAOD also had a list of people who were experienced in the field of IP. All of these were used in the selection of experts. The TORs and the work to be undertaken by the expert were defined by the team in the IAOD. The team also assisted the expert by sharing the work and accompanying the expert on visits. The Secretariat referred to some of the points raised with regard to sustainability. The sustainability of the results was crucial in order for the outcomes to be maintained and sustained beyond the closure of the project. As far as the IP strategies component of the project was concerned, methodologies and tools were developed and would be made available to Member States to conduct activities for the development of IP strategies. That was one of the ways to encourage sustainability in the longer term. This was a practical outcome of the project. The Secretariat referred to the comment made on the synergies among the different divisions of the Organization and the overall management of the project. As mentioned in the evaluation report, it was recognized that the project was conceived as three stand-alone projects without an overarching goal. Thus, the design of future projects should be improved. An overarching goal was one of the missing elements in the design of the project. As a result, it was difficult to identify synergies among the different components. However, reference was made to the other components whenever it was relevant in the context of the beneficiaries in the pilot countries involved in the IP strategies component of the project. On the issue of timelines and future implementation, as far as the IP strategies component was concerned, what was not realized under the project was the actual adoption of the strategies by the governments concerned. However, those processes were not dependent on the timelines that were given to the project. The Secretariat also clarified that although the project was approved in April 2009, implementation only began at the beginning of 2010, and the project was concluded in the first quarter of 2012. The last activity, at least on the IP strategies component, was concluded in January 2012. Although the strategies were yet to be adopted and implemented, the

methodologies and tools were assisting those that were not part of the initial group of six pilot countries to implement similar activities in their countries.

206. The Delegation of Ecuador stated that its country was involved in the component on national IP strategies. The Delegation informed the Committee that Ecuador was still developing its IP strategy. The Delegation believed that the Organization had made a great contribution to the national IP Offices as they now had basic guidelines with regard to the work that was required in each country to strengthen national IP capacities. The Delegation also stated that another very positive outcome of the project in Ecuador was the work that was undertaken in relation to IP Day. More than 100 people participated in the meetings that were held in two cities. Various sectors were represented. The impact of IP on these sectors was presented. It assisted in providing sufficient information for future work in order for the system to be further developed. The Delegation thanked the Secretariat for its work, including on the methodologies that were developed under the project. The Delegation believed that the effects of the project would be sustained in the longer term. The methodologies should be shared in order for the project to be replicated in other countries.

207. The Delegation of the Republic of Moldova stated that its country was also involved in the project on national IP strategies. The Delegation thanked the Organization for its contribution to the development of their national IP strategy. The Delegation hoped that the experience gained by the Republic of Moldova would also be useful for other countries. The Delegation stated that its country's national IP strategy had been developed and was currently in the hands of the government. The Delegation stated that the process did not depend on the IP Office and hoped that it would be adopted very soon.

208. The Delegation of South Africa associated itself with the statement made by the African Group on the evaluation project. The Delegation commended the authors of the evaluation report. The document was well-written and a pleasure to read. The Delegation stated that recommendations 7, 9, and 10 were very important and encouraged the Secretariat to continue to implement these recommendations.

209. The Delegation of Paraguay stated that its country also welcomed the methodology and believed that the experience should be repeated in other countries. The Delegation requested the Secretariat to assist in the development of Paraguay's national IP strategy. The Delegation stated that the DA involved looking at national experiences and to see whether these could be replicated in other countries. It was certain that the project could produce long term effects. As such, the initiative should be strengthened and efforts should continue in the longer term.

210. The Chair thanked Delegation of Paraguay and concluded the discussions given that there were no further comments from the delegations.

#### Consideration of Document CDIP/10/3 - Evaluation Report of the Project on Intellectual Property Development Matchmaking Database (IP-DMD)

211. The Chair opened discussions on the Evaluation Report of the Project on Intellectual Property Development Matchmaking Database (IP-DMD). He invited the Evaluator to introduce the document.

212. The Evaluator (Ms. Austin) recalled that there were three main elements to the IP-DMD project. These included the development of a database and software for establishing an effective and interactive process for assessing IP related development needs; the establishment of a matchmaking and clearinghouse mechanism; and the establishment of a collaborative mechanism for the regular collection of information for potential donors and partners in order to match the specific needs of Member States to partners. The evaluation focused on assessing the project as a whole rather than on individual activities. The evaluation concentrated on the

project's contribution to assessing the needs of Member States and identifying the resources or the means to address those needs, its evolution over time, its performance including project design, project management, coordination, coherence, implementation and the results achieved. The evaluation focused on three specific areas. These included project design and management; project effectiveness; and the sustainability of the project. The report described the key findings for each area. With regard to project design and management, the original project document set out in broad terms the requirements of recommendation 9 of the DA. This was supplemented by more detailed and practical project documentation which was drafted by the project team. Both the official and the supplementary documentation lacked a coordinated plan of action, including the involvement and responsibility of all relevant WIPO Sectors with associated timelines for undertaking tasks. Although inputs were sought by the project team and in general, advice from the other sectors was taken on board, the lack of a clear strategy resulted in the creation of a database that was now up and running but for which responsibilities remained unclear. The Project Director in charge of the implementation of IP-DMD was a technology expert and this contributed to the success of the project. The fact that the same Project Director and team were also responsible for the implementation of two other DA recommendations allowed for a cost effective approach as it ensured the use of similar approaches across the three recommendations. In terms of effectiveness, and this referred to the extent to which the objectives were achieved and the major factors influencing the achievement or non-achievement of the objectives, at the time of writing, the use of the database by donors and requestors was limited. There were only six requests and six offers on the database. That was three months ago. The Evaluator was not aware of the current status. Although the database was launched in mid-2011 no concrete steps were taken to raise awareness of the database within the Secretariat as well as with Member States, donors and the private sector. The two existing system administrators were responsible for undertaking due diligence and checking information before it was made public. This essential step was currently manageable but it was unclear whether the team would have the capacity to do so if the database was more heavily populated. This issue was connected to the lack of clear workflow processes for supporting the database. Although reporting requirements were set out in the project documentation it was unclear as to what information would be monitored and how information gathered would be used and reported on. In terms of sustainability, as the use of the database was currently limited, it was still too early to state the extent to which the database would continue to be used in future by the Secretariat, donors and Member States. There was a concern that the database was not firmly anchored into WIPO's structured business processes, finance, administration and resource mobilisation systems and strategies. Ten recommendations were proposed for the IP-DMD and future projects. The first six recommendations concerned the IP-DMD. The first recommendation was on the lines of responsibility and workflow processes. These required immediately clarification in terms of the involvement of the different divisions and sectors within WIPO with regard to the database. The second recommendation concerned the promotion of the database. Work to promote the database must start as soon as possible both internally and externally so that Member States and other interested parties were aware of its existence. The third recommendation required WIPO to leverage its contacts with donors to seek support for project requests on the database in a pre-agreed and coordinated way to ensure that the database was actually used. The fourth recommendation was on the identification of country priorities. This was required to ensure that suitable projects were designed and uploaded on the database. The fifth recommendation proposed that the database needed to be more securely anchored in WIPO's results framework, regular budget and strategic goals so as to ensure that any funds channelled through the database were visible as results achieved. The sixth recommendation proposed that the targets for the database be agreed, including in relation to the number and types of donors, requests expected and the number of partnerships created. The next four recommendations were for future projects and mirrored to an extent, the recommendations for the IP-DMD. Thus, the seventh recommendation proposed that work on future projects should start with an agreed workflow process in place. It should clarify the roles and responsibilities as well as the links with standard WIPO strategies and processes. The eighth recommendation proposed that future



technical special projects should involve discussion and cooperation at management and development level with the relevant divisions in order to improve coherence when dealing with external bodies. The ninth recommendation proposed that future projects should have clear promotion and awareness-raising strategies from the outset. The final recommendation was on monitoring and reporting requirements. It was recommended that these should be included as part of the implementation plan for future projects.

213. The Delegation of Egypt, speaking on behalf of the African Group, endorsed the implementation of the recommendations by the Secretariat. In this regard, the Group requested the Secretariat to present a report on how it would implement these recommendations within a defined time frame. The Group looked forward to that next step in the implementation of the recommendations included in the evaluation report.

214. The Delegation of Australia expressed support for the Matchmaking Database. The Delegation viewed the database as a vehicle to promote transparency in technical assistance activities and also provided an avenue for the creation of development partnerships that were demand-driven and met specific IP development needs. The Delegation stated that Australia was in the process of including information on the IP-DMD with regard to its WIPO FIT. The Delegation highlighted that the ongoing success of projects such as this was very much reliant on Member States and other interested parties becoming familiar with the database, uploading information and accessing its content. Therefore, the Delegation encouraged Member States to make full use of the IP-DMD and take full advantage of the functions provided.

215. The Delegation of the United States of America stated that it had been a supporter of the IP-DMD throughout its development process. The Delegation was pleased to see that the database was functional and was beginning to be populated with needs and offers. While the evaluation report noted only six needs and six offers had been entered at the time of the report, the Delegation understood that additional needs and offers had been entered and that several matches had been completed. However, the Delegation looked forward to seeing the numbers of entries and matches increase as the IP-DMD became more well-known. The Delegation noted with interest that the Consultant found the IP-DMD to be unique in the UN system, in the matching service that it offered. This was a real accomplishment for the CDIP, for Member States, and for WIPO staff who saw value in creating a database that could link stakeholders together and create development partnerships that would include governments, NGOs and the private sector. The Delegation also recognized that the evaluation report found several ways in which the IP-DMD was currently limited in its effectiveness. The Delegation was supportive of the first six recommendations in the evaluation report as reviewed by the Consultant and would like to see these recommendations taken on by the WIPO Secretariat and the appropriate WIPO staff. The Delegation aligned itself with the African Group in that it would like to hear from the Secretariat about how these recommendations would be implemented, by whom, and in what time frame and would there be additional costs. The Delegation also had a few additional suggested quick fixes that might be made to the database itself. The Delegation believed an important next step was to further publicize the IP-DMD and to make it as user-friendly as possible. To that end, the Delegation offered some suggestions. Consideration could be given to highlighting the IP-DMD on WIPO's homepage, even temporarily, as a hot link. This could draw attention to the IP-DMD and make it easier to find. The Delegation stated that it currently did not seem easy to browse the database. On the homepage of the database, quick links to the needs, offers, and matches could be added. That would make it easy to browse the contents. Quickly seeing the number of outstanding needs and offers could inspire curiosity to look at these and possibly inspire action. Consideration could be given to adding a way to contact the IP-DMD staff to have questions answered. On the database homepage, some additional description of who should use the database and in which ways could also be added. This might also inspire people to take action. Within the database, navigating from page to page and back to the homepage should be made easier. The Delegation believed that these fixes which were fairly simple in nature, could go a long way towards making the database more

accessible and user-friendly. The Delegation attended the side meeting yesterday about the eTISC social media platform which was intended to encourage emerging inventors to exchange information on their work and ideas. The Delegation noted that possibly this web site could be coordinated with the IP-DMD in some way that would create synergies between the two sites. Lastly, the Delegation appreciated and would take into consideration recommendations 7 through 10 in the report which pointed out components such as work flow planning, improved coordination, promotion, et cetera, all items which should be included up front in future projects of the CDIP.

216. The Delegation of Brazil, speaking on behalf of the DAG, observed that so far, there were no disagreements among Member States with regard to the project which was good. The Group reiterated that it attached great importance to external evaluations such as these. The external evaluations enhanced transparency and also provided feedback to Member States on progress. The Group was concerned with the findings that were presented and described in the report with respect to three areas, namely, project design and management; project effectiveness; and the sustainability of the project. The Group saw the project as being instrumental in diversifying technical assistance resources for developing countries. However, successful implementation was required in order for the project to fulfill its objectives. In this regard, the Group strongly recommended the implementation of the recommendations contained in the evaluation report, in particular those concerning the promotion and dissemination of the initiative among interested parties as well as the establishment of links to WIPO services and divisions that could contribute to the objectives of the project.

217. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, welcomed the opportunity provided by the external evaluations to assess the completed projects. Evaluation reports were very useful tools to improve some aspects and to identify shortcomings that should be avoided in future projects. Referring to their intervention in the ninth session of the CDIP, the EU and its Member States again highlighted the importance of effectiveness, efficiency and transparency in the management of projects. They were particularly pleased to see clear recommendations following lessons learned, such as those that were included in the evaluation report on the IP-DMD project. In particular, the EU and its Member States noted the need for timely clarification of lines of responsibility and work flow processes; the need for monitoring and reporting requirements to be included for future projects from the outset; and that future technical special projects should involve discussion and cooperation at management and development level. Overall, there was also a need for enhanced tools for planning, monitoring and evaluating projects as well as measures to ensure sustainability and continuation of projects in the future. The EU and its Member States urged the Secretariat not to lose sight of the important lessons learned as they were critical for improving effectiveness and efficiency in the management of future projects.

218. The Delegation of Chile considered the IP-DMD to be a very interesting tool. It allowed countries to assess their development needs in terms of IP. The Delegation viewed the creation of mechanisms to facilitate the exchange of information and the establishment of systems of communication that would allow donors to respond to the specific needs of Member States to be very positive. The report provided a clear illustration of the benefits that could be derived from the project as well as the aspects that could be improved to support the effective and efficient use of the database. The Delegation echoed the view expressed by other delegations that it was important for the tool to be promoted in order for it to contribute effectively to the needs of the developing countries.

219. The Delegation of Spain concurred with the statement made by the Delegation of Cyprus on behalf of the EU and its Member States. There was a need for increased transparency with regard to the implementation of projects and external evaluations were an essential tool in that regard. The Delegation also agreed with the African Group and the Delegation of the United States of America that the Secretariat should present a report on how it would implement the

recommendations contained in the evaluation report. This was essential to increase the effectiveness of the project. The Delegation also noted that the implementation of the project was delayed by 12 weeks. Every effort must be made to eliminate or at least reduce delays to a minimum in view of the effects on the beneficiary countries. Delays could also lead to problems in the management of the project and Evaluators may not be able to carry out their job without the necessary data or tools that were required to evaluate the project. The Delegation also stated that there should be an emphasis on sustainability in all projects. With regard to the IP-DMD, the Delegation echoed the view expressed by other delegations that the sustainability of the database was extremely important. In that regard, the Delegation noted that the evaluation report mentioned that the project should not be seen as an end in itself. The creation of the database was not an end in itself as the ultimate objective was to match offers with demand in order for the database to meet the needs of beneficiary countries.

220. The Delegation of Switzerland was very pleased with the creation of the IP-DMD, and noted that it was functioning well. The Delegation believed that the database was a very useful tool for promoting transparency in terms of the development needs in IP and would improve coordination and complementarity between offers and demand. The Delegation stated that it was very important to ensure that the project was sustainable. The Delegation stressed that many of the recommendations were very important and should be implemented. Referring to the recommendations concerning publicity and the utilization of the database, the Delegation stated that it would be interesting to take on board the suggestions by the Delegation of the United States of America to enhance the profile of the database.

221. The Delegation of the Republic of Korea believed that IP-DMD would become a useful tool to match the IP-related development needs of developing countries and LDCs with available resources. The Delegation was delighted to inform the Committee that "One Village, One Brand", a development assistance program offered by the Korean IP Office (KIPO) was currently registered in the database. There were also plans to register another development assistance program with the title, "Development and Provision of Appropriate Technology", in the database in the near future. The Delegation stated that KIPO would be receiving requests for the 2013 program through the database and other existing processes by the first quarter of 2013. The Delegation requested for the interest and participation of the Member States in the program. The Delegation supported the conclusions and recommendations contained in the evaluation report. The conclusions and recommendations merited the attention and consideration of the various divisions and sectors of WIPO. The recommendations on raising awareness of the database and work flow processes required immediate implementation. The Delegation stated that the database had not been sufficiently populated. The Delegation also mentioned that KIPO had transmitted the relevant materials for "One Village, One Brand" to WIPO and it took over five months for the program to be loaded on to the database. The Delegation believed that with the necessary improvements, the database would be able to fulfill its fundamental objectives.

222. The Delegation of China supported the IP-DMD project. The report indicated that although the design and implementation of IP-DMD had been completed, there were still problems due to the lack of an awareness campaign and shortcomings in the management of the database. Thus, the database had yet to achieve its objectives. The Delegation agreed with the recommendations included in the evaluation report and hoped that with the support of the Member States, the Secretariat would take concrete steps to implement the recommendations so as to improve the database and promote its use. By doing so, the database would assist developing countries to benefit from more technical assistance.

223. The Delegation of Germany considered IP-DMD to be a very useful project. It should be further publicized and promoted. The Delegation aligned itself with the statement made by the Delegation of Cyprus on behalf of the EU and its Member States. The Delegation highlighted the importance of sustainability and stated that it was a key factor not only in relation to projects

but also in the context of development. The Delegation also stressed that, as underlined in one of the evaluation reports, projects were a means to an end and not the end itself. The Delegation further believed that enhanced tools for planning, monitoring and evaluating projects as well as better coordination would further contribute towards improving sustainability.

224. The Delegation of Cuba fully supported the development of IP-DMD as a management tool and as a tool for the exchange of information between Member States.

225. The Secretariat (Mr. Ntchatcho) thanking the delegations for their comments assured them that he would give due consideration to the recommendations that were made. The Secretariat referred to the suggestion from a number of delegations that the Secretariat should present a report on how it planned to implement the recommendations. The Secretariat was certainly willing to do so and had already taken a number of steps to build on the achievements of the project. The Secretariat intended to put forward a plan of action for the implementation of the recommendations and would keep the Committee informed of the developments in due course. The Secretariat also added that following the evaluation in August, work had continued within the Secretariat. A number of steps were taken with respect to the promotion of the database. A *note verbale* concerning the database was issued by the Director General to all Member States. It was issued in French, English, and Spanish. It emphasized the importance of the database for Member States, in particular, developing countries and LDCs. A promotional leaflet was also issued and distributed to a number of delegations, including IGOs and NGOs. The leaflet was available in three languages and provided a brief overview of the matchmaking database. Internal consultations had also taken place and an office instruction was prepared on the roles and responsibilities of the various organizational units within the Organization. The instruction would be issued by the Director General. According to the instruction, the Budget Section, Office of the Controller and the Legal Counsel were responsible for the substantive aspects of the assistance to be provided. The assistance could cover any subject that fell within the responsibility of the Organization. The Department of External Relations was also included. The Secretariat stressed that these were not the final steps. The promotion of the database was a work in progress and the Secretariat would take into account the recommendations that were made during the discussion. The Secretariat had also taken note of the very useful suggestion made by a number of delegations, including the Delegation of the United States of America, on using links to improve the web site. The Secretariat had made efforts in that regard but there was always room for improvement. The Secretariat would try to include these in order to make the platform more user-friendly and accessible. As requested, the Secretariat would submit a report on how it intended to implement the recommendations included in the evaluation report.

226. The Chair thanked the Secretariat for its response and concluded the discussion given that there were no further comments from the delegations.

#### Consideration of Document CDIP/10/4 - Evaluation Report of the Smart IP Institutions Project

227. The Chair opened discussions on the Evaluation Report of the Smart IP Institutions Project. He invited the Evaluators to introduce the document.

228. The Evaluator (Mr. O'Neil) introduced the report contained in document CDIP/10/4. The evaluation was jointly undertaken by Mr. Glenn O'Neil, Founder, Owl RE, Wise Research and Professor Tom P. M. Ogada, T&P Innovation and Technology Management Service, Nairobi. The Smart IP Institutions Project concerned the deployment of information and communication technology infrastructure across different Member States, in particular, OAPI, ARIPO and the IP Offices in three LDC countries, namely, Bhutan, Laos, and Cambodia. The project also included the organization of workshops focusing on knowledge transfer amongst the offices. The Evaluator referred to the key findings of the evaluation. With regard to project design and

management, the project document was assessed as being sufficient for launching the four components of the project. In all cases, needs assessments were undertaken; equipment was purchased, installed, tested and commissioned; and staff was trained. However, the evaluation noted a few shortcomings and challenges. In terms of effectiveness, the project certainly contributed to increasing the capacity for efficient reception of IP applications and providing faster and efficient data communication and online access to central IP databases for the ARIPO component but not in the case of OAPI. The project also contributed to eliminating and minimizing manual paper intensive procedures both in the case of the ARIPO-Member States Data Exchange project and the IPAS project for the LDCs. A number of conclusions were made based on the findings of the evaluation. As mentioned, the project did increase the capacity of the national IP Offices to receive IP applications and provide faster and efficient data communication between them and their regional offices. The project with ARIPO was the most promising in this regard. The project also made use of the synergies between the different offices to implement the project in a cost-effective manner. However, it was too early to conclude whether the systems that were put in place would be sustainable in the long term. The report included four main recommendations on the basis of the evaluation. First, it was recommended that the WIPO Secretariat should modify the project document for use in the implementation of projects of this nature in future. The details were described in paragraph 52 and included modifying the existing cooperation agreements between WIPO and the national IP Offices as well as increasing the responsibilities of the participating IP Offices. Second, it was recommended that the WIPO Secretariat should agree to complete the delivery of the project as articulated in the project document by mainstreaming activities within the regular budget. In this context, consideration should be given to strengthening the ARIPO project, finding resources to complete the deployment of the system in OAPI and organizing a training workshop for sharing experiences and lessons learned as an annual event in the region. Third, it was recommended that the Secretariat should include the concept of cost sharing in the implementation and delivery strategy of such projects in future. Lastly, it was recommended that the Secretariat and the participating national IP Offices should ensure sustainability of the project through providing the necessary resources needed for project completion and continuity.

229. The Delegation of Egypt, speaking on behalf of the African Group, recalled that the project aimed to strengthen the national and regional IP institutions to offer efficient, quality and timely IP services to their stakeholders, and to enable the national and regional IP institutions to undertake research and analysis, forecast and projections and support the scientific and business community of the country. Thus, the evaluation should help the Member States to assess the fulfillment of those objectives. The Group took note of the key findings, conclusions, and recommendations of the evaluation, in particular, the need for the project document to be modified for use in the implementation of projects of this nature in future as well as the need for the Secretariat and national IP Offices to ensure sustainability of the project through providing the necessary resources required for project completion and continuity. The Group made some comments on the evaluation report. First, the evaluation did not assess the extent to which the project and its four sub-components promoted a balanced approach to IP within the regional IP institutions, in accordance with recommendation 10 of the DA. In assessing the effectiveness of the project, the evaluation only looked at whether it increased the capacity for efficient reception of IP applications and providing faster and efficient data communication and online access to central IP databases. Second, although the evaluation assessed that the project was useful in facilitating the sharing of knowledge, experiences, lessons learned and collaboration on automation projects amongst countries, it did not assess whether, and to what extent, a balanced approach to IP was adopted. Third, in assessing the extent to which recommendation 10 of the DA was implemented through the project, the evaluation did not mention whether the project promoted a fair balance between IP protection and the public interest. The evaluation report simply stated the following, “this recommendation has been implemented throughout the project. Offices were equipped with new IT business systems, new IT equipment to support the projects and staff was trained on new business systems and methods”. The evaluation did not

provide an assessment or details of the content of the three training workshops organized under the project.

230. The Delegation of the United States of America expressed its appreciation for the comprehensive evaluation report and was pleased to learn about the progress made on this innovative approach to modernizing IP institutions in developing countries and LDCs. The Delegation believed that the investment in the IP infrastructure of developing countries and LDCs, although not insignificant, would pay major dividends in the future. The Delegation recommended that the CDIP took note of the Evaluators' points in designing future projects. For example, the Evaluators recommended that program participants be selected based on their demonstrated commitment to do their part to achieve full implementation. To this end, the Delegation believed that the evaluation presented a sensible way forward, that future projects be designed so as to provide human and financial resources on an incremental basis, toggled to reaching milestones in project implementation. The Delegation would support future well-designed projects in the area of IP Office modernization and enhanced communication with regional and neighboring offices.

231. The Delegation of Bolivia supported the comments made by the Delegation of Egypt on behalf of the African Group. The purpose and objective of improving the institutional capacity of countries through further development of infrastructure and other facilities was clearly stated in recommendation 10 of the DA. It was aimed not only at making IP institutions more efficient but also to promote a fair balance between IP protection and the public interest. Thus, the project should contribute towards a fair balance between IP protection and the public interest. That dimension was not evaluated by the external experts. The Delegation would like to know why it was not done. The Delegation acknowledged that perhaps this aspect was not adequately reflected in the project document. However, this should have been included in the evaluation as it concerned the application of recommendation 10 of the DA and that recommendation clearly provided for the balance between IP protection and the public interest. Thus, the Delegation hoped that the evaluation report can be revised to reflect that dimension. The Delegation was interested to know of the extent to which the project had contributed to that balance. If it could not be evaluated at this stage, the Delegation would like this to be reflected in the project document and an activity could be proposed in future in order for the implementation of that recommendation to continue.

232. The Delegation of Ghana endorsed the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation appreciated WIPO's role in providing a forum for Member States to exchange information, knowledge, and experiences as well as in building institutional capacity. The Delegation appreciated and shared WIPO's vision to promote the use and protection of IP as a component of economic and social development globally. The Delegation thanked WIPO for the many activities undertaken with Ghana aimed at strengthening the IP system and in particular, projects such as the needs assessment for digitizing its way of doing business, workshops on utilizing patent information as well as the deployment of the IPAS system which had improved the capacity and efficiency of IP Offices in processing IP applications and drastically reduced the backlog of applications at the national level. Ghana had also benefited from capacity-building activities for IP professionals and use of patent information among other activities supported by WIPO and the Swiss IP Office. The Delegation recognized that efficient and improved use of IP tools was essential for development and therefore supported the strengthening of the ARIPO project in the five countries of which Ghana was a beneficiary and to extend this to other Member States. The Delegation looked forward to the implementation of the recommendations contained in CDIP/10/4 to strengthen the ARIPO project alongside other recommendations.

233. The Chair invited the Evaluator to respond to the questions and comments.

234. The Evaluator agreed that the assistance and support given to the national IP Offices should be done in incremental ways and linked to achieving certain milestones to encourage sustainability and equal participation in projects of this nature. With regard to the requirement in recommendation 10 on the balance between IP protection and the public interest, the Evaluator acknowledged that the evaluation did not, to a large extent, focus on this element. The Evaluator believed that at this stage, it was perhaps too early or difficult for this to be assessed. This should have been mentioned in the findings of the evaluation.

235. The Secretariat (Mr. Meredith) thanked the delegation for their comments and the Evaluators for their constructive and useful recommendations which had been considered and would be taken into account for future projects. The Secretariat referred to the comment made by the Delegations of Egypt and Bolivia on the balance between IP protection and the public interest. This was linked to the general issue of assessing the impact of the project. It was highlighted that the project was very technical in nature. As such, it was possible for the Evaluators to measure the technical outcomes in terms of the training, systems and IT equipment delivered under the project. However, it was very difficult for the Evaluators to evaluate the impact of the project in the time that was available. This included assessing the possible impact on local industries in the countries or regions where the project was implemented, the balance between IP protection and the public interest as well as other factors. This had not been documented in the evaluation. However, the Secretariat had taken this into account in planning for next year and the next biennium. The Secretariat hoped to provide some indicators to measure these outcomes with regard to the technical projects that were implemented in regional and national IP Offices. Thus, the comments had been taken onboard and the Secretariat would try to include more of these aspects in the evaluation of future projects.

236. The Chair thanked the Evaluator and the Secretariat for their response. He concluded the discussion on the project given that there were no additional comments from the delegations.

Consideration of Document CDIP/10/5 - Evaluation Report of the Project on Intellectual Property, Information and Communication Technologies (ICTS), the Digital Divide and Access to Knowledge

237. The Chair opened discussions on the Evaluation Report of the Project on Intellectual Property, Information and Communication Technologies (ICTS), the Digital Divide and Access to Knowledge. He invited the Evaluator to introduce the document.

238. The Evaluator (Mr. O'Neil) provided an overview of the report contained in document CDIP/10/5. The evaluation was jointly undertaken by Mr. Glenn O'Neil, Founder, Owl RE, Wise Research and Professor Tom P. M. Ogada, T&P Innovation and Technology Management Service, Nairobi. The Project included two separate components on copyright and the digitization of IP records. The copyright component aimed to gather information and explore the potential of the copyright system, its flexibilities and different models for managing copyright, in addition to a complementary objective to conduct an interdisciplinary evaluation of opportunities for WIPO. The main activity of this component was the commissioning of an academic study with three components. The digitization component aimed to contribute to the reduction of the knowledge gap between industrialized and developing countries, especially LDCs through the digitization of IP data. The evaluation report included key findings, conclusions and recommendations based on the evaluation. The Evaluator referred to the key findings. The project document was assessed to be sufficient for the two components of the project. However, the evaluation noted a few shortcomings. These were described in the evaluation report. The reporting tools were adequate and useful in providing information on the general progress of the project. However, at this stage, the copyright component had limited need for monitoring and reporting tools given that it was still in a preliminary phase and the Member States had yet to discuss the studies. For the digitization component, it was challenging for

WIPO to collect and compile monitoring data from all 17 participating IP Offices. In terms of effectiveness, the copyright component had made limited progress towards raising Member States awareness in this area due to its preliminary status. The project had completed the research and consultation stage but its findings, in the form of three studies, were not to be discussed amongst Member States. The discussions would take place in the current session of the CDIP. Thus, it had not been possible to assess the effectiveness of that stage as it would only be undertaken later in the week. The digitization component was implemented to varying degrees in 17 IP Offices. Given that these IP Offices were at different stages of the project, the capacity developed to digitize and update the databases varied. Direct feedback from three participating IP Offices and WIPO reporting indicated that the IP Offices did, in the majority of cases, achieve progress in digitizing their existing patent records. In the case of six IP Offices and ARIPO, these records were or would shortly be made available on PATENTSCOPE®, the global patent platform. Eleven IP Offices had yet to complete the project. The Evaluator turned to the conclusions of the evaluation. The project was comprised of two components that in fact did not have any organizational or operational connections aside from contributing to the same long term goal of bridging the digital divide. This created confusion with regard to the project and its components. With regard to the digitization component, although planning and project management tools were used, modifications to assessment criteria, monitoring tools, reporting by IP Offices and improved procurement procedures would be advisable for such projects in future. The digitization component also did not include a requirement for the IP Offices to report on project implementation. In comparable development projects involving international / national collaboration, there would normally be a clear reporting schedule for the national partners to ensure that they fulfilled their responsibilities under the project. This would have facilitated monitoring and decision-making in terms of the next steps. As mentioned, the evaluation of the copyright component was limited as the most crucial phase involving the discussion by Member States and the shaping of new activities had yet to take place. However, based on a reading of the studies and its recommendations, there appeared to be interesting and worthwhile suggestions that deserved consideration by the Member States. With regard to the digitization project, the initial plan was to support six IP Offices. This was later increased to 17 IP Offices. In the majority of cases, progress in digitizing patent records was achieved in a cost-effective manner within the allocated budget. This was a positive development as it increased the reach of the project. However, it was more challenging for the Secretariat to follow the developments with regard to all the IP Offices, to encourage their participation and to conclude the project within the given timeframe. In terms of sustainability, the sustainability of the copyright component was largely dependent on the interest and support of the Member States. The future of the project hinged on the inputs provided by the Member States. The long term success of this component was also dependent on the implementation of outreach and awareness raising activities. The sustainability of the digitization component was largely dependent on the resources and commitment of the IP Offices. The participating IP Offices should continue to use the scanning equipment for new patent applications and existing trademark records. It would be advisable for WIPO to continue to support this through ongoing technical advice and follow-up. The Evaluator turned to the recommendations. The evaluation report included five recommendations. First, for future projects involving two distinct components, consideration should be given to creating two separate projects. Second, it was recommended that the WIPO Secretariat should modify the project document for use in the implementation of similar development projects in future. This was described in paragraph 60 of the report. Third, it was recommended that Member States should consider the studies and recommendations of the copyright component and provide substantive feedback to the Secretariat in this regard. Fourth, as a key element of the copyright component on the possible creation of new activities for WIPO had yet to be defined through a feasibility assessment, consideration should be given as to how the Copyright Law Division would be supported in carrying out that assessment and how the implementation of possible new activities, including outreach and awareness-raising activities, would be funded. Finally, for the continued sustainability of the digitization component, it was recommended that the Secretariat should



complete delivery of the project, particularly as 11 IP Offices had yet to complete this component of the project.

239. The Delegation of Egypt, speaking on behalf of the African Group, noted that the project included two components. The copyright component aimed to gather information and explore the potential of the copyright system, its flexibilities and different models for managing copyright, in addition to a complementary objective to conduct an interdisciplinary evaluation of opportunities for WIPO. The digitization component aimed to contribute to the reduction of the knowledge gap between industrialized and developing countries, especially LDCs through the digitization of IP data. The Group noted the findings of the evaluation with regard to project design and management. The Group shared the findings on the effectiveness and sustainability of the project. However, the Group was concerned about the limited progress made in the copyright component of the project. The Group was of the view that the complete implementation of the project would support beneficiary countries or organizations in achieving their development goals through enhanced access to knowledge. If completed, the project could increase the availability of technological knowledge through the digitization of documents in developing countries, especially LDCs. It would also help to increase the capacity of IP Offices to effectively create and provide access to databases as well as increase awareness of the benefits of IP rights. Therefore, the Group supported the recommendations included in the evaluation report. In this context, the Group called on the Committee to consider the recommendations. Some elements were highlighted by the Group. First, the Group was committed to discuss the three studies for raising the awareness of Member States on the potential to enhance access to information and creative content through the copyright system. This was in accordance with the copyright component of the project. Second, as mentioned by the Evaluator, the project was comprised of two distinct components that in fact did not have any organizational or operational connections aside from contributing to the same long-term goal of bridging the digital divide. As such, the two components should be separated. Third, the Secretariat should mobilize resources to complete the digitization component in all the IP Offices participating in the project. Fourth, the Secretariat should provide the necessary support to ensure that the digitization process for new patent applications was undertaken and to encourage the uptake of a similar process for trademark records and applications in the participating IP Offices. Fifth, the Group was concerned that the digitization component gave priority to patent records rather than trademarks. In that regard, the Group recalled one of the conclusions of the evaluation report, "the digitization component was successful in supporting IPOs in digitizing patent records. However, the choice of patent records would not necessarily have been the priority for IPOs given that patents are some 10% of their workload. The digitization of trademark records, which make up the large part of the remaining 90% of their workload and consequent records, would have been their priority. Evidently, WIPO gave a priority to patent records given their desire to have these national records integrated within PATENTSCOPE® and the international demand for global patent records."

240. The Delegation of Spain believed that evaluating this project was a complicated task due to the characteristics of the project. The Delegation felt that many of the points mentioned in the evaluation report and highlighted by the Evaluator, such as the lack of internal coordination and indicators as well as measures to ensure sustainability indicated that projects should not be approved by the Committee unless they were more coherent or complete. A detailed discussion was required for the adoption of projects. If projects were approved with the necessary aspects included in the documentation it would be easier to ensure that they were properly implemented in order for the potential benefits to be realized. The Delegation noted that it was mentioned in the evaluation report that the project document was sufficient. However, based on the presentation, there seemed to be a lot of room for improvement. The Delegation stressed that it was important to bear this mind for future projects. The planning and documentation should be as complete as possible. In this regard, the Delegation stressed that the emphasis should be on quality rather than quantity.

241. The Delegation of Algeria aligned itself with the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation stated that Algeria was proud to be one of the beneficiaries of the project. The Delegation thanked the Secretariat for the assistance provided in that regard. The Delegation was pleased to inform the Committee that Algeria was one of the four countries to use IPAS and had benefited from the assistance provided in relation to the acquisition of that system as well as tools for the digitization of IP documents. These facilitated the modernization of the infrastructure in the IP Office.

242. The Delegation of Chile referred to the digitization component of the project. The Delegation informed the Committee that Chile had experienced the benefits of such initiatives. Chile had succeeded in implementing a similar project with respect to the patent and trademark records in the IP Office. Thus, the Delegation supported the recommendation for the Secretariat to complete the implementation of the project in all the participating IP Offices. WIPO should continue to support the modernization of infrastructure if it had the resources to do so as IP Offices were interested in such activities.

243. The Delegation of the United States of America appreciated the comprehensive evaluation report. As the Evaluators noted, at this time, it was premature to discuss the copyright component of the project. The discussion of document CDIP/9/INF/3, "Using Copyright to Promote Access to Information and Creative Content", was planned as part of a later item on the Committee's Agenda. However, for the digitization project, the Delegation stated that the Evaluators had raised valid concerns about building uniform assessment criteria for potential participants in WIPO projects, providing resources on an incremental basis as project milestones were reached and improving monitoring systems. The Delegation noted that implementation of the digitization project was reportedly completed in December 2011, but many offices had yet to fully digitize their records. The Delegation would appreciate an update from the Evaluators or Secretariat on any work that had continued since 2011. The Delegation also congratulated the IP Offices of Argentina, the Dominican Republic, El Salvador, South Africa, Vietnam, as well as ARIPO for digitizing their patent records. This was a great achievement that would accrue great benefits to inventors in these nations and around the world. The Delegation noted that several other IP Offices participating in the digitization project were well on their way towards completion and hoped that resources can be found to support these efforts. The Delegation agreed with the project Evaluators and other delegations that sustained success for the project would include ensuring that new patent records were scanned as they arose, and possibly, expansion into scanning trademark records. The Delegation would support future efforts in this area.

244. The Delegation of Ghana aligned itself with the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation recognized the importance of building national databases and digitizing paper-based records to bridge the digital divide and to provide users with easy access to IP information. The Delegation noted that the project encountered some challenges, and on the whole, was a viable project. Ghana was interested in the project. The Delegation was supportive of the recommendations included in the evaluation report, in particular, recommendation five. The Delegation looked forward to the complete delivery of the project.

245. The Delegation of Ecuador expressed support for the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation emphasized that such projects should lead to the digitization of trademark records as trademarks accounted for most of the work in the IP Offices. This would allow the IP Offices to extend the use of their systems. The Delegation believed that these should be open systems that can be shared by the IP Offices in all the countries on a continuous basis. The Delegation believed that this would help in the implementation of such projects and was something that could be done in the future. The Delegation urged the PBC to allocate more resources for such projects so as to increase the efficiency of IP Offices and to use IP as a tool for development.

246. The Delegation of Cuba recognized the importance of the project and hoped that other IP Offices would also be able to benefit from the project as soon as possible. The Delegation supported the extension of the project to trademarks. The Delegation believed that it was important to allocate the necessary budget for the extension of the project.

247. The Chair invited the Evaluator to respond to the questions and comments.

248. The Evaluator (Mr. O'Neil) reiterated that Member States should participate in the next stage of the copyright component as it was the most important phase of the project in terms of its future. The Evaluator noted that the delegations had raised concerns with regard to the adequacy of the documentation for the digitization component of the project. The Evaluators shared some of the concerns and had made suggestions to introduce more standard assessment indicators as well as mile stones which would require the participation of WIPO and the national IP Offices.

249. The Secretariat (Mr. Meredith) referred to the digitization component of the project and made some comments on its sustainability, future work and extension to trademarks. The project had enabled the Secretariat to increase its capacity to provide digitization services to IP Offices during the period of implementation of the project. Although the Secretariat was now less able to do so, there were still resources under Program 15 of the regular budget for the same activities to continue, albeit at a reduced level. In practice, this meant that the Secretariat was able to provide technical assistance to requesting Offices but the provision of assistance through contracting external companies to undertake digitization was not possible within the resources of the regular P&B. Thus, in order to ensure the sustainability of such activities, the Secretariat was approaching external agencies to try to secure external funding for those activities. As such, from the point of view of the Organization, the activities were sustainable to the extent that regular budget resources were allocated to provide technical assistance to IP Offices and the Secretariat was continuously seeking support from external funding agencies for that to be enhanced. From the point of view of the IP Offices, the project was sustainable as the Secretariat had delivered systems, training and knowledge transfer to enable the offices to continue with the work that was done during the implementation of the project. The IP Offices that had implemented the project were using the systems continuously and that was also highlighted in the evaluation report. The Offices were also able to extend the digitization activities to the scanning of new incoming documents as well as trademark documents. The Secretariat stated that several of the beneficiary Offices had already started with the digitization of trademark records in the course of 2012. The Secretariat referred to the copyright component of the project. As mentioned by the Evaluator, the research and consultation phase of the project had already been finalized. However, the discussion on the findings of the studies did not take place during the ninth session of the CDIP due to the lack of time. That discussion would take place in the Committee on Friday. The Secretariat was pleased that the delegations had indicated a willingness to discuss those findings and looked forward to the Committee's input and guidance in taking that work forward.

250. The Chair thanked the Secretariat for its response and concluded the discussions on the project.

#### Consideration of Document CDIP/10/8 - Evaluation Report of the Project on Innovation and Technology Transfer Support Structure for National Institutions

251. The Chair opened discussions on the Evaluation Report of the Project on Innovation and Technology Transfer Support Structure for National Institutions. The Chair recalled that the project was approved in the sixth session of the Committee. The main purpose of the project was to develop tools to assist academic and research institutions to manage IP rights with a view to enhancing innovation and technology transfer. The Chair informed the Committee that

the evaluation report was contained in document CDIP/10/8. He invited the Evaluator to introduce the report.

252. The Evaluator (Ms. Monagle) stated that the broad objective of the project was to stimulate local innovation in developing countries, especially LDCs, given the contribution of innovation to economic growth and social development. This was intended to be fostered through providing support for establishing and improving infrastructure and professional skills for the effective use of the IP system in the area of innovation and technology transfer. As described in the initial project document, the project was intended to create and test or, where they exist, update and improve, a series of modules and materials relating to managing IP rights by academic and research institutions. The project also provided for the inclusion of the material in a portal which would serve as a digital repository of training modules, guides, tools, examples, models of national IP strategies, institutional IP policies, best practices and case studies. The portal would be accessed through WIPO's web site and would act as a one-stop shop for accessing these materials. It was intended that these materials would promote local innovation and technology transfer activities through improving IP infrastructure and IP management in developing countries. The official start date for the project was April 2009, and it was formally completed in April 2012. The objectives of the evaluation were to learn from experiences during project implementation, to look at what worked well and what did not work well, and to provide evidence-based evaluative information to support the CDIP's decision-making process. The focus of the evaluation was not on assessing the individual activities but on evaluating the project as a whole. The evaluation itself was conducted through desk review of the relevant project documentation and semi-structured interviews that took place either in person or by telephone aided by a survey questionnaire. It was structured around questions within four key areas, namely, project design and management, effectiveness, sustainability, and contribution to implementation of relevant DA recommendations. The project time frame considered for the evaluation was 36 months (April 2009 - April 2012). However, as the implementation of some activities continued beyond April 2012, due to a six-month delay in the start of the project, activities up to mid-September 2012, were considered. When the evaluation was conducted, most outputs had been or were soon to be delivered. The budget expenditure was also nearly complete. As reported in the project summary presented at the eighth session of the CDIP, by that point, the project paper had been delivered and a number of training tools had been tested in *in-situ* seminars and events. A prototype version of the digital portal was also presented by the Secretariat in that session. By the time of the evaluation, materials included within the draft digital portal encompassed materials in three categories. These included existing materials previously available only for purchase through the WIPO web site or bookstore; material currently available free of charge on the WIPO web site; and new content awaiting approval prior to external publication. At the time of the evaluation, outputs that had not yet been fully delivered were the digital portal, which had been developed but not yet made available to users outside the Secretariat due to the need for new material to be approved, as well as the delivery of a web forum network for trainees. The latter was linked to the external availability of the digital portal. The evaluation report provided detailed information on the findings, conclusions and recommendations of the evaluation. The Evaluator highlighted the conclusions and recommendations of the evaluation that were most relevant to the CDIP. With regard to project design and management, the overall project deliverables related to project objectives. Project documents were tools that played a critically important role in ensuring that expectations were clear, timelines were realistic, and outputs measurable. This was particularly important when projects were long and personnel were likely to change over the course of the project. Greater specificity with regard to certain deliverables and indicators to measure delivery may have been useful in this project. It was particularly important that the number, focus and format of outputs, as well as their expected timeline for delivery were sufficiently specific to guide implementation, to provide clarity to staff, and to facilitate proper measurement and evaluation of project delivery. While it was important that project expectations were clear and measurable, and that performance was measured against project plans established at the initiation of a project, it was also important that the Secretariat had the flexibility and opportunity

to respond strategically to emerging opportunities and trends, including to explore deviations from the original project delivery strategy where warranted. The timing of the final evaluation prior to the external delivery of the digital portal limited the extent to which it could meaningfully consider certain questions relating to the effectiveness of the project, particularly in the context of the project objectives. Nevertheless, certain conclusions were drawn. The value of the country and regional based activities was broadly acknowledged. On the whole, it was perceived that the various *in-situ* training seminars and workshops supported the goals of increasing the expertise of Member States in using the patent system for protecting and marketing inventions; creating better awareness of the uses of the patent system at different stages of innovation; and improving infrastructure for technology transfer in developing countries. The online delivery of content on innovation and technology transfer was likewise expected to further support the above objectives, with broad support for materials to be free of charge and openly accessible, as supported by the project design. The emphasis of the project in using an online delivery mechanism was seen to have both advantages and disadvantages for users. One concern with the emphasis on online delivery was that in some contexts and particularly, in some LDCs, the infrastructure that facilitated access by users to online technologies may not yet be universally available or affordable. However, it was also observed that it may be appropriate to continue to support an online delivery focus in the expectation that access to internet technology and infrastructure would continue to improve over time. In addition, even with a global online delivery mechanism, the continued tailoring of materials to national and regional contexts was encouraged. The sustainability of the project was a concern. As there was no on-going commitment, at the time of the evaluation, to ensure further development and maintenance of the digital portal, there appeared to be a risk to the sustainability of the project, in particular, the dissemination of work that had already been completed. If Member States wished to ensure that the value of work already completed was not lost, and that this work can be further built upon over time, options to ensure sustainability might be considered. Sustainability was referred to in the sense of ensuring that developing and least developed Member States had digital access to up to date, relevant and useful materials on innovation and technology transfer. Options to ensure sustainability might include either continued investment into maintenance and further development of the digital portal, or integration of the contents of the digital portal and any new materials developed within the WIPO web site and accessible through the web site's general search facilities, or a combination of these options. These should be considered in the context of the current redevelopment of the WIPO web site and opportunities arising as a result of a renewed focus on user-friendliness. On implementation of the DA recommendations, there was broad acknowledgement of the importance of technology transfer in developing countries and LDCs and the value of supporting national institutions to this end. There was also a perception that needs in this area were substantial, ongoing, often required tailoring to the local context, and changed over time. In the context of centralized digital delivery of materials, such as through a portal, it was emphasized that the need for being attuned and responsive to country level needs remained. To this end, it was observed that the engagement of the Regional Bureaus and WIPO national offices in the delivery of projects of this kind was valuable. In particular, it was contended that the Regional Bureaus were well placed to both facilitate and promote engagement with the online materials offered, and to provide feedback at central level with regard to user experience, local delivery context, and needs expressed by users in Member States and at regional level. Given the emphasis of the project on the needs of academic and research institutions in particular, it was largely felt that the project was consistent with recommendation 10 of the DA which focused on supporting national institutions to promote a fair balance between IP protection and the public interest. At the same time, there was awareness that in certain development contexts, innovation and technology transfer support for other sectors, including SMEs, can also make an important contribution to development. Based on the findings and conclusions, the evaluation made three recommendations. First, in the context of recommendation 10 of the DA, and in support of project efficiency and sustainability, it was recommended that the CDIP acknowledged the value of country level activities to support national institutions and consider how best to identify and support ongoing needs for the updating of existing materials and the

creation of new content to support national institutions in the area of innovation and technology transfer. Second, in the interest of sustainability, it was recommended that the CDIP request the Secretariat to further explore and report back on the feasibility of options for providing ongoing, free and open access to materials and resources relevant to innovation and technology transfer. These options should include but might not be limited to those outlined in the evaluation report. A preferred option should be identified. In particular, the Secretariat could be asked to consider whether it would be appropriate and feasible to integrate the contents of the project's digital portal within the planned new WIPO web site structure, consistent with the principles and organization of materials informing that new structure. This should include consideration of whether, over the long term, such integration would best be in addition to or as an alternative to the maintenance of a stand-alone portal. Finally, in the interest of project effectiveness and efficiency, and as a way of amplifying the relevance and reach of current and future materials, it was recommended that the CDIP encourage the Secretariat to consider the ways in which the Regional Bureaus can best be harnessed as partners towards bringing the availability of online materials to the attention of national stakeholders, and in providing feedback on user experience to the Secretariat and Member States.

253. The Delegation of Algeria took note of all the conclusions and recommendations included in the report. In particular, as there was no current commitment to ensure the ongoing development and maintenance of the digital portal, there was a real risk to the sustainability of the project as a whole. It requested that the Secretariat should report back on the dissemination of work that had already been completed, and on the feasibility of options for providing ongoing, online, free and open access to materials and resources relevant to innovation and technology transfer. The Group also made some comments on other aspects of the evaluation report. First, it noted that the appendix to the report provided additional information on the evaluation process, including a summary of the evaluation results, evaluation matrix, and so on. However, the Group noted that a list of stakeholders interviewed was not included. This was required, particularly as Member States and national IP Offices were potential sources of information. Second, although the report provided details of the key findings with regard to project effectiveness, it was not clear as to whether the content of the *in-situ* training reflected a balanced approach to IP or whether it was focused on promoting the patent system. This was also linked to the broader question of the extent to which the project actually implemented recommendation 10 of the DA. Third, the conclusions of the evaluation, as set out in the report, did not provide adequate information as to why the project was felt to be consistent with recommendation 10 of the DA, particularly in the context of promoting a fair balance between IP protection and the public interest. The Group supported the recommendations contained in the evaluation report that required implementation by the WIPO Secretariat. The Group highlighted three recommendations in this regard. First, acknowledge the value of country-level activities to support national institutions in the area of innovation and technology transfer. Second, in the interest of sustainability, the CDIP request the Secretariat to further explore and report back on the feasibility of options for providing ongoing, online, free and open access to material and resources relevant to innovation and technology transferred. Finally, in the interest of project effectiveness and efficiency, and in particular as a way of amplifying the relevance and reach of current and any future materials developed on innovation and technology transfer, the CDIP encourage the Secretariat to consider, in carrying out its ongoing programs of work, the ways in which the WIPO Regional Bureaus and WIPO national offices can best be harnessed.

254. The Delegation of Bolivia made a general comment with regard to the three evaluation reports. The evaluations did not focus adequately on the balance between IP protection and the public interest. However, the Delegation acknowledged that perhaps the Committee should have given more attention to the evaluation criteria when the project document was initially adopted. As such, the Committee should ensure that the criteria for future projects should reflect the quality aspects. The Delegation also encouraged the Secretariat to draw the attention of the experts responsible for carrying out future evaluations to this aspect with regard

to the content of the studies, training and training materials provided under a project. This quality aspect was very important in terms of the DA and the adopted recommendations, in particular, recommendation 10. With regard to the evaluation report on the Project on Innovation and Technology Transfer Support Structure for National Institutions, the Delegation echoed the comments made by the Delegation of Algeria on behalf of the African Group. On project effectiveness, the Delegation would like to know why the evaluation report did not include details of the extent to which the content of the *in-situ* training reflected a fair balance between IP protection and the public interest. The Delegation noted that the evaluation concluded that the recommendations of the DA had been properly applied. In that context, the Delegation would like to know the criteria for evaluating the extent to which the content of the *in-situ* training reflected a fair balance between IP protection and the public interest.

255. The Chair invited the independent Evaluator and the Secretariat to respond to the questions and comments.

256. The Evaluator (Ms. Monagle) informed the Committee that interviews were conducted on the basis of the list provided by the Secretariat that could be made available to the Committee. The Evaluator referred to the issues that were raised with regard to effectiveness and how the evaluation assessed whether the content of training materials promoted a balance between IP protection and the public interest. She explained that the evaluation focused on the project as a whole rather than on individual activities. Therefore, assessing the content of the training materials was beyond the scope of the evaluation. However, this could be considered in the context of the TORs for future evaluations. A specific requirement could be included for the evaluation to address matters concerning the content of individual activities. In this case, the evaluation concluded that the project was consistent with recommendation 10 of the DA. The conclusion was based on the project's focus on the needs of academic and research institutions. However, as rightly pointed out, the conclusion was not based on the content of training materials. In addition, although the *in-situ* seminars were broadly regarded to be consistent with the recommendations of the DA, it did not mean that more could not be done to support innovation and technology transfer, including with regard to national institutions. The Evaluator also highlighted that the evaluation report contained a number of specific suggestions and some were related to the reach and geographic scope of such activities.

257. The Secretariat (Mr. Jazairy) referred to the new guides and tools included in the digital portal. One of the guides was on the strategic management of open innovation networks. The guide addressed some of the questions that were raised on the balance between IP protection and the public interest. The guide was developed by Professor Ellen Enkel, an expert from Zeppelin University, Germany. She had also written articles with Professor Henry Chesbrough, Haas Business School, University of California, Berkeley. With regard to the evaluation of the *in-situ* seminars, the Secretariat informed the Committee that the PowerPoint presentations given in the seminars were available on the digital portal.

258. The Chair thanked the Evaluator and the Secretariat for their responses. The Chair concluded the discussion on the project.

#### Consideration of Document CDIP/10/6 - Evaluation Report of the Project on Developing Tools for Access to Patent Information

259. The Chair opened discussions on the Evaluation Report of the Project on Developing Tools for Access to Patent Information. He invited the Secretariat to introduce the report.

260. The Secretariat (Mr. Rajaobelina) stated that the project began in January 2010, with a budget of 1,576,000 Swiss francs. The duration of the project was 30 months. The project aimed at enhancing access by developing countries to patent information through publishing Patent Landscape Reports (PLRs), developing an e-tutorial and organizing regional

conferences. The evaluation led to several conclusions. First, although the project was generally well prepared and managed, there was room for enhancing existing tools for planning, monitoring and evaluating projects. The external factors that were required to achieve each of the results and objectives at the impact level were not defined. Good coordination with other WIPO departments and external partners was more the result of personal initiatives than of a systematically planned approach. Systematically retrieving contact details about users of online services would allow WIPO to profile its clients and to conduct online surveys as a basis for specifically tailoring its services to different target groups. The project established, for managerial purposes, a financial report that linked expenditures to budget lines and outputs. This was identified as a good practice and should be generally applied throughout the Organization. Second, the project design was overambitious, especially with regard to achieving the objectives that were set for the PLRs. The planned time of 30 months to achieve the objectives, particularly for producing 12 PLRs, was not commensurate and seemed to be determined by the need to align the project duration to biennial budgeting cycles rather than the time that was required to deliver the results. Third, although the project generally provided the right type of support, not all of its expected outputs (PLRs, e-tutorials, regional conferences) were delivered. Users considered the PLRs to be of high quality and generally useful to their work. The e-tutorial was of high quality and potentially relevant to users, especially those with a technical background but with no prior knowledge in the field of patents. Participants rated the quality of the regional conferences as highly relevant to their work. The conferences mainly promoted the Technology and Information Support Centres (TISCs) which were also supported by project DA\_8\_01. Several recommendations were made based on these conclusions. The Secretariat highlighted some of the recommendations. Although the expected outputs and outcomes were defined and linked to objectively verifiable indicators (OVIs), the longer-term changes which the project was expected to contribute to and the related OVIs should be formalized. Where monitoring and self-assessment of results required significant resources, they should be included in the budget. Self-evaluation reports should not only assess results against objectives by using OVIs but also regularly self-assess on-going relevance, efficiency and likelihood of sustainability. For internal management purposes, financial reporting should link expenditures to budget lines and allocate them to different outcomes and project overhead costs. This would enhance transparency of financial reporting, provide managers with a sound basis for budgeting future projects, allow for the benchmarking of projects within the DA and provide the necessary information to assess the efficiency of projects in detail. The evaluation recommended that the Committee should favorably consider a proposal for a possible follow-up phase that would focus exclusively on completing the PLRs under preparation and on the further development of the concept, with a view to establish a regular service provided by the Global Infrastructure Sector to assist and advise on patent analytics and coordinate the development of PLRs in a systematic way. It was also recommended that the Organization could consider establishing additional means to track users of its online services. This would provide information on who uses existing services as a basis to provide tailored information to specific target groups and to actively collect feedback from them for the purpose of continuous improvement of its services. With a view on increasing the efficiency of different training activities, the Organization could also consider reinforcing existing efforts to complement on-site training through interactive online courses. The Global Infrastructure Sector could further formalize the roles and responsibilities of other sectors through agreements in the implementation of a future follow-up on PLRs. In concluding, the Secretariat reiterated that the IAOD would follow-up on the implementation of the recommendations by the project managers.



## **AGENDA ITEM 7: CONSIDERATION OF WORK PROGRAM FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS**

### Consideration of Document CDIP/10/13 - Developing Tools for Access to Patent Information - Phase II

261. The Chair thanked the Secretariat for its presentation. Given that there were no comments from the delegations, the Chair invited the Secretariat to introduce the document on Phase II of the project.

262. The Secretariat (Mr. Roca Campaña) provided an introduction to document CDIP/10/13, "Developing Tools for Access to Patent Information - Phase II". Phase II of the project would aim to complete the work carried out in Phase I, namely refining standardized instruments developed during Phase I, promoting and facilitating collaboration amongst IP Offices working in the field of patent analytics, and tracking the utility and impact of the reports. The expected outcome of the project was improved access to technologies disclosed in patent publications and better knowledge of patenting trends and innovation patterns in specific areas of technology where PLRs would be prepared, as well as capacity-building in relation to best practices and patent search methodologies in those areas. Phase II aimed to contribute to this outcome and objective by continuing with the preparation of new PLRs in the areas identified in Phase I, i.e., public health, food and agriculture, energy and climate change, and disabilities; and by strengthening dissemination and capacity-building activities, in particular by organizing a regional conference on patent analytics with a view to drafting methodological guidelines for preparing PLRs and dissemination and exchange of best practices amongst IP Offices and institutions working in this field. The project would be executed throughout 2013 and the final evaluation would take place in April 2014.

263. The Delegation of Spain stressed that the conclusions and recommendations included in the evaluation report for Phase I should be taken into account so as to overcome problems that had emerged and to improve the implementation of Phase II. The Delegation reiterated that evaluation reports were extremely important and their recommendations should be taken into account and followed up. The Delegation referred to the proposed conferences and observed that there may be some overlap with the project on TISCs and therefore conferences should concentrate on the contents of the project in order to avoid duplication, particularly as 50% of the non-staff costs in Phase I was devoted to conferences. The Delegation noted that the translation of reports would be done based on needs. In this context it stated that the reports should be translated in their entirety without the need for it to be requested by a Member State. The entire report should be translated in order for the information to be fully understood and for the objectives of the report to be served. The Delegation did not think that the budget table was consistent with the recommendations of the evaluation report on Phase I as it lacked clarity. The Delegation reiterated that budget tables for projects should be as detailed and as complete as possible to avoid any uncertainties. It also believed that there was a mistake in the table as it did not mention that the figures referred to were in thousands of Swiss francs.

264. The Delegation of Ghana appreciated that IP was an integral part of planning for development and had the capacity to improve creativity at the national level. In that regard, the use of patent information could potentially expand indigenous innovation and research. The Delegation stated that innovative technologies at the national level could provide solutions to technical problems encountered in daily lives by taking into account the environmental, social or economic conditions of a community. The Delegation noted that Phase II of the project addressed capacity-building and the sharing of best practices amongst institutions working in the field of patent analytics so as to enable such institutions in developing countries to exploit and develop their competences. The Delegation stated that the additional information provided during the side event on TISCs indicated that access to patent information would enhance the capacity of developing country institutions to utilize PLRs. It also noted that the outputs under

Phase II included the drafting of methodology guidelines for the preparation of patent landscape reports for the use of individual inventors, researchers in technology centers and universities, small and medium-sized enterprises, industry, academia and IP professionals in the area of research and development and technology transfer. The Delegation informed the Committee that Ghana, in collaboration with WIPO and with the assistance of the Korean IP Office, would launch a national patent competition in March 2013. The competition was aimed at encouraging the use of patent information in providing technical solutions to identified technical problems encountered by communities at the local level. Patent documents were used to find solutions that were appropriate to address the needs and challenges of local communities. The Delegation stated that the competition would also reward excellence in innovative solutions that utilized technologies that were appropriate to local conditions. In that regard, it stated that Ghana recognized that the use of information contained in patent documents played a vital role in fostering innovative technologies that were adapted to serve local needs. Following its consideration of documents CDIP/10/13 and CDIP/10/6, the Delegation approved document CDIP/10/13 and supported Phase II of the Project on Developing Tools for Access to Patent Information.

265. The Delegation of Nigeria supported the launch of the e-tutorial, stating that it was timely in view of the launch of the TISC in Nigeria in December. The Delegation informed the Committee that an exhibition would be held before the launch. Inventors would be exhibiting their inventions and they would also be able to access the center to obtain patent information. The Delegation strongly supported the TISC program in Nigeria and recommended that WIPO should deploy more resources to raise awareness in order to increase the use of patent information. The Delegation urged WIPO to assist with the training of staff to help Nigeria and other African countries to access patent information through the center. The Delegation was pleased with the program and encouraged WIPO to do more in this area.

266. The Delegation of the Philippines expressed its continued support for the TISCs initiative. The Philippines was a major beneficiary of the initiative. The Delegation stated that more than 40 TISCs had been established in the country. It informed the Committee of the work undertaken by the IP Office in relation to the WIPO patent landscape report on Ritonavir. The work involved the actual application of the report. The Delegation stated that the report was very useful to developing countries such as the Philippines as it helped to reduce the work that was required to raise the quality of patent examination. In contrast to the examination done by its patent examiners, the WIPO study offered a broader view of the patent applications that were linked to the same subject matter. It helped to increase knowledge of the trends and sequence of improvements concerning the technical solution that was disclosed. In the case of Ritonavir, the time span was about a decade. The Cheaper Medicines Law was applied to the patent family drawn from the WIPO study. The IP Office analyzed the corresponding and related claims of each of the patents identified in the family tree in order to judge the eligibility of each family member for patent protection based on the doctrine of inherency which was used to interpret the law. The output of the patent landscape would guide its patent examiners in their examination of individual patent applications by providing them with an additional perspective to help identify “evergreening” which should not be allowed. It would help the office to increase the quality of its patent grants and trace the credibility of the patent system in a critical area that impacted public health. The Delegation expressed very strong support for Phase II of the patent landscape project which would address capacity-building and the sharing of best practices. It stated that a patent analytics workshop was recently held in the Philippines, which had been beneficial to the TISCs. The Delegation stated that the extensive use of the patent landscape report in the Philippines indicated the importance of the work undertaken by WIPO in patent analysis, particularly for developing countries such as the Philippines. Without the report, the work of the IP Office on Ritonavir would have had to start from scratch. A lot of time and resources would have been required to study the patents pertaining to the various generations. The Delegation urged WIPO to continue with the patent landscaping project and to consider collaborating with developing countries in conducting future patent landscape projects. It would help to build the capacities of patent information professionals in developing countries as well as

to lower the cost of implementing projects. The Delegation hoped that this activity could ultimately be mainstreamed into WIPO's ongoing work in order to help developing countries to make informed decisions on whether or not to grant patent rights and to curb the practice of "evergreening" as it disturbed the balance which was sought in the IP system.

267. The Delegation of Colombia expressed support for Phase II of the project. The Delegation noted that there were obvious benefits for Colombia, especially with regard to the methodology for elaborating PLRs. The Delegation stated that Colombia was particularly interested in PLRs in the areas of public health, food and agriculture, climate change and disabilities. The Delegation noted that the project would help to promote and facilitate collaboration amongst IP Offices working in the field of patent analytics. It would help countries to make better use of patent information. A TISC network had been established in Colombia and was coordinated by the department responsible for science and technology. The Delegation noted that the project would increase knowledge of patenting trends and innovation patterns in specific areas of technology. The project would benefit individual inventors, researchers in technology centers and universities, SMEs, industry, academia, IP professionals, policy-makers etc. The Delegation also noted that the project could also contribute to the transfer of technology by facilitating better access to patent information. It stated that technology transfer was included in Colombia's 2010-2014 national development plan. The Delegation expressed support for the TISCs and urged the Committee to continue with the program. Budgetary resources should be allocated for this purpose.

268. The Delegation of Chile reiterated that it was important to promote and support initiatives to encourage innovation and technological developments in developing countries and LDCs. Support for the continuation of the project into Phase II was extremely important as the expected outcome of the project included improved access to technologies disclosed in patent publications and better knowledge of patenting trends and innovation patterns in specific areas of technology. The Delegation stated that the implementation of the project should take into account the recommendations included in the evaluation report in document CDIP/10/6 and duplication with other projects should be avoided.

269. The Delegation of Zambia recognized the importance of access to patent information in the context of development and innovation. It thanked WIPO for its assistance in the launch of the TISC in Zambia and the training provided to the users of the center. The Delegation expressed full support for the initiative and hoped that WIPO would allocate more resources to the project.

270. The Delegation of Nigeria requested WIPO to establish an IP academy in Nigeria, adding that Nigeria was ready for it. An IP academy would assist its research institutions, students and others who wanted to learn more about IP. The Delegation stressed that this was very important and reiterated its request for WIPO to assist in that regard.

271. The Delegation of South Africa referred to documents CDIP/10/13 and CDIP/10/6. The Delegation recognized the importance of recommendation 1(e) in document CDIP/10/6. The recommendation stated that risks should be rated according to the degree of their potential negative impact on achieving results. The Delegation believed that document CDIP/10/13 did not take into account this recommendation. The Delegation would like changes to be made in this regard. The Delegation recalled that the Secretariat had mentioned that the recommendations in document CDIP/10/6 would be implemented. In this regard, the Delegation referred to recommendation 6 and enquired as to how it would be implemented. The Delegation had doubts about formalizing coordination through agreements. The Delegation wanted to know what it would entail in terms of the management structure and how it would impact on Phase II. The Delegation stressed that documents CDIP/10/13 and CDIP/10/6 should be closely linked and the recommendations that were included in document CDIP/10/6 should be reflected in document CDIP/10/13.

272. The Delegation of Cuba expressed support for the continuation of the project into Phase II, and referred to the second objective of Phase II on enhancing the capacities of developing country institutions to utilize and prepare PLRs. The Delegation stressed on the importance of this objective. Tools and methodological guidelines for the preparation of PLRs should be shared with the institutions in this regard.

273. The Chair invited the Secretariat to respond to the questions and comments from the delegations.

274. The Secretariat (Mr. Roca Campaña) referred to the comments concerning duplication with the project on TISCs. In this context, it highlighted that the third output in Phase 1 was linked to the establishment of TISCs. The Secretariat explained that there was a strong link between this project and the establishment of TISCs. Regional conferences were organized in Phase 1 for the TISCs to exchange views, best practices and experiences. These conferences coincided with the establishment of the national networks. The Secretariat highlighted that only one regional conference was proposed in Phase II. As mentioned in section C on page 4 of document CDIP/10/13, a regional conference on patent analytics would be organized in Phase II to provide a forum for the exchange of best practices. The conference would also initiate the preparation of methodological guidelines and a compilation of best practices for the preparation and provision of PLRs. The Secretariat stated that the conference was specifically aimed at fulfilling certain project deliverables in Phase II. There was no duplication as the projects were linked and the TISCs would benefit from the objectives and outputs of this project. The Secretariat referred to the query from the Delegation of South Africa on recommendation 6. It explained that the project was also linked to the WIPO program on global issues which included public health, climate change and others. The Global Infrastructure Sector had been working very closely with the Global IP Issues Division on the PLRs. The reports provided inputs for the work of the Global IP Issues Division. The Secretariat explained that recommendation 6 had to do with increasing the direct coordination between the Global Infrastructure Sector which was responsible for the implementation of this project and the Global IP Issues Division which was responsible for coordinating work on global IP issues. The Secretariat (Mr. Rajaobelina) referred to the comments made by the Delegations of Spain and South Africa on how the IAOD followed up on recommendations. The Secretariat stated that a report on the follow-up to recommendations was usually issued along with a plan of action for their implementation. The plan of action was discussed with relevant personnel. With regard to the risks and budget management, the IAOD would examine whether the categorization of risks could be improved and if the budget could be more specific, especially in terms of results and deliverables. The Secretariat referred to recommendation 6 on formalizing coordination with other sectors. The Secretariat stated that the intention was to ensure that the coordination was documented. As mentioned in the evaluation report, there was good coordination with other sectors. However, this was more the result of personal initiatives than of a systematically planned approach. The Secretariat stated that this would be improved in Phase II.

275. The Chair thanked the Secretariat for its response. He then read out his proposed conclusions to the discussion on the evaluation reports as follows:

Under item 6, the Committee addressed a number of project evaluations as follows:

- (a) Evaluation Report of the Project on Intellectual Property Development Matchmaking Database (IP-DMD) (document CDIP/10/3);
- (b) Evaluation Report of the Smart IP Institutions Project (recommendation 10) (document CDIP/10/4);
- (c) Evaluation Report of the Project on Intellectual Property, Information and Communication Technologies (ICTS), the Digital Divide and Access to Knowledge (document CDIP/10/5);

(d) Evaluation Report of the Project on Developing Tools for Access to Patent Information (document CDIP/10/6);

(e) Evaluation Report on the Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity (document CDIP/10/7); and

(f) Evaluation Report of the Project on Innovation and Technology Transfer Support Structure for National Institutions (document CDIP/10/8).

Following the presentation of the evaluation reports by each Evaluator an exchange of views took place. The delegations expressed interest in following up on the recommendations contained in these reports and in certain cases requested further information from the Secretariat.

276. The Delegation of Egypt requested for a written text to be distributed.

277. The Chair stated that if draft conclusions had to be written and circulated on each occasion there could be problems in keeping to the schedule. The Chair proposed that the Secretariat could be requested to read the text.

278. The Delegation of Egypt understood that these would be the conclusions of the committee. Thus, delegations should be given an opportunity to examine the conclusions in order to better understand them. The Delegation suggested that the text could be distributed so as to give delegations a fair chance to read it and return to it at a later stage. The Delegation needed to see the text in writing and to read it in conjunction with the recommendations that were made in the evaluation reports on the various projects, particularly as recommendations were also included in relation to future work.

279. The Delegation of Belgium, speaking on behalf of Group B, stated that it was also very interested to receive a written summary. The Group believed that it would help to smooth the final discussion on the Chair's summary.

280. The Chair stated that the Secretariat could be requested to circulate a written text. However, he stressed that a text must be adopted by that evening and time should be set aside for that purpose. The Chair stated that the nightmare scenario was a repetition of what took place in the ninth session of the Committee and it should be avoided. He stated that the written text would be circulated and time would be allocated for the formal adoption of a text by that evening. The Chair also recalled that the Committee had yet to adopt a conclusion on the relevant WIPO bodies. He stated that perhaps an agreement could also be reached on a text for that point. The Chair then invited the Committee to consider the adoption of Phase II of the Project on Developing Tools for Access to Patent Information as described in document CDIP/10/13. Phase II of the project was adopted given that there were no objections from the delegations.

Consideration of Document CDIP/10/9 - Work Program for Implementation of Adopted recommendations Assessing WIPO's Contribution to the Achievement of United Nations Millennium Development Goals (MDGs)

281. The Chair opened discussions on document CDIP/10/9, "Assessing WIPO's Contribution to the Achievement of United Nations Millennium Development Goals (MDGs)". The Chair recalled that in the context of recommendation 22 of the DA, a study on assessing WIPO's contribution to the achievement of the MDGs was prepared by an external Consultant and discussed at the eighth session of the CDIP. In accordance with the Committee's request, the

study was revised by the Consultant and now re-submitted to the Committee for its consideration. The Chair invited the Consultant to introduce the document.

282. The Consultant (Mr. Musungu) recalled that the study was discussed at the eighth session of the CDIP. It was agreed that the study would be revised to take into account the comments made in that discussion. He informed the Committee that the revisions were made immediately after the session and finalized in December 2011. The revisions were included in the current document. The discussion at the eighth session of the CDIP was recorded in the report for that session (paragraphs 271 to 291 of document CDIP/8/9). The Consultant reiterated that the revised study took into account the comments that were made. He noted that although the study was generally supported by the delegations, there were a number of comments relating to the expansion of the coverage of the MDGs, in particular, MDGs 1, 2 and 6. The Consultant stated that the revised study addressed additional indicators relating to MDGs 1 and 6. With respect to MDG 2, it was difficult to find a real correlation between WIPO's work, as currently structured, with that MDG or a particular indicator. The Consultant recalled that the indicators on technology risks were also discussed and it was agreed that WIPO did not really have a role in managing technology risks. Hence, those indicators were removed. There was also a discussion on the study's conclusion that WIPO had contributed to the MDGs. In this context, he explained that the study looked at WIPO's performance in the 2008/09 and 2010/11 bienniums. WIPO did not *a priori* plan to directly address MDGs in the P&B. Thus, contribution meant that there were positive linkages between the MDGs and WIPO's work. However, that was not a systematic approach and that was partly what the study was seeking to address. Lastly, there was also an elaboration on improvements that could be made with respect to the dedicated web page on MDGs on the WIPO web site. The Consultant stated that apart from the minor changes that were made to the document, important changes were also introduced in paragraphs 14, 34, 40, 49 and 50; box 1; and appendices 2 and 3. The Consultant recalled that this was the third report relating to the MDGs. The first was prepared by the Secretariat. The second was the previous version of the current study. The Consultant highlighted that the study proposed a systematic approach to analyze WIPO's contribution to the MDGs as this had not been done before. That was the first thing that the study sought to do. It included indicators that could be used to determine WIPO's contribution, taking into account that the MDG indicators were very high level and it was difficult to show a correlation with WIPO's work. He reiterated that the study provided an assessment of what had been done in the past and took into consideration the fact that conscious efforts were not made in the past to integrate MDGs into WIPO's direct planning. Paragraphs 52 and 53 of the study included suggestions on the next steps which the Committee could consider going forward.

283. The Delegation of Egypt, speaking on behalf of the African Group, recalled its remarks at the eighth session of the CDIP. First, the Group believed that as a UN organization, WIPO's work must contribute to the achievement of the MDGs. The need for WIPO's work to contribute to the MDGs was included in the recommendations of the DA, particularly under recommendation 22. Second, it recalled its request for work to be undertaken on WIPO's contribution to the MDGs. The first report (document CDIP/5/3) was prepared by the Secretariat in response to that request. Following its review, the Committee decided that the report should be revised to provide an empirical evaluation of the actual impact of the Organization's activities in support of the MDGs. The revised report suggested that the role of WIPO in the achievement of the Goals should be examined in the context of science, technology and innovation as WIPO's mandate was to promote creativity and innovation. Thus, the report was expected to provide an evaluation of the actual impact of WIPO's work on the achievement of the MDGs. However, it was mainly focused on the relationship between WIPO's Strategic Goals 1 and 3 and MDG 8. Third, although MDG 8 seemed to be clearly applicable as some of its targets were related to access to affordable essential drugs and making available the benefits of technologies, other MDGs related to education, HIV AIDS, malaria and other diseases also had a direct relation to IP. That included MDGs 2 and 6. Universal access to treatment for HIV AIDS for all those who needed it was clearly linked to affordable medicines. In a similar vein, access to literary and artistic works had an IP dimension which was relevant to the achievement

of literacy targets. The Group was of the view that WIPO's contribution to the MDGs was broader than that in relation to MDG 8. The Group noted the reasons for not using MDG indicators to assess WIPO's contribution to the achievement of the Goals. It also believed that a direct causal relationship could be established between WIPO's activities and the Goals without the use of MDG indicators. There was perhaps a need for WIPO to develop a different methodology to reflect the direct links. In addition, work should also be undertaken to develop specific indicators for the purpose of evaluating WIPO's contribution. Fourth, the Group had compared the revised report (document CDIP/10/9) with the previous report (document CDIP/8/4) and found that little had changed in terms of the methodology, findings and recommendations. Perhaps the most substantive change was to extend beyond MDG 8 to include MDGs 1 and 6. However, the Group could endorse the recommendations of the study on enhancing WIPO's contribution to the MDGs as well as on assessing and reporting on such contribution. These included, in particular, the following:

- (a) WIPO had a responsibility to contribute to the achievement of the MDGs individually as a UN agency, it was critical that its work was also sufficiently linked to the broader UN family's work and mechanisms. Therefore, WIPO should take the necessary steps to join the MDG Gap Task Force and engage with the the Inter-Agency Expert Group on MDG indicators (IAEG) as a matter of priority;
- (b) the integration of MDGs-related needs / outcomes into the WIPO *program*-planning phase would result not only in better-framed expected results but also ultimately in better data collection. This in turn would enhance the learning process within the Organization on how to better contribute to the MDGs; and
- (c) there was a need for WIPO to refine the reporting of its work and contribution to the MDGs on the dedicated webpage by providing more credible and concrete results drawn from the performance data in the relevant Program Performance Reports (PPR). The information on the webpage should be regularly updated to reflect the evolving nature of the Organization's work related to the MDGs.

Fifth, with regard to the conceptual framework proposed by the study, the Group recalled that the PPR was a self-assessment tool developed by the Secretariat. It received qualified approval in the last session of the Program and Budget Committee. Therefore, the PPR could not be used as the sole reference to measure WIPO's contribution to the MDGs. Sixth, with regard to the way forward, the Group requested the Secretariat to not only implement the study's recommendations, but also to provide regular briefings on this issue which merited to be a standing Agenda Item for future CDIP sessions. The Organization should conduct further work to assess its contribution to the other MDGs goals and targets that were not addressed in the study as they must be taken into account in order for WIPO's contribution to the MDGs to be properly assessed. Specific indicators should also be developed to accurately measure WIPO's contribution to the MDGs. Such indicators could be integrated into the P&B for 2014/15. It would also be useful for WIPO to conduct field work and specific case-studies to assess its contribution to the MDGs and to go beyond the current desktop study to understand the nature of the contribution. Lastly, the Group reiterated that there was a need for WIPO to increase transparency and to inform the Committee of its contribution to the post MDG DA. It noted that WIPO was very much engaged in the process to develop the post-2015 Development Framework and the implementation of the Rio+20 outcome document, including in the development of sustainable development goals and in the convergence of these processes. The Group also noted that WIPO was a member of the UN Task Team set up by the Secretary General at the beginning of the year. WIPO contributed to the inter-agency meetings and the preparation of the Secretary General's report. WIPO coordinated the preparation of an associated think piece to the report on "Science, Technology and Innovation and Intellectual Property Rights: The Vision for Development". The Group further noted that work on science, technology and innovation in the context of the Working Group on Global Partnerships would be led by WIPO and UNCTAD. WIPO was also monitoring and contributing, as necessary, to the

work of the other groups in relation to the post DA. The Group believed that these activities undertaken by the Organization should be reported to the CDIP for the purpose of transparency and for every member of the Committee to be aware of them.

284. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, noted the revised study on assessing WIPO's contribution to the achievement of the UN MDGs as contained in document CDIP/10/9. The EU and its Member States noted that the study provided a thorough overview of the contribution of the Organization's work to the MDGs and the extensive development-oriented framework of which the DA was part. It was clear that the overall goal of economic and social development was being addressed in many different *fora* and WIPO's role was now clearly set out. The EU and its Member States were pleased to learn of the efforts by WIPO to strengthen cooperation with other inter-governmental organizations. They acknowledged that the effective implementation of the DA was central to WIPO's contribution to the MDGs. They also highlighted the importance of continued collaboration with other IGOs to provide a coordinated response to development needs, including in the implementation of DA activities and to ensure that appropriate expertise was available when dealing with IP aspects in other relevant *fora*.

285. The Delegation of Belgium, speaking on behalf of Group B, took note of document CDIP/10/9, which clearly highlighted WIPO's contribution to the achievement of the MDGs, not only as an international Organization that was mainly focused on the development of IP but also as an international entity amongst a wide variety of international organizations that pursued the overall goals of economic and social development as one of their activities. It was glad to note that the study concluded that WIPO's activities contributed positively towards the achievement of the MDGs. At the same time, the study also noted that a direct causal relationship could not be established between WIPO's activities and the broad MDG indicators. In this context, the Group observed that the RBM framework had been introduced for some years now and contributed to providing an objective assessment of the Organization's activities. Accordingly, the Group considered that WIPO's work should continue to be assessed through the RBM framework.

286. The Delegation of Brazil, speaking on behalf of the DAG, took note of document CDIP/10/9, which further analyzed WIPO's contribution to the achievement of the MDGs and took on board suggestions made by Member States in the eighth session of the CDIP. The Group reiterated that the adopted methodology was based on WIPO's RBM framework which offered a comprehensive view of the work of the Organization in this field. However, there were some limitations to the findings as the information was drawn from the PPRs. The Group recalled that the PPR was a self-assessment tool for program managers. There was no participation and contribution by the Member States. Hence, an assessment of WIPO's contribution to the MDGs which was based on the PPRs was in fact actually based on a self-assessment by the Secretariat. The Group acknowledged that the PPR was a very important accountability tool and recognized the value of having the Secretariat's view in this regard. However, there were limitations, as pointed out in the last session of the PBC. The Group was of the view that it was necessary to develop relevant and accurate indicators to measure WIPO's contribution to the MDGs. The Group stated that the report offered some suggestions such as, "finding, within the MDG targets, the Sachs Report and the Report of the Task Force on STI, the aspects that relate to WIPO's mandate in technology, innovation, and IP and then linking these to WIPO's RBM framework". The Group proposed that as a follow-up to the study, a more precise methodology which incorporated specific indicators be developed to assess WIPO's contribution to the MDGs. The Group referred to the suggestions in the study for WIPO to join the MDG Gap Task Force (paragraph 44) and the IAEG (paragraph 46). The Group was in favor of these recommendations, subject to the establishment of appropriate mechanisms to enable Member States to monitor and provide guidance on the Organization's engagement in UN processes.



287. The Delegation of China stated that the MDGs reflected the political will of the heads of states to promote human development. It stressed that an assessment of WIPO's contribution to the achievement of the MDGs was extremely important to improve the work of the Organization. As a specialized UN agency on IP, the mandate of WIPO was to develop IP and to use it to promote development. The achievement of the MDGs was an important part of WIPO's work. The Delegation believed that the implementation of the recommendations of the DA should be closely linked to the achievement of the MDGs. The Delegation also believed that WIPO could use more of its expertise to contribute to achieving the MDGs.

288. The Delegation of the United States of America appreciated the work of the Consultant in identifying discrete areas in which WIPO activities can be measured in relation to the MDGs. The Delegation was pleased that WIPO seemed to be on track in contributing usefully to the MDGs in these areas. It looked forward to future reports about the continued progress of WIPO in contributing to the accomplishment of the MDGs. With regard to RBM and performance reporting, the Delegation would like to know what it would entail for WIPO to change the manner of RBM and performance reporting to align with the MDGs, in particular, what may be changed and what may be lost or gained if the RBM framework and / or performance reporting processes were changed. With regard to the MDG Gap Task Force, the Delegation enquired as to what it would entail for WIPO to become part of that Task Force, whether it had existing staffing and resources to take on this additional role and whether the organization was really a critical organization for assessing MDG gaps in this manner.

289. The Delegation of Colombia, appreciating the difficulty in linking WIPO's activities to the MDG goals, stressed that Member States should have effective tools to understand the real impact of WIPO's work in their countries. The Delegation observed that the WIPO DA is the tool for the Member States in achieving the MDGs. For example, recommendation 10 concerned with assisting Member States to develop and improve national IP institutional capacity through further development of infrastructure and other facilities. The Delegation stated that an important project was carried out in Colombia under that recommendation. As a result of the Pilot Project for the Establishment of "Start-Up" National IP Academies, Colombia now had a valuable tool for capacity-building in the area of IP. As such, it supported the continuation of that program. The Delegation highlighted that economic development in Latin America in the last decade had led to the strengthening of innovation, a necessary tool for economic development. The Delegation stated that it was also important for the development-related issues covered in the document to go beyond flexibilities and include all incentives to innovation and creativity which would affect economic development, and consequently, the achievement of the MDGs.

290. The Chair invited the Consultant to respond to the questions and comments from the delegations.

291. The Consultant referred to the comments on the sources of data and information relating to the PPRs. He understood that the PPRs were meant to provide an opportunity for the Secretariat to conduct a self-assessment as a basis for accountability to Member States. As mentioned in the study, the PPRs were chosen as the main source of data and information because they included all the programs and initiatives of WIPO, and in a sense, provided a measure of the Program and Budget. Thus, the PPRs were considered to be a more credible source of information than other sources. The Consultant stated that although there could be discussions on how to improve the PPR or how to improve evaluations, which was happening in different ways, at the moment the PPRs were the most credible and comprehensive source of information to analyze WIPO's contribution. With regard to the issue of empirical assessment and whether this study could go further than it did, he reiterated that the study looked at what had been done in order for the Committee to properly assess whether and how WIPO was contributing to the MDGs. The Consultant stressed that it would have been much easier if there were objectives relating to the MDGs and to assess whether those objectives had been met. In this context, he reiterated that although the MDGs were relevant to WIPO's work, they were not

systematically considered in the goals of WIPO. Thus, the assessment was, in a sense, looking for coincidences between the MDGs and what WIPO was doing. That was why the study proposed that there should be a more objective way of assessing WIPO's contribution to the MDGs.

292. The Secretariat (Mrs. Bachner) thanked the Delegation of the United States of America for its question on aligning the RBM framework with the MDGs and what it would entail and stated that it was a difficult question as the distance between the RBM framework and the MDGs was considerable. The MDGs were global goals and WIPO's RBM framework was the results framework of one of the many international organizations that were contributing to the MDGs. The Secretariat was unable to provide an immediate answer to the question as some analysis was required. In this regard, the Secretariat believed that there was a need to look more into the linkages as well as some of the layers beneath the MDGs, including the indicators which were more aligned to the work of WIPO. The Secretariat stated that it was ready to do an analysis if requested to do so.

293. The Delegation of the United States of America clarified that it was interested in better understanding what would be required, including what would have to be changed, and what would be lost or gained in that change, before it would know whether it was supportive of the change. Thus, it was to better understand what this effort would require on the part of WIPO to make this change.

294. The Secretariat stated that an analysis was required before it was able to answer that question. It would need to determine which of the expected results contributed to the MDGs. In this regard, the Secretariat stated that it may be the case that not all of the results were relevant to the MDGs.

295. The Delegation of the United States of America stated that it did not want to create a huge effort for the Secretariat. It was not trying to create an entirely new project or new analysis. It was more a concern that if the Committee was to seriously consider aligning the RBM and performance reporting in a different way, the Delegation would want to know how that was going to change and affect the current process. The Delegation reiterated that it was not to create a huge project for the Secretariat to take on.

296. The Consultant referred to the question raised concerning the MDG Gap Task Force and explained why the study suggested that WIPO should join that body. He stated that more than 20 UN agencies were bringing their different expertise to that body and WIPO may learn from the process. However, the most important reason was because the Task Force had acknowledged that it found it difficult to assess the science, technology and innovation areas of the MDGs as well as IP-related issues. The Consultant was of the view that WIPO could make concrete contributions with regard to these matters for which the Task Force did not have the expertise to deal with sufficiently. He highlighted that, as mentioned by the Delegation of Egypt, WIPO was already involved in the post-2015 work. With regard to the integration of the MDGs into the RBM framework, the Consultant clarified that the suggestion of the study was not to change the RBM framework to report on MDGs specifically, but on how the MDGs could be taken into account in planning WIPO's work and to identify the areas where the Organization could contribute. Thus, the idea was how to take the MDGs into account as opposed to completely changing the RBM framework to an RBM on MDGs.

297. The Secretariat (Mr. Bradley) referred to the MDG Gap Task Force and informed the Committee that the Task Force had produced a report for 2012, on MDG 8. The report included text on access to medicines and IPRs. The Secretariat believed that one of the things which it could do if it was involved in that process was to review the language produced by the Task Force. The department in-charge of external relations in WIPO could coordinate expertise from within the Organization in order to contribute. The Secretariat stated that it was similar to what was done in a wide range of UN processes, and did not think that it would create a major

burden. At present, the Secretariat was trying to be proactive rather than to react to texts that were produced. The Secretariat was trying to participate in some of the processes at an earlier stage. The Organization's involvement in monitoring the work of the UN task team on the post-2015 development framework was to get a better understanding of what the inter-agency process was developing. At present, there were three Working Groups in that body. One was dealing with technical aspects related to the development of sustainable development goals, another was dealing with monitoring and indicators in a post-2015 framework, and there was a group dealing with global partnerships. The department in charge of external relations in WIPO was acting as a focal point to coordinate any inputs that the Organization might have in those discussions, to monitor and understand what was going on and to be able, where necessary or required, to contribute up front in order to be involved in shaping that process. That was the objective of the Organization's engagement at this stage.

298. The Delegation of Venezuela stated that it would have been logical for WIPO to join the MDG Gap Task Force when it was first established. It believed that WIPO could make a good contribution, for example, in the area of innovation. WIPO could also learn from the other organizations taking part in that Task Force. The Delegation stated that WIPO should participate in that Task Force as it was connected with the work that was being done.

299. The Chair concluded the discussion on this item and read out his proposed conclusions to as follows: "The Committee discussed the study, "Assessing WIPO's Contribution to the Achievement of United Nations Millennium Development Goals" (CDIP/10/9). Delegations supported the continuation of the work by WIPO in achieving the MDGs and an effective mechanism for reporting on that contribution to Member States on a regular basis."

300. The Delegation of Egypt stated that it would like a written text to be distributed to the delegations. It further enquired as to whether the conclusions entailed endorsing the recommendations made in the study. The Delegation also requested clarification on the other issues that were proposed, for instance, empirical analysis, field work and post-MDG work.

301. The Secretariat (Mr. Baloch) stated that the language proposed by the Chair spoke about three things, i.e., the continuation of the work by WIPO in achieving the MDGs, an effective mechanism for reporting to the Member States and regular reporting to the Member States. The Secretariat took note of the observations, questions and comments made during the discussion of this document as well as the recommendations contained in the study. It stated that it would be reporting regularly and would come back to the Member States, taking into account what it had heard from the floor as well as the contents of the report.

302. The Chair assured the Committee that a written text of the proposed conclusions which he had read out would be distributed.

303. The Delegation of Brazil requested for clarification with regard to the phrase, "continuation of work", in the proposed conclusions. It wanted to know which lines of work would be pursued and whether it included work on establishing specific indicators to better track the contribution of the Organization to the MDGs as proposed.

304. The Secretariat (Mr. Baloch) stated that various ideas were discussed, including specific indicators. He recalled its earlier remarks on the need to examine how and what was required for it to improve its reporting on the Organization's contribution to the MDGs. As such, the Secretariat would need to reflect on this matter. The Secretariat reiterated that it had heard the observations from the floor, as well as the external Consultant's views and suggested that the Committee return to the document either in the next session or the following.

305. The Delegation of Egypt thanked the Secretariat for being open to the ideas and proposals that were made and stated that perhaps there would be a Progress Report on the implementation of the recommendations of the study when the issue was revisited in the next

CDIP. The Delegation suggested that perhaps some measures could also be implemented, for example, WIPO could join the MDG Gap Task Force. It believed that this could be quickly achieved and would ensure that there was synergy between WIPO's work in this area and the big picture, including what was happening in New York. The Delegation looked forward to this being included in the Progress Report on the implementation of the recommendations.

306. The Secretariat recalled its earlier remarks on WIPO's contribution to the process through its participation in the Task Force. It also recalled the question from the Delegation on the United States of America on whether WIPO was a critical Organization for assessing MDG gaps to the extent that it should be on the taskforce. The Secretariat would need to examine these issues and the feasibility of the proposal. Although the Secretariat recognized that the recommendation was included in the Consultant's report, there was a need for the proposal to be examined internally. Thus, the Secretariat had suggested that the Committee would analyze the feasibility of the various ideas that were on the table. The Secretariat proposed that a document be prepared for this purpose and presented at the twelfth session of the CDIP instead of the eleventh session as suggested earlier. This would give the Secretariat enough time to coordinate and to gather the information which was required to prepare a comprehensive document for the consideration of the Committee.

307. The Delegation of the United States of America considered the Secretariat's suggestion as a good way forward. It agreed with the Delegation of Egypt that a Progress Report on how the Secretariat would be looking at the recommendations was a good way forward. The Delegation requested the Chair to repeat the conclusion that he had read at the beginning of the session as it had missed part of it.

308. The Chair informed the Committee that the draft conclusion on this item was now available outside. The Chair repeated the draft that he had read out earlier.

309. The Delegation of Egypt thanked the Secretariat for proposing the way forward and the Delegation of the United States of America for endorsing it. It believed that delaying the issue until the twelfth session of the CDIP which would take place in a year's time could result in a loss of time. It stressed that the MDGs were supposed to be met by 2015. If one year was spent on assessing what could be done, there would only be one year left to enhance what was currently being done. As such, the Delegation proposed that some analysis could be done and the results presented to the next session of the CDIP which would take place in six months. Matters that required further analysis could be taken up again in the twelfth session of the Committee. The Delegation highlighted that the measures were not alike; some could be implemented quite quickly and others may require analysis by the Secretariat. The Delegation emphasized that the matter required urgent attention. The Delegation was willing to participate in regular briefings by the Secretariat and in discussions on this issue in the next session of the Committee.

310. The Delegation of South Africa understood that the Chair's conclusions included the comments made by the African Group that the covered MDGs should go beyond MDGs 1, 6 and 8. The Delegation did not want the focus to be only on MDGs 1, 6 and 8 as reflected in the study. The Delegation referred to the Evaluation Report of the Project on Developing Tools for Access to Patent Information contained in document CDIP/10/6 and stated that paragraph 31 of that report linked the project on PLRs to the MDGs. The report referred to a number of MDGs in relation to the outputs of the project. The Delegation cited this as an example of what it was looking for in terms of linking the work of WIPO to the relevant MDGs. The Delegation believed that it was doable and the results of the analysis could be presented in the next session of the Committee. The Delegation was in favor of this being done in the next session as it would coincide with the presentation of the Director General's Report. In this regard, it highlighted that the Director General's Report covered all the activities of the Organization and the MDGs were mentioned in the last report which was presented at the ninth session of the Committee. The Delegation did not want the Director General's Report to exclude important activities concerning

the MDGs. Thus, the Delegation believed that it would be prudent for the first draft of the analysis based on the recommendations of the study to be presented in the next session of the Committee.

311. The Delegation of the United States of America believed, in support of what was said by the Delegation of Egypt, at least in part regarding the Gap Task Force that waiting for a full year to engage with that Task Force might actually be delaying unnecessarily. It agreed that at least that portion of the recommendations could be looked at more quickly and could potentially be analyzed and discussed at the next CDIP. It may be that other aspects of looking at the overall performance reporting and RBM may take longer. However, regarding the Gap Task Force, the Delegation was supportive of a somewhat faster movement on that.

312. The Delegation of Brazil, speaking on behalf of the DAG, supported a report to be presented at the next session of the CDIP for the same reasons mentioned by other delegations. The Group believed that it would be helpful for the Committee to have an early assessment of the issues. Referring to the comments made by the Delegation of the United States of America, it agreed that some matters could be looked at more quickly. For instance, WIPO's engagement with other UN agencies was something that could be quickly reported to the Committee and this would be very helpful to the Member States.

313. The Chair noted that a consensus appeared to be emerging and this would be reflected in the conclusions.

#### Consideration of Documents:

CDIP/8/INF/1 - An External Review of WIPO Technical Assistance in the Area of Cooperation for Development

CDIP/9/14 - Management Response to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development

CDIP/9/15 - Report of the *ad hoc* Working Group on an External Review of WIPO Technical Assistance in the Area of Cooperation for Development

CDIP/9/16 - Joint Proposal by the Development Agenda Group and the Africa Group on WIPO's Technical Assistance in the Area of Cooperation for Development

314. The Chair opened discussions on the documents related to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development and invited the Secretariat to provide an introduction to the documents.

315. The Secretariat (Mr. Baloch) recalled the previous discussions on this topic. An External Review of WIPO Technical Assistance in the Area of Cooperation for Development was undertaken in the context of the project on enhancement of WIPO's RBM framework. The report of the External Review (document CDIP/8/INF/1) was presented in the eight session of the CDIP. The Committee established an *ad hoc* Working Group to identify redundant recommendations in the Report. In response to the Committee's request, the Secretariat submitted a Management Response to the External Review (document CDIP/9/14) to the ninth session of the Committee. At that session, the Committee devoted a full day to consider these documents. The DAG and the African Group also jointly submitted a proposal (document CDIP/9/16) for the Committee's consideration. It agreed to discuss the document at its tenth session with a view to considering the implementation of the recommendations contained therein. The Secretariat informed the Committee that the project manager and other relevant personnel were present to assist the Committee in its deliberations on this issue.

316. The Delegation of Algeria, speaking on behalf of the African Group, presented the Joint Proposal by the DAG and the Africa Group on WIPO's Technical Assistance in the Area of Cooperation for Development. It recalled that the External Review on WIPO's Technical Assistance in the Area of Cooperation for Development (CDIP/8/INF/1) was presented to Member States at the eighth session of the CDIP, which took place almost a year ago. An *ad hoc* Working Group was established to review the recommendations of the External Review. Although there was a fruitful exchange of views, the Working Group was not able to identify recommendations that could be immediately implemented by the Secretariat. Thus, the DAG and the African Group decided to work together to identify recommendations in the External Review that could be subject to immediate implementation by the Secretariat, on the understanding that the other recommendations in the study would remain on the table for future discussion. The Delegation stressed that the proposal was based on the report of the External Review and took into account the clarifications provided by the Secretariat, including in the Management Response to the External Review. The recommendations of the Report were also reproduced in the proposal contained in document CDIP/9/16. The document highlighted recommendations that should be subject to immediate implementation by the Secretariat. These recommendations were included under 12 sections. The efforts of the DAG and the Africa Group were aimed at improving WIPO's development cooperation activities. The Group referred to the various sections of the proposal. Section A was on relevance and orientation. It included the development of guidelines providing specific detail on how to plan and implement more development-oriented assistance both in terms of substance and process. It also included the development of a draft policy on how WIPO should plan and organize its technical assistance activities in order to improve the relevance and development orientation of these activities. Section B was on the P&B. The Group stated that the recommendations in this section were aimed at strengthening the work of the PBC in order to make the preparation of the P&B more development orientated. WIPO should also refine and reorient its Strategic Goals, outcomes and outcome indicators to reflect a comprehensive conception of development orientation. Section C was on extra-budgetary resources. The Group stated that these recommendations were aimed at improving coordination and transparency in the use of extra-budgetary resources and in partnerships which were aimed at mobilizing resources for development. Section D was human resources. This was an important area as all WIPO's technical assistance activities were provided by its staff. As such, the Group stated that it was necessary for the Code of Ethics to be revised to apply to all WIPO staff and to refer to the relevant recommendations of the DA. A separate Code of Ethics should also be developed for experts and Consultants as they were directly involved in technical assistance activities. A Code of Ethics which covered integrity and objectivity was necessary in this regard. The draft code should be submitted to the CDIP for its consideration. Section F was on transparency and communication. The Group stated that it was necessary for the Secretariat to improve the availability of information on the WIPO web site as well as reporting to the CDIP on all activities that were directly related to technical assistance. It was important for the Member States to be provided with all the information on WIPO activities involving technical assistance, including its partners, suppliers, etc. Such information should be submitted to the Committee. The Delegation informed the Committee that the Delegation of Brazil would continue with the presentation of the joint proposal.

317. The Delegation of Brazil, speaking on behalf of the DAG, highlighted that all the sections of the proposal were based on the Deere-Roca Report. The Group continued with the section by section presentation of the proposal. It stated that Section G was on the Technical Assistance Database. It was aimed at including complete and relevant information in the database in order to assist the Secretariat to organize activities and to provide Member States with more detailed information on technical assistance activities through the database. Section H was on assessing impact, monitoring and evaluation. This section concerned oversight and the quality of measures and indicators to evaluate technical assistance. It was pointed out by the external Consultants that although considerable resources were directed at technical assistance, an independent monitoring and evaluation mechanism had not been established by the Organization. Thus, the Group stated that this section was aimed at increasing the level of

monitoring and evaluation to improve oversight of WIPO's development cooperation activities and for Member States to properly assess these activities. A number of proposals were included based on the recommendations in the Deere-Roca Report. Section I was on IP policies and strategies. The Group stated that the key proposals made by the external Consultants to strengthen the review of the tools used to inform IP strategies were summarized in this section. The development of IP policies and strategies should take into account the needs of Member States and should be development-oriented. Many of the recommendations were based on the need to regularly inform the Committee of the measures taken by the Organization to devise IP policies and strategies that were tailored to the real needs of the countries concerned. Section J was on legislative and regulatory assistance. The Group stated that the recommendations in this section were aimed at enhancing transparency as well as to ensure that the legislative and regulatory assistance provided was consistent with the needs of Member States. The Group stated that as some of the information was confidential, Member States should have the ability to decide on their publication. However, with regard to the general framework for the provision of legal and regulatory assistance, the Group stated that much could be done to improve the implementation of such activities. The Organization had undertaken many activities in this area. However, the Member States did not have much information on their implementation. Thus, some of the recommendations called for the independent evaluation of these activities in order for the Member States to have clarity on what was being done. Section K was on IP Office modernization, training and capacity-building, and user support systems. The Group stressed that technical assistance should take into account the circumstances of the countries concerned. For instance, some countries had larger and more advanced offices while others had smaller offices. Factors such as this should be taken into consideration. Some recommendations also called for an in-depth review of WIPO's activities and future priorities for user support systems, including the mapping of all user-related services. The Group stated that this would be very useful to Member States in terms of overseeing what the Organization was doing as well as to increase their ability to access and request for technical assistance that was relevant to their needs. Section L concerned WIPO's coordination with other agencies in the UN family and how this could be enhanced. Lastly, there was a section on follow-up which included recommendations on transparency through making information publicly available to stakeholders and interested parties. The Group then made some general comments on the implementation of the joint proposal. It highlighted that a lot of importance had been given to technical assistance, including by WIPO, as reflected in the presence of a high number of representatives from the Secretariat at the discussion. The Group considered technical assistance as a central component of what WIPO did for its Member States. The Group stressed that this was one of the most important issues in the context of the DA. In general, many of the DA recommendations called for technical assistance to be development-oriented and to respond to the priorities and needs of developing countries. There should also be transparency and accountability. The Group believed that many of the recommendations could be easily implemented as they only called for more accountability and transparency. It would allow Member States to improve their understanding of what the Organization was doing in this area. The Group had previously highlighted the importance of the External Review. It was the first time that the Member States had access to an in-depth analysis of WIPO's technical assistance activities. Many good recommendations were included in the report of the External Review. Thus, the Group appreciated the efforts made by the Consultants in preparing the report. As highlighted by the Delegation of Algeria and the Secretariat, this topic had been discussed for a long time. It began with discussions on the Deere-Roca Report (document CDIP8/1NF/1). There were also discussions in the *ad hoc* Working Group which did not result in much progress. The Committee had also taken note of the contents of the Management Response on what had already been implemented and what could be discussed further. The Group had given their views on the Management Response in the last session of the Committee. The current document, jointly tabled with the African Group and co-sponsored by the Delegation of Bolivia, contained a narrowed down proposal based on the in-depth report prepared by the Consultants. The joint proposal was available to all Member States since the last session of the CDIP. This had made it possible for all delegations to study

the proposal and to decide on how to proceed. The Group called for follow-up actions to be taken on the implementation of the recommendations. There was a need to enter into a more practical phase with regard to this very important activity and to implement the recommendations that were made by the Consultants. The Group was ready to engage constructively in the discussion on this important activity.

318. The Delegation of Belgium noted that at every session, the number of documents increased and new questions came to the surface. It believed that the debate on substance was not only necessary but was beneficial for all Member States. However, the Delegation still had some substantial outstanding concerns with regard to the current document. First, the Deere-Roca Report contained some of the most thorough academic analysis of WIPO technical assistance. However, it should also be recognized that it only reflected the situation in 2008/2010 and was mainly focused on WIPO technical assistance. Bilateral and regional technical assistance was largely omitted from the report. The report was also of a very academic nature. Second, the Management Response contained an updated perspective on technical assistance and also highlighted what was feasible. As a Member of Group B, the Delegation could adhere to the recommendations included under category B by the Secretariat. However, it understood that some other groups would like to focus more on other categories of the Management Response which were considered by the Secretariat to be either implemented (category A) or politically problematic (category C). The Delegation did not want to question the judgment of the Secretariat in this regard. Third, there was also the discussion in the *ad hoc* Working Group. The Delegation recalled that it had indicated in the last session that the TORs for the Working Group were not exactly ideal. The Delegation had the impression that its view was shared by other groups albeit for other reasons. Nevertheless, as the Delegation had mentioned at the time, it was an exercise in scuba diving. The Working Group was bound by its oxygen, the TORs, and had to dive with what was available. However, the result was suboptimal. The current document was the latest addition to the list. The Delegation thanked the African Group, the DAG, and the Delegation of Bolivia for their detailed and hard work in this regard. Nevertheless, the Delegation also had some substantial concerns. First, the Delegation believed that in order to have a substantial discussion, there was a need to find an approach which all regional groups could agree on. It should go beyond the contribution of a few regional groups and individual countries, regardless of the merits of their contribution. Second, the Delegation found the joint proposal by the African Group, the DAG, and the Delegation of Bolivia to be quite interesting but problematic in several areas. The proposal was too long and contained too many recommendations. The Delegation highlighted the need to prioritize if the Committee were to take on board some of the recommendations. With regard to the content, the Delegation noted that there were around eight footnote references to the Management Response, whereas there were more than 70 footnote references to the Deere-Roca Report. Some balance was required if some of the recommendations were to be taken on board. Second, the Delegation noted that the document contained only a few recommendations that were included under category B in the Management Response. These included the recommendation to develop a comprehensive manual on the delivery of technical assistance and the recommendation to update the roster of Consultants. However, the document contained a long list of recommendations that were considered by the Secretariat to be already implemented. These recommendations were included under category A in the Management Response. For instance, the proposed integration of all budgets and planning into the regular PBC budget and the recommendation to further upgrade the WIPO web site. The proposal also contained some recommendations that were deemed by the Secretariat to be difficult at the last session. These included, for instance, refining WIPO's strategic goals. Moreover, WIPO had made some substantial progress in various areas, including in the area of human resources, since the last session of the CDIP. Thus, the document may also be somewhat outdated. The Delegation noted that although there were several documents before the Committee, what was still missing was a better understanding of what Member States already did on a non-WIPO bilateral and regional basis as well as the expectations of the beneficiaries of technical assistance. The Delegation stated that the various documents before the Committee had merits but invoked some substantial concerns. Nevertheless, the Delegation stated that the debate



should go forward in a balanced and constructive way. The Delegation then proceeded to make a statement on behalf of Group B, who recalled that at the eighth session of the CDIP, several reports with regard to WIPO technical assistance were discussed. These included the External Review on WIPO's Technical Assistance, the Management Response and the report of the *ad hoc* Working Group. In addition, a joint proposal by the DAG, the African Group and Bolivia on WIPO's Technical Assistance in the Area of Cooperation for Development was tabled. The Group noted that since October 2007, WIPO's technical assistance in the area of cooperation for development had increased in response to the WIPO DA. An ever growing number of proposals and projects had been tabled and discussed in the CDIP and in other *fora*. The Committee had not only discussed such projects, but had also agreed to and implemented a heretofore unprecedented number of technical assistance activities. At the same time, the conclusions of the Deere-Roca Report, the Management Response and the *ad hoc* Working Group had questioned the quality and the extent of WIPO's technical assistance. The Group noted that these questions largely boil down to the following perceptions, a relative lack of knowledge with regard to the technical assistance provided by external non-WIPO partners that were also active in the field and the ensuing possible overlaps in technical assistance; and the need for further improvement in WIPO's technical assistance. In order to maintain a high quality debate on technical assistance, the Group proposed some further guidance on the structure of the general discussion. The Deere-Roca Report, Management Response and *ad hoc* Working Group agreed on the fact that the quality of WIPO's technical assistance should be further enhanced for the benefit of WIPO Member States. Therefore, as a first step, the Group proposed a review and discussion of best practices with regard to the wider area of technical IP assistance, as proposed by the Deere-Roca Report and the Management Response. That was the relationship between WIPO's technical assistance on one hand and non-WIPO technical assistance delivered by a variety of other national and regional IP stakeholders on the other hand. In order to improve WIPO's technical assistance and external coordination, WIPO and its Member States should engage in a learning exercise of best practices and lessons learned with regard to all existing IP assistance. This debate could focus on the identification of best practices and lessons learned from WIPO and non-WIPO technical assistance and could also offer the opportunity for joint presentations on technical assistance projects by developed and developing countries. This learning exercise should also involve an in-depth and critical review of the strategic niche of the WIPO Academy's training activities, particularly in the context of other training initiatives worldwide. The Group proposed that a full day be allocated within the next session of the CDIP for more information to be provided by entities who were already engaged in these kind of activities. This could help to better map and refine WIPO's strategic niche markets. The Group believed that such an activity would result in better systematic coordination between WIPO and the main bilateral and regional offices that were active in providing assistance to developing countries and in devising their plans for assistance.

319. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, recalled that at the ninth session of CDIP, they had stated their belief that in relation to WIPO's Management Response to the Deere-Roca Report, the recommendations that were identified under Category B as warranting further consideration should be the focus of the Committee. However, it was clear that the view was not universally shared by the Committee. The EU and its Member States agreed that it was now time to focus on specific proposals made in the Deere-Roca Report to improve WIPO's development cooperation activities. To that end, they believed that the CDIP would benefit from a full day dedicated to the area of wider IP technical assistance. The purpose of the session would be to identify best practices and lessons learned from both WIPO and non-WIPO technical assistance. It would also offer the opportunity for presentations on bilateral technical assistance activities, including joint presentations by donor and recipient countries. The session would be a direct response to a key recommendation of the Deere-Roca Report that the systematic coordination between WIPO and the main bilateral and regional offices active in providing assistance to developing countries should be improved. The EU and the Member States also acknowledged the importance of strengthening cooperation with other international organizations. They, therefore, supported the statement of

Group B to devote a full day in the next session of the CDIP to such a review and high quality discussion.

320. The Delegation of Egypt, speaking on behalf of the African Group, recalled the background for the current discussion. At the eighth session of the CDIP, the External Review on WIPO's Technical Assistance in the Area of Cooperation for Development was presented to Member States and an *ad hoc* Working Group was established to review the recommendations of the External Review. During the inter-sessional period, the *ad hoc* Working Group met on several occasions and extensively discussed and exchanged views on the recommendations of the External Review as well as the management's response to the External Review. Following the discussions in the *ad hoc* Working Group, the DAG, the African Group and the Delegation of Bolivia were of the view that it was now timely to focus on specific proposals made in the External Review, and endorsed in the Management Response, to improve WIPO's development cooperation activities. Accordingly, the proposal that was presented contained specific recommendations that were aimed at improving WIPO's development cooperation activities. The Group stressed that the proposal did not include all the recommendations that were contained in the report on the External Review. Referring to the comments by the Delegation of Belgium, it highlighted that key priority recommendations were identified and it would be important for these to be discussed and agreed upon. These included, for instance, enhancing the relevance and orientation of WIPO technical assistance through developing guidelines to provide specific detail on how to plan and implement more development-oriented assistance both in terms of substance and process. The Secretariat was also requested to develop a comprehensive manual on the delivery of technical assistance. In future P&Bs and PPRs, the reporting on development activities by each program should be supplemented by a section summarizing the expected and actual results of development activities across the Organization's programs as a whole. Future P&B should include a new budget category reporting on budget allocations by mode of delivery. The expected results in the P&B should be refined to explicitly address how the different components of development orientation were integrated across WIPO's programs and activities. It was also important to refine and reorient the Organization's Strategic Goals, outcomes and outcome indicators in the MTSP to reflect a comprehensive conception of development orientation. The Group highlighted that the proposal also included some important recommendations on human resources. For instance, the Secretariat should swiftly conclude a gap analysis of staff skills and competences to understand where it lacked skills, competencies and expertise relevant to improving the orientation, impact and management of its development cooperation activities. The outcome of the gap analysis should be presented to the CDIP for its consideration and further action. Steps could also be taken to integrate the DA into WIPO's recruitment and PMSDS processes, and to harness the recruitment and PMSDS processes as opportunities to promote a development-oriented culture and mindset within the Organization. The Secretariat could regularly update Member States on progress made in implementation. It could also be useful for the Secretariat to prepare guidelines to ensure transparent processes for selecting external experts. The Group stated that the other recommendations included in the proposal were aimed at enhancing transparency, communication, the technical assistance database, IP policies and strategies, IP Office modernization, training and capacity-building. It highlighted that the overall objective of all these recommendations was to increase the efficiency, sound management and development impact of the assistance provided by WIPO. The Group believed that the principles of efficiency and sound management should not be subject to dispute as all delegations could subscribe to them. The Group was of the view that the starting point for discussion in the current session should be the outcome that was reached in the ninth session of the Committee. The Group recalled that following the request by the Chair, the Secretariat had identified recommendations which, in its view, were both important and immediately implementable. These included, for instance, the recommendations concerning the Organization's work on national IP strategies, an External Review of the WIPO Academy's work and the recently launched initiative to establish country plans for more coherent and transparent delivery of technical assistance in consultation with Member States. There was insufficient time for the Committee to discuss these issues in the previous session. Thus, the Group stated that

the Committee could start discussing the issues identified by the Secretariat to be implementable. It recalled that in the previous session, Member States were invited to provide contributions in writing for discussion in the current session. The Group noted that there were no contributions from Member States in this regard. Hence, the only contribution on the table was the joint proposal by the DAG, the African Group and the Delegation of Bolivia. The Group recalled that the Committee also agreed that the joint proposal as well as the report on the External Review and the Management Response would be discussed in this session with a view to consider the implementation of some recommendations. The Group stressed that this was agreed in the previous session. Therefore, it believed that the time had come for WIPO to endorse the recommendations presented to the Committee. These should guide future work to enhance the technical assistance provided by the Organization to developing countries and to ensure its development impact. The Group would be guided by the Chair on the conduct of the discussions on this issue. The Group would be open to discuss, section by section, the recommendations that were presented in the joint proposal in order to further the discussions and to facilitate a precise outcome to this item in the current session, as agreed in the ninth session of the Committee. The Group looked forward to the positive engagement and cooperation of the delegations to move this important issue forward.

321. The Delegation of Argentina stated that the document CDIP/8/INF/1 was the outcome of the analysis undertaken by independent experts on the technical assistance activities carried out by the Organization. The Delegation welcomed the joint proposal by the DAG, the African Group and the Delegation of Bolivia on WIPO's Technical Assistance in the Area of Cooperation for Development as contained in document CDIP/9/16. It believed that the atmosphere for discussing the substance of this document was good as reflected in the previous statements on this item. The Delegation hoped that the Committee could agree on some of the concrete proposals in the document in order for them to be implemented immediately.

322. The Delegation of Hungary, speaking on behalf of the Central European and Baltic States, supported the continuation of substantive discussions on the important issue of the External Review on WIPO's Technical Assistance in the Area of Cooperation for Development. The Group was of the view that the call for greater sustainability, efficiency and transparency in relation to WIPO's technical assistance figured prominently in the Committee's Agenda for that week, and in particular, during the discussions on the evaluation of specific projects. It saw merit in incorporating some of the general recommendations of the evaluations into the discussions. In its view, that would bring the benefit of re-actualizing the debate. These recommendations included, for example, the prior decision on implementation of outreach and awareness raising activities, and the mandatory responsibility of beneficiaries to report back on project implementation which could serve as an essential element of a sound impact assessment. In order to deepen the level of the discussion on these issues, the Group saw merit in setting aside a full day at the next session to address the issue of technical assistance. To ensure coherence and efficiency, the Group also supported the proposal by the Delegation of Belgium and others to consider in-depth, at that session, the wider framework for technical assistance and provide the opportunity for various joint presentations on both WIPO and non-WIPO technical assistance activities, concentrating on best practices and lessons learned. The Group believed that after an in-depth discussion at the level of experts, the Committee would be in a better position to draw the necessary conclusions for the future.

323. The Delegation of Peru, speaking on behalf of GRULAC, agreed that the participation of the regional groups could be enhanced. The recommendations of the External Review were important and should result in practical activities and increased transparency. The Group believed it would be a good idea to identify one-off activities for implementation. Some very good initiatives had been put forward, such as those outlined by Group B, which could be further discussed. The Group also believed that it would be good to identify recommendations that could be immediately implemented. The Group noted that various delegations had made proposals in this regard. The Group would like to know how these suggestions could be taken on board and implemented. Although there were some achievements, it believed that it would

be a good idea to implement some specific initiatives and proposals. The Delegation, in its national capacity, also believed that the proposed manual on technical assistance would be useful and should foster cooperation with Member States. This was a very important initiative and the Delegation would like to know more about it and what the Organization could offer. Perhaps the Committee could focus on this and other individual proposals.

324. The Delegation of Bolivia stressed that the DA was of crucial importance to its country. Technical assistance was a very important part of the DA. The Delegation highlighted that 14 of the 46 recommendations of the DA were on technical assistance. As such, the current discussion could serve as a very important contribution to the implementation of the DA. These efforts were aimed at enhancing WIPO's technical assistance, including through increasing efficiency and transparency. It should not be regarded as an attack on the Organization, but rather as an opportunity to strengthen WIPO and to bolster its credibility as an organization. The Delegation had examined the various reports that were submitted to the Committee. It appreciated the report prepared by the external experts on the External Review on WIPO's Technical Assistance in the Area of Cooperation for Development. The Report was very valuable and contained many recommendations and the detailed analysis which was carried out on WIPO's technical assistance was unprecedented. The Delegation noted that the Management Response also included important, interesting and updated information which gave a full picture of WIPO's technical assistance activities. Like other delegations, the Delegation found itself in a rather complex situation with regard to the application of the conclusions and recommendations that were made or identified in the various documents. The Delegation co-sponsored the joint proposal of the DAG and the African Group, as it was a very good effort to identify some of the key recommendations contained in the report on the External Review. The Delegation stressed that the joint proposal took into account of the Secretariat's response and that was very important because, as mentioned by the Delegation of Belgium, the Report on the External Review had not been updated. Thus, there was a need to take into account the information provided by the Secretariat on the period following the report. As such, both documents were used in the preparation of the joint proposal. The proposal included some recommendations that were identified as category A by the Secretariat in relation to their implementation. In this context, the proposal closely followed what the Secretariat was doing and looked at activities that could be implemented in addition to those of the Secretariat. The proposal also included category B recommendations which were considered to be easily implementable as well as category C recommendations which were somewhat problematic but could be subject to a useful discussion among Member States. The Delegation believed that the bulk of the recommendations that were contained in the proposal should not give rise to problems as far as implementation was concerned. It reiterated that it had joined in the efforts of the DAG and the African Group as it was necessary for the Member States to identify the recommendations which they considered to be of importance to them as well as other recommendations which they believed could be implemented. The Delegation was grateful for the proposal made by Group B and supported by other regional groups for a whole day to be dedicated to this at the next session. Perhaps the proposal should be submitted in writing for careful consideration by the delegations. However, the Delegation believed that the Committee should start looking at the implementation of the recommendations in the report. It highlighted that there was only one written contribution from the Member States so far. There should be a discussion on the recommendations contained in that document to identify areas where there could be consensus, where there were difficulties and where adjustments could be made in order to bring about consensus. The Delegation stressed that the Committee must try to start a discussion on the recommendations as it had been more than a year since the report was submitted by the external experts. The Committee had yet to reach the operational phase in relation to those recommendations. In concluding, the Delegation reiterated that the Committee should now examine the details of the joint proposal and decide on how to move forward in order for the Committee to analyze and discuss all written proposals submitted by the Member States.

325. The Delegation of Pakistan expressed support for the statements made by the Delegations of Brazil and Algeria on behalf of the proponents of the proposal. It stated that there had been a lot of discussion on this issue in earlier CDIP sessions and also outside the Committee. The Delegation believed that discussion was good but this was the moment to take decisions with regard to how the Committee was going to move forward on this issue. All Member States had to be taken on board in moving forward on this issue which was of pivotal importance to all of them. The Delegation made four points which were intended to assist the Committee in moving forward. First, delegations should not be worried about the large number of recommendations. There were many recommendations which were related to information provision and reporting. Thus, when the Committee actually got down to discussing the substantive recommendations, the number would be less and they could be clustered together so that actions could be taken in a collective manner. Second, the Delegation appreciated the realization that it was time to focus on specific recommendations. Third, it welcomed the proposal made by the Delegation of Belgium on behalf of Group B and supported by the European Union and its Member States. The Delegation viewed this as a positive step in moving forward. The first step was to focus on the specific recommendations. It was important that the focus was not lost. Two things were required in this regard. First, simplicity in the manner in which the Committee proceeded, and second, to move forward in a systematic manner. The Delegation believed that if these two approaches were taken, the Committee would not falter in following the recommendations. The Delegation believed that the joint proposal by the DAG and the African Group, and co-sponsored by the Delegation of Bolivia, was very good. The Committee could move forward on that. However, the Delegation stressed that the issue could not be completely taken up in one CDIP session or in a one-day event. It noted that there were various parts in the joint proposal by the DAG and the African Group, some of which were based on the same parts of the report on the External Review. The Delegation suggested that the Member States should collectively agree on a work plan or action plan to examine the recommendations part by part. Some could be taken up immediately in the current session. The Committee could move forward whenever there was consensus. When there was no consensus, the recommendation could be left aside and revisited later on. The Delegation stated that there could also be a parallel track to examine specific proposals from the Member States. The proposal by Group B and the EU was a proposal that could be also taken up. Through these parallel approaches, the Committee could take up the issue of all the recommendations in a simple and systematic manner to achieve consensus.

326. The Delegation of Australia stated that with regard to the proposal from the Delegation of Belgium, on behalf of Group B, the next meeting of the CDIP could include presentations from Member States on their experiences with technical assistance, and Australia would be willing to share its experiences. As appropriate, the presentation could include the experiences of its partners in technical assistance. The Delegation believed that such a presentation would support discussion on lessons learned and best practices and could guide any CDIP decision on the development of manuals or guidelines. It could also highlight the importance of capital-based and local involvement in identifying demand-driven needs. The Delegation noted that these issues were identified in the joint proposal of the DAG and the African Group.

327. The Delegation of China acknowledged that in recent years, WIPO had made tremendous efforts in the area of technical assistance and there were some positive achievements. However, as work in this area was very important, there was a need for WIPO to review its past work and to continuously seek policy guidance from the Member States. The Delegation noted that the report stated that there were still shortcomings in development cooperation activities, including in relation to relevance and orientation, management, transparency and coordination. The Delegation welcomed the recommendations contained in the various documents and found them very meaningful and helpful. It hoped that WIPO and its different departments would refer to the recommendations from the Member States and the experts in order to move forward on technical assistance and development cooperation in a positive way. The Delegation welcomed the joint proposal by the DAG and the African Group and hoped that the Committee could achieve consensus as soon as possible.

328. The Delegation of South Africa associated itself with the statements made by the African Group and DAG. It highlighted that the joint proposal by the DAG, the African Group and the Delegation of Bolivia was a simplification of the Deere-Roca Report. The Delegation recognized that there were many recommendations in the Deere-Roca Report and some were quite controversial. These recommendations were not included in the joint proposal. The Delegation highlighted that the document included, to a large extent, what was termed as Cluster A and Cluster B recommendations. Thus, there should not be any difficulty in identifying and implementing some of these. The Delegation believed that a systematic approach should be adopted to identify and implement the recommendations. Therefore, the Delegation supported the suggestion by the Delegation of Pakistan that there be a work plan to examine the recommendations. The Delegation reiterated that there were a lot of recommendations and noted that some were principles which could be easily implemented or followed-up on. The Delegation also believed that the starting point was the summary of the previous session, as mentioned by the Coordinator of the African Group. The Delegation recalled that the summary included the request by the Chair for the Deputy Director General, Mr. Geoffrey Onyeama, to identify recommendations that could be easily implemented. The Deputy Director General had done so but those recommendations were not discussed. There was now an opportunity to revisit the recommendations which were identified by the Secretariat to be implementable. The Delegation thanked Group B for its proposal. The effort was forward-looking as Group B had proposed new ways of looking at technical assistance. However, the Delegation emphasized that the proposal by Group B should not replace the recommendations of the Deere-Roca Report. It stated that it had no problems in supporting that proposal if it was a separate activity. The Delegation requested for clarification in this regard.

329. The Delegation of Japan aligned itself with the statement made by the Delegation of Belgium on behalf of Group B. Regarding the review and discussion of best practices, it stated that Japan could share a great deal of experiences which were gained, for instance, through its FIT activities. In collaboration with the WIPO Japan Office, there could also be a presentation on success stories in the use of IP. These were included in the IP Advantage database. The Delegation took a positive view on making a presentation to share those experiences.

330. The Delegation of Belgium explained that its statement on behalf of Group B was not a duplication of what was already being done. It stated that the Deere-Roca Report included, for example, a recommendation on better systemic coordination between WIPO and the regional and bilateral IP Offices. The Delegation highlighted that its statement on behalf of Group B was completely in line with what was already on the table. It was just a formal approach to look at what was on the table and to take on board some of the recommendations by also including presentations on what non-WIPO entities were already doing in relation to technical assistance.

331. The Delegation of South Africa stated that perhaps its request was not clear. Group B had referred to one of the recommendations in the Deere-Roca Report. The Delegation reiterated that the Summary of the Chair for the previous session provided the starting point for discussions on the recommendations. However, there was now a proposal from Group B which identified one of the recommendations of the Deere-Roca Report. In this context, the Delegation wanted to know what would happen to the other recommendations which were contained in the Report. The Delegation would like to know the link between what Group B had identified as one recommendation in the Deere-Roca Report and the other recommendations which the Committee had yet to discuss.

332. The Delegation of Belgium, speaking on behalf of Group B, recalled the background to the ongoing discussion. First, there was the Report on the External Review which was an outsider's view of what WIPO technical assistance should be constituted of, what it should be part of, how far it could go and what should be the quality of the assistance. The Secretariat provided some very valuable analysis in response to the External Review. The Member States then put forward their ideas. In this context, the Group took note of the fact that the African Group, the DAG and the Delegation of Bolivia had already provided their contributions. Thus, it was time

for the Group to make a statement. It reiterated that its statement was looking forward in terms of how to deal with the debate. The Group believed that it was fair that after the joint proposal by the African Group, the DAG and the Delegation of Bolivia that it should also try to contribute positively to the debate. It had identified one recommendation in the Deere-Roca Report. There may be a couple more recommendations but the Group believed that it was important that the Member States also contributed a little more. The Group highlighted that the joint presentations were a way forward and was open to doing this jointly and in a balanced way. This was a way forward.

333. The Delegation of Bolivia attached great importance to the proposal by Group B. The Delegation however needed to see it in writing, the TORs for that discussion as well as the recommendations of the External Review that were to be implemented through the proposal. The Delegation also needed to know how much information was provided in the Management Response. It stressed that such details were included in their joint proposal with the African Group and the DAG. The document included references to the report of the External Review and the Management Response. The proposal was very detailed. The Delegation highlighted that this was lacking in the proposal by Group B. The Delegation welcomed the proposal but it needed to be in writing. It should also be detailed and include references to the recommendations that were to be implemented through the proposal.

334. The Delegation of Brazil, speaking on behalf of the DAG, found it encouraging that all Delegations were engaged in discussing how to improve the Organization's technical assistance. The Group believed that this matter was of interest to all Member States and shared the view of some other delegations that the proposal by Group B could provide a parallel path. It could be considered an addition to the work that the Committee had to do on the recommendations of the External Review but not to replace it. The Group stressed that the work on the recommendations was substantive. It reiterated that the recommendations had been with the Committee for a year. The Committee had taken steps to try to narrow them down, including through the discussions in the *ad hoc* Working Group. The delegations had also studied the Management Response. The Group believed that there was now a good deal of information for the Committee to proceed with the substantive work. The Group agreed with the Delegation of Bolivia that it would be interesting to receive the proposal by Group B in writing. That would help its Members to be informed of the details of the proposal. The Group was ready to engage in discussions with a view to establish a work plan to deal with the recommendations that should be based on the joint proposal which, as mentioned earlier, was a narrowed down document that was based on the extensive report produced by the external Consultants. The Group reiterated that the recommendations had been narrowed down and some could be readily implemented. As pointed out earlier, some of the recommendations concerned the provision of information, transparency and accountability. These were easy to implement and should not be controversial. Thus, as proposed, the Group would like to discuss the document section by section, working on recommendations that could be implemented and deciding on how to treat the remaining recommendations. The Group stated that it may be that the Committee would come to the conclusion that some elaboration was required in relation to how certain recommendations could be implemented. The Secretariat may also wish to provide some ideas or options for implementation. The Group was confident that there were a number of recommendations that could be readily implemented. Regarding the other recommendations, the Group would like a commitment that these would be properly treated. It was ready to discuss this issue with other delegations and believed that it was time to start the substantive discussion on the recommendations.

335. The Delegation of Pakistan noted that the way forward was clearer following the explanations that were provided. It stated that there had been some very good suggestions. Thus, the Delegation suggested a twofold approach. First, as requested by some delegations, Group B could be requested to present their proposal in written form in order for the Committee to discuss it further. Second, delegations could agree during the session of the CDIP, on a work plan for discussing the recommendations. The Delegation noted that this was supported by

many delegations that had spoken earlier. It stated that by doing so, the Committee could continue with a systematic approach to discussing all the recommendations, and if there were any specific proposals from Member States, those could also be taken up.

336. The Representative of the Computer and Communications Industry Association (CCIA) believed that the DA and the wider commitment of WIPO to mainstream development concerns into its work were critical. The CCIA actively supported the DA when it was first introduced and continued to support it today. With respect to improvements to the transparency, accountability and governance of WIPO's technical assistance activities and WIPO's activities in general, it had been a leading private-sector voice, from its contribution in IP Watch which was entitled, "How to reboot WIPO", to its interventions at the recent Assemblies of WIPO and discussions with Member States across all regions. The Representative stated there was no doubt that developing countries had been a leading voice on reform, most recently, in document CDIP/9/16. The CCIA believed that the value of increasing transparency, accountability and good governance was shared by all stakeholders. It hoped that the developed and developing countries would agree on a package of improvements. The Representative commented on a number of proposals in document CDIP/9/16. The Representative referred to section A on relevance and orientation, section B on the Program and Budget and section H on assessing impact, monitoring and evaluation. The CCIA believed that these sections were essential but suggested that the Secretariat should not develop the guidelines and processes on its own as all of this had been done by the UN development agencies and there was no need to reinvent the wheel. In this context, it welcomed the suggestion by the Delegation of Belgium, on behalf of Group B, to dedicate a full day at the next session of the CDIP on this issue. The Representative stated that another benefit to adopting best practices was that it would allow analysis of WIPO activities along those of other agencies on a like for like basis. The Representative noted that WIPO estimated that 21% of its budget was devoted to development assistance, yet an OECD report found that only 3% was development-related. As noted by a number of delegations, this was largely because WIPO did not budget, plan, execute, review or define these activities in any way that allowed them to be looked at alongside the same activities of other agencies. The Representative referred to paragraph two of Section D on human resources. The CCIA believed that the review should go further and not just apply to development activities but to all of WIPO's work. With regard to Section E on experts and Consultants, the CCIA believed that the recommendations in that section were essential, however should be broader. For example, in paragraph 1 there was no need to limit this to development activities. It should apply across the board. The Representative stressed that the advice given by WIPO to Member States on changes to legal systems was of critical importance to all stakeholders and can have a dramatic impact, including unintended consequences. It was essential to disclose the credentials and expertise of those upon whom WIPO relied on, both internal and external, to develop its advice and to publish the results. The CCIA understood that some countries may wish to have the name of the recipient country redacted. On Section F, transparency and communication, it supported the entire section with two suggestions. First, the measures called for should apply across the board not just to development-related activities. In that vein, the reporting back would be to each of the relevant WIPO Committees rather than just to the CDIP. With respect to paragraph four, it did not seem useful to limit the engagement in the first instance to the local missions. The information in question should be on the web site, where direct communication with countries was done. The Representative referred to paragraph one on section J on legislative and regulatory assistance. The CCIA believed that all advice should be posted rather than what was suggested in that paragraph. However, a facility to allow countries to redact their names so that the advice was not clearly linked to them may be desired by some countries. The Representative referred to the independent review in that section and suggested that it should apply across the board rather than just to development. That would then make unnecessary some of the specific development related language which the CCIA understood to be a point of contention. Finally, the Representative highlighted that a proposal was made by some developed countries for a day adjacent to the Assemblies in 2013, where the activities and needs to industry stakeholders would be highlighted, without equal treatment for all stakeholders. It stressed that the CCIA did not ask for this and did not know of



anyone from industry that did. As the CCIA had stated in the Assemblies, in its view, granting a single group of non-governmental stakeholders' special treatment would damage WIPO's credibility. What was needed was global, inclusive and transparent consultations with all non-governmental stakeholders to hear their needs and how they could better engage with WIPO and its Member States without compromising the fundamental dynamic which was for Member States to propose and agree, and for everybody else to advise and comment.

337. The Delegation of Egypt supported the statements by the Delegation of Pakistan and others with regarding the work on the recommendations. Discussions should begin on the joint proposal by the DAG, the African Group and the Delegation of Bolivia, concentrating on the recommendations which the Secretariat said could be implemented. The Committee could then wait for the proposal from the Delegation of Belgium, on behalf of Group B, to be submitted in writing for consideration. The Delegation believed that the discussions in the Committee should lead to a satisfactory work plan and sufficient time should be allocated for that purpose.

338. The Chair noted that the item had led to a lot of discussion. He noted that all delegations recognized the crucial importance of technical assistance in the implementation of the DA. Nevertheless, there were differences in terms of how the Committee should move forward on this issue. One approach had been suggested which required consideration. It was proposed that the Committee could consider the recommendations section by section, identifying those that could be quickly implemented. There could be a more in-depth discussion on the other recommendations which were more difficult. There was also a proposal from the Delegation of Belgium on behalf of Group B. The delegations had requested that the proposal be submitted in writing for detailed consideration. The Chair noted that there was, in principle, support for the proposal. He proposed that the Committee should now make a decision on how it was going to establish a schedule of work, stressed that there was a need for the Committee to reach a consensus on how to move forward and sought the assistance of the delegations in this regard.

339. The Delegation of Belgium stated that since it had made the statement on behalf of Group B, it would be happy to provide the proposal in writing to the Secretariat in order for the other groups to study it in more detail. The Delegation believed that the Chair's proposed approaches were not inconsistent with one another. It believed that it would be an acceptable way forward if the Committee could go into further discussions, perhaps guided by the Chair and the Secretariat.

340. The Delegation of Bolivia supported the Chair's proposal, which it found to be very appropriate. A discussion on the details of the joint proposal would begin. At the same time, Group B and other Member States would be invited to submit written proposals. The Delegation suggested that time could be allocated either in the current or future sessions of the CDIP, perhaps a whole day, for the Committee to try to continue to achieve progress in dealing with the proposals in detail, beginning with the only proposal that was currently on the table. This/It could be discussed section by section in alphabetical order. Alternatively, that discussion could begin with the recommendations that were identified by the Secretariat to be easily implementable. The Delegation stated that the Chair played an important role in the work of the Committee with regard to the recommendations. A plenary discussion was important in order for all delegations to participate and to achieve progress in reaching a consensus.

341. The Delegation of Brazil, speaking on behalf of the DAG, stated that the suggestion by the Delegation of Brazil, in support of the Chair's proposal, was very practical. The Committee could start discussing the joint proposal section by section. It could enter into a substantive discussion and wait for Group B to submit its proposal. The Group did not consider these to be overlapping lines of action. The Committee could work on the substantial proposals in the joint document and give proper consideration to Group B's proposal when it was submitted in written form.

342. The Delegation of Pakistan thanked Group B for agreeing to submit its proposal in written form. It thanked Group B for being open in discussing how to move forward. The Delegation noted that the Delegations of Bolivia and Brazil had rightly pointed out what was mentioned by the Chair. The Committee could move forward systematically in a simple manner by discussing the joint proposal part by part. Where there was consensus, action could be taken. When there were specific proposals from Member States, the Committee could also take action on them. It could move forward and return to the rest at a later time.

343. The Delegation of Egypt believed that a consensus was emerging following the recent statements. It noted that although a lot of time had been spent on this issue, a substantive discussion had yet to take place. The Delegation would like that discussion to begin, especially with regard to the proposal that was tabled.

344. The Delegation of Belgium, speaking on behalf of Group B, reiterated that the joint proposal by the DAG, the African Group and the Delegation of Bolivia was already on the table. The Group would like to discuss this matter in further detail and had even come up with a constructive approach to do so, which could be tabled at the next CDIP. Thus, a way forward could be to convene an informal setting to discuss how the Committee could formally move forward. Then, the delegations could also see whether, and to what extent, the proposals that were already on the table could be taken on board. The Group noted that the Deere-Roca Report and the Management Response also mentioned that it was important for the experience of several members to be reflected or discussed. The Group believed that the Committee should not only look at one proposal; there should be a broad and general discussion. If the Committee was going to discuss only one proposal which was tabled by a few groups, the Group would like to broaden the discussion and to enrich the debate by listening and taking into account what several Member States had been doing and what some developing countries expected to receive. Thus, the Committee should not narrow the discussion too much by going too quickly. The Group was willing to engage and looked forward to taking on board the inputs of other providers of technical assistance.

345. The Delegation of South Africa stated why it had requested clarification on the proposal by Group B. The Delegation had raised its concerns and was even more worried now as the Committee was told that it should not go too fast. The Delegation stressed that the Deere-Roca Report had been with the Committee for some time now. The Committee had made progress when the Chair requested the Secretariat to identify the recommendations which were easily implementable. The Secretariat had done so and there was a need to discuss at least some of the recommendations that were identified by the Secretariat. The Delegation reiterated that these were included in the Summary of the Chair for the last session. The Delegation recalled that at the time, the recommendations were not adopted because the Committee had not discussed them. The Delegation stated that the Committee would be able to discuss them in this session. However, there was now a proposal which appeared to undermine the recommendations. The Delegation understood that the Deere-Roca Report was an independent report. Group B had identified one of the recommendations. The Delegation emphasized that the Deere-Roca recommendations should not be subjected to one recommendation only by holding a side event and depending on what happened in the side event, the Committee could then return to the recommendations. The Delegation was not ready to accept this, it stressed that regardless of what was decided as the way forward, it should be made clear that these recommendations and the proposal by Group B were separate. One should not be subjected to the other. The Delegation reiterated that it would support Group B's proposal provided that the work on the recommendations was not dependent on it. They were separate issues.

346. The Delegation of Bolivia shared the concerns expressed by the Delegation of South Africa. The Delegation thought the approach suggested by the Chair could be followed. It was confused. The Delegation highlighted that work in the WIPO Committees proceeded in a fairly straightforward manner. When there was a proposal from a State or Regional Group, it

was discussed. That was the way the CDIP worked. The Delegation stated that when a country submitted a draft, it was discussed during a meeting or meetings until consensus was reached. It stressed that the same should apply in this case. There was a proposal from two groups, which deserved a detailed discussion until a consensus was reached. That was the way forward. The proposal was made at the last session. The Delegation recalled that Group B had requested that time be given to the groups to look at the proposal. It was translated and there had been enough time for all the groups to look at it in detail. Hence, it was now time to discuss the proposal. The proposal was from one or two groups but that was not really a problem. The Delegation recalled that the Chair had previously requested all Member States and groups to submit proposals. However, no further ones were submitted. There was now a verbal proposal which seemed interesting. However, the Delegation reiterated that the proposal had to be submitted in writing before it could be considered. Referring to the joint proposal with the DAG and the African Group, the Delegation stressed that it was only fair that when a proposal was submitted in writing and many had been involved in its preparation, it should be discussed. The Delegation stated that the proposal deserved to be discussed in detail, to identify areas where there could be agreement and areas where there were problems.

347. The Chair stressed that the Committee had to find a common approach. It was a challenge but the Committee had to do so. In this regard, he suggested a coffee break followed by a Coordinators meeting with interested delegations to see if a common approach could be defined. The Chair then reminded the Committee of the conclusions to Agenda Items 6 and 7. He stated that perhaps they could also get together to see whether some consensus could be reached on these conclusions. The Chair then read out the conclusions to Agenda Item 6 as follows:

“Also under Agenda Item 6, the Committee addressed a number of project evaluations as follows:

- (a) Evaluation Report of the Project on Intellectual Property Development Matchmaking Database (IP-DMD) (document CDIP/10/3);
- (b) Evaluation Report of the Smart IP Institutions Project (recommendation 10) (document CDIP/10/4);
- (c) Evaluation Report of the Project on Intellectual Property, Information and Communication Technologies (ICTS), the Digital Divide and Access to Knowledge (document CDIP/10/5);
- (d) Evaluation Report of the Project on Developing Tools for Access to Patent Information (document CDIP/10/6);
- (e) Evaluation Report on the Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity (document CDIP/10/7); and
- (f) Evaluation Report of the Project on Innovation and Technology Transfer Support Structure for National Institutions (document CDIP/10/8).

Following the presentation of the evaluation reports by each Evaluator, an exchange of views took place. The delegations expressed interest in following up on the recommendations contained in these reports and in certain cases requested further information from the Secretariat.”

348. The Chair stated that the written version of the conclusions had been made available to the delegations.

349. The Delegation of Egypt stated that there had been a largely theoretical discussion on all the recommendations and delegations had made many requests not only for follow-up but also for the application of the recommendations, including in relation to future projects. The Delegation recalled that the Secretariat had taken on board the comments and requests made by the delegations. Therefore, the summary should highlight the efforts to be made by the Secretariat in relation to future projects while addressing the comments of all Member States.

350. The Chair enquired as to whether the Delegation of Egypt would like to propose some specific language.

351. The Delegation of Egypt stated that it had raised the issue in order to get a proposal from the Chair. However, the Delegation could do so if requested by the Chair.

352. The Chair stated that if there were no objections, efforts would be made to have this aspect reflected in the draft conclusions that would be presented to the Committee. He then proceeded to read out the draft conclusions to Agenda Item 7 as follows:

“The Committee discussed the study, “Assessing WIPO's Contribution to the Achievement of the United Nations Millennium Development Goals” (CDIP/10/9). Delegations supported the continuation of the work by WIPO in achieving the MDGs and an effective mechanism for reporting on that contribution to the Member States on a regular basis. The Secretariat will submit to the next session of the CDIP, a document presenting an analysis of the scope of the relevant work.”

353. The Delegation of Egypt, speaking on behalf of the African Group, stated that it was very interested in the conclusions as they concerned an issue which was of great importance to the Group in the area of development. The conclusions were not clear enough and were too general. The question was posed as to what was meant by “action”. Insofar as recommendations were concerned, the three that arose out of the study, as approved by the United States, could be considered by the Member States.

354. The Delegation of Belgium, speaking on behalf of Group B, thanked the Chair for making the conclusions available, however while it understood that a discussion on the conclusions was taking place, the Group clarified that it would be making further comments when the Committee discussed the Chair's Summary in its entirety.

355. The Chair stated that if the Committee were to revert to the conclusions at a later time, it would defeat the purpose of the methodology which was suggested. The Chair believed that whenever there were proposals for amendments to be made, it was best for them to be taken up straight away. He thought at the end of the discussions on this item, a clear consensus was emerging on the need for the Secretariat to undertake an analysis and that it should be done by the next session of the CDIP. The Chair thought that this was reflected in the draft which he had read out. He had hoped that the draft would be approved by all delegations. However, this was not the case. Thus, he stated that the draft would be reworked and the Committee would return to it at a later stage.

356. The Chair resumed discussions on the documents related to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development.

357. The Delegation of Egypt, speaking on behalf of the African Group, referred to the recommendation to commission experts to develop guidelines providing specific detail on how to plan and implement more development-oriented assistance, both in terms of substance and process. This recommendation was contained in Section A of the joint proposal by the DAG, African Group and the Delegation of Bolivia. The Group recalled that this recommendation was included in page 61 of the Report on the External Review which stated that the Secretariat should devise “development guidelines” providing specific detail on how to plan and implement

more development-oriented assistance, both in terms of substance and process, based on the DA principles. The development guidelines should be used by all programs and stakeholders engaged in WIPO development cooperation activities, including Consultants, along with a Code of Ethics for individual providers and experts, whether WIPO staff, Consultants or unpaid speakers / experts. The Group also recalled that in the Management Response, the Secretariat had considered this recommendation to be under categories A and B, i.e., as one which was already reflected in WIPO activities or ongoing reform programs as well as a recommendation which merited further consideration. In this regard, the Group would like to know whether this recommendation could be fully implemented or if a deliverable was possible with regard to this important issue.

358. The Delegation of Pakistan requested the Secretariat to point out the recommendations which it had mentioned in the last session of the CDIP as broad areas which could be implemented immediately. It believed these were included in page 4 of the Summary for the last session. The Delegation requested the Secretariat to describe them in detail in order for discussions to begin on those recommendations. It also supported the request by the Delegation of Egypt on whether the Secretariat could take action on the recommendation to develop guidelines. Lastly, the Delegation requested Group B to explain the recommendations which were correlated to their proposal.

359. The Delegation of Peru, speaking on behalf of GRULAC, stated that the Group had examined document CDIP/9/16. It was interested in the recommendation included in Section A on the development of a comprehensive manual on the delivery of technical assistance. The Group would like work to continue in this regard, and stressed that transparency was very important and there should be a catalogue or manual on technical assistance. The Group had heard many proposals during the week and would like to know more about them. It believed that the manual could help to streamline matters as well as increase the knowledge of Member States on the technical assistance offered by WIPO and how it could be accessed. The Group believed that many of their members would benefit from the manual and it would help to strengthen the IP institutions in their countries. It would also make technical assistance more transparent.

360. The Delegation of Bolivia expressed support for the statements made by Delegations of Egypt, Pakistan and Peru. It believed that there were two proposals in the first part of the Deere-Roca Report which could be implemented immediately. These included the catalogue/manual for the delivery of technical assistance and the development of guidelines. The Delegation would also like the Secretariat to clarify the extent to which these recommendations could be implemented immediately. In this context, it noted that they were included under categories A and B in the Management Response. As such, the Delegation did not think that there would be any problems in their implementation, however it would be good for the Secretariat to provide some clarifications in this regard. The Delegation believed that the two recommendations should be implemented jointly. In this context, it highlighted that it was stated on page 61 of the English version of the Deere-Roca Report that the guidelines should be developed and supplemented by a catalogue or manual on the delivery of technical assistance. The Delegation proposed that these recommendations should be jointly considered.

361. The Chair noted that the Secretariat and the Delegation of Belgium were requested to provide certain clarifications. He invited the Secretariat to respond to questions.

362. The Secretariat (Mr. Onyeama) referred to the three recommendations which it had indicated in the last session to be immediately implementable. The recommendations dealt with the national IP strategies, the external review of the WIPO Academy and the country plans. The Secretariat restated that those were the three recommendations which it believed could be implemented. With regard to the project on national IP strategies, the Secretariat recalled that the project manager had informed the Committee of the methodology, procedure for

implementation as well as implementation in certain pilot countries. As such, the recommendation on the national IP strategies could be implemented immediately. Indeed, the process had already begun. The Secretariat then referred to the external review of the WIPO Academy and informed the Committee that this was an ongoing initiative. It also highlighted that the review was being conducted by one of the Consultants that had carried out the external review on WIPO's technical assistance. The Secretariat had engaged Dr. Carolyn Deere to undertake the review of the Academy as it believed that the knowledge which she had gained from working on the review of WIPO's technical assistance would prepare her to also carry out a comprehensive review. Regarding the country plans, the Secretariat stated that it had begun to include these in the RBM framework. As such, this was another area where work was already in progress. It referred to the recommendations concerning the preparation of a manual on the Organization's technical assistance programs, and the commissioning of experts to develop guidelines on how to plan and implement more development-oriented assistance. The Secretariat could see synergies between these and the proposal by Group B to organize a meeting whereby other providers of technical assistance at the bilateral or plurilateral level could share their experiences in delivering technical assistance. In this context, the Secretariat stated that it may help if a meeting was held to look at best practices in the delivery of technical assistance before guidelines were developed on how the Organization could plan and implement more development-oriented assistance.

363. The Chair invited the Delegation of Belgium to respond to the request from the Delegation of Pakistan for clarification.

364. The Delegation of Belgium, speaking on behalf of Group B, stated that the discussion was very useful and delegations had made concrete points. The Group had listened with great interest. It also took note of the fact that the Secretariat had repeated what was implementable. The Group believed there was a way forward taking into account what the Secretariat had mentioned in terms of what was implementable. Referring to the request for clarification, it stated that it could provide a general outline of its statement. However, the Group also referred to the informal discussions and stated that perhaps other delegations would also like to comment further on concrete topics in moving forward. The bottom line was that certain recommendations could be upheld and some were very interesting. The Group reiterated that the discussion was very inclusive. This was a further step in the process and could lead to more steps. Concerning what was implementable, the Group stated that the Secretariat had provided very good guidance on what was workable and if delegations were interested to go back to what was said yesterday in the informal discussions, they could also provide further comments. It had listened to what the delegations had to say, and suggested that perhaps the Secretariat could move away from referring to the recommendations according to their categories and just inform the Committee of what was workable. The Group believed that there was a good basis to move forward.

365. The Delegation of Egypt, speaking on behalf of the African Group, noted that the Secretariat had already begun to implement the three recommendations, in accordance with what was proposed in the report on the External Review. The Group viewed this as a step in the right direction. It would like a Progress Report to be presented at the next CDIP session on the implementation of those recommendations. With regard to the development of guidelines, the Group noted that the Secretariat viewed this to be implementable. The Group viewed this as a good outcome to the discussions that morning. The Group referred to the Secretariat's suggestion to hold consultations with other bilateral and regional donors. In this context, the Group wondered if the Secretariat could organize an event before the next session of the CDIP for WIPO and other donors to present their experiences and lessons learned. The Secretariat could make available the conclusions of the side event before the next session, and present draft guidelines based on the discussions at the event at the next session. The Group then turned to the other recommendations that were included in the joint proposal. It referred to Section B on the P&B on page 3 of the proposal. In this regard, the Group referred to recommendations (b), (c), (d) and (e). Recommendation (b) stated that in future P&B and

PPRs, the reporting on development activities by each program should be supplemented by a section summarizing the expected and actual results of development activities across the Organization's programs as a whole. Recommendation (c) stated that future P&B should include a new budget category reporting on budget allocations by 'mode of delivery'. Recommendation (d) stated that the expected results in the P&B should be refined to explicitly address how the different components of development-orientation were integrated across WIPO's programs and activities. Recommendation (e) stated that the WIPO Secretariat and its Member States should refine and reorient the Organization's Strategic Goals, outcomes and outcome indicators in the Medium Term Strategic Plan (MTSP) to reflect a comprehensive conception of development orientation. The Group pointed out that these proposals were on page 61 of the Report on the External Review and were considered by the Secretariat, in its Management Response, as category A recommendations. As such, the Group would like the Secretariat to clarify whether these recommendations could be considered for further implementation. If so, it would like to be updated on their implementation.

366. The Delegation of Brazil, speaking on behalf of the DAG, supported the request by the Delegation of Egypt on behalf of the African Group, for information to be provided on the implementation of those recommendations in the next session of the Committee. Referring to the recommendation to establish guidelines for technical assistance, the Group stated that one of the objectives was to harmonize technical assistance throughout the different areas of WIPO. The Group recognized that WIPO was a huge Organization with many staff members and external Consultants. Thus, the guidelines would help to provide some common ground with regard to technical assistance. It stated that a main source of inspiration for the guidelines should be the DA itself. For this reason, the guidelines should be aligned with the principles of the DA. They should also take into account other inputs which may be useful in the development of the guidelines. The Group stated that the guidelines would provide more transparency in terms of what was practiced in the provision of technical assistance by WIPO. It shared the view that this was not intended to enhance bureaucracy but to provide transparency and information on what was going on. It also related to providing Member States with more information on the resources that were available to them in terms of technical assistance.

367. The Delegation of Bolivia stressed that decisions needed to be made and work should proceed in a systematic way. It referred to the development of guidelines and a catalogue/manual on technical assistance. This was included under recommendation 2 on page 1 of its joint proposal with the African Group and the DAG. The Delegation noted that there had been no opposition to that proposal. Indeed, various delegations had expressed interest in the proposal. As such, the Delegation suggested that a decision be taken to implement it. With regard to the development of guidelines, the Delegation noted the suggestion that it may be a good idea to take into account inputs from the event that was proposed by Group B. It did not object to this. The Delegation found the proposal by the Delegation of Egypt for a report on the meeting to be submitted to the CDIP to be interesting. However, the Delegation stressed that the guidelines should also be based on the Deere-Roca Report. The report included a lot of information on the development of the guidelines. The Delegation then turned to the three recommendations which were considered by the Secretariat to be easily implementable. The Delegation stated that these areas were also included in the joint proposal. With regard to the country plans, it referred to recommendation 1(a) in Section M on page 13 of the joint proposal. The Secretariat was requested to make publicly available, the planning and delivery model for development cooperation activities. The Delegation would like the Secretariat to clarify whether this was feasible and if it could be accepted for implementation. With regard to the external review of the WIPO Academy, the Delegation referred to recommendation 3 in Section K on page 12 of the joint proposal. As the review was already underway, the Delegation requested the Secretariat to make available the TORs for the review. The outcome of the external review should also be made publicly available. The Delegation requested to know if the Secretariat had any objection to that recommendation. Lastly, with regard to IP strategies, it referred to recommendations 1 and 2 in Section I of the joint proposal. The Delegation would also like to know if the Secretariat had any objection to these recommendations. The Delegation

highlighted that under recommendation 1(a), the Secretariat was requested to make available information on the external Consultant engaged to independently review the tools and methodologies used to inform IP strategies as well as the TORs for the review. The other elements of recommendation 1 would be applicable once the independent review was completed. The Delegation would like the opinion of the Secretariat as to whether recommendation 1(a) could be accepted for implementation.

368. The Delegation of Cyprus, speaking on behalf of the EU and its Member States looked forward to the presentations on bilateral technical assistance in the next session. To move forward the discussion on technical assistance, the EU and its Member States would be willing to devote time to discuss recommendations where there was common agreement in the Deere-Roca Report, the Management Response and the joint proposal by the DAG and the African Group.

369. The Chair invited the Secretariat to respond to the requests and suggestions from the floor.

370. The Secretariat (Mr. Onyeama) reiterated that with respect to the manual on technical assistance, it had, in response to the Committee's request, prepared a manual on the technical assistance programs and services currently provided by the Organization. This was available outside the room. It was an exhaustive and comprehensive catalogue of the technical assistance programs provided by the Organization. Thus, with regard to the development of guidelines, the manual had already been prepared and it could perhaps be a question of experts looking at how to better implement those activities. The Secretariat highlighted that it also included information on how these activities or services were implemented or provided. Thus, the Secretariat would probably require clearer instructions as to how the Committee would like to proceed with respect to the tools that were there. The Secretariat reiterated that a meeting of different donors and technical assistance providers to examine best practices in delivering technical assistance on IP could be a basis to further refine the catalogue and then it would be a question of how to better deliver those tools that were already available in the Organization. However, it would like to have a clearer idea of how to further develop such guidelines. The Secretariat then turned to the three recommendations which it believed could be immediately implemented. With regard to the country planning model, the Secretariat stated that, in principle, it should not be a problem to make this available to the public. It suggested that perhaps it could be made available on the WIPO web site. With respect to the review of the Academy, the Secretariat stated that internal discussions would be required as to whether it could be made available to the public. The Secretariat explained that the review was commissioned by WIPO as it wanted to see how the Academy and its training activities could be restructured as well as to identify overlaps between the training provided by the different sectors of the Organization and the Academy. Thus, the review was actually intended for the Secretariat's internal purposes, as a tool to improve the Academy. However, the Secretariat would see if it was of importance, interest and relevance to the outside world. The Secretariat stressed that it was unable to state unequivocally that the review would be made available. It reiterated that Carolyn Deere had been engaged to carry out the review. As such, it was unlikely that the Committee would question the credibility of the review. However, as the Secretariat fully subscribed to the principle of transparency, it was just a question of the technicalities and whether there were confidential aspects that may impact on the review being made publicly available. With regard to the IP strategies, the Secretariat recalled that this was a CDIP project and the Progress Report had been presented to the Committee. The Secretariat recalled that the Evaluator, Mr. Sisule Musungu, had already submitted and presented his report to the Committee, which could also be made publicly available.

371. The Delegation of Bolivia noted that the Secretariat had not mentioned any difficulties with regard to implementing recommendation 1(a) in Section M of the joint proposal. As such, it stated that if there were no objections from the Member States, perhaps it could be assumed that this was agreed. The Delegation then referred to recommendation 3 in Section K of the



joint proposal. It stated that the request for the TORs for the external review to be made public was to allow the Member States to have access to it and not for it to be made available on the web site. With this clarification, the Delegation would like to know whether the Secretariat had any objections to that request. If not, the Delegation stated that there should be no problems with the implementation of the second part of that recommendation. The Delegation referred to recommendation 1(a) in Section I of the joint proposal and thanked the Secretariat for replying on behalf of the Consultant. The Delegation stated that it was sometimes difficult to keep track of everything that was happening but it noted that there would be no difficulties with that recommendation as part of it was already being implemented. Thus, the Delegation believed that the Committee could reach agreement on those three recommendations in the joint proposal. With regard to the catalogue or manual on technical assistance, the Delegation did not know that a catalogue had already been prepared. This was very good news. It would like to review the contents of the manual to assess whether it included the elements that were listed under the recommendation in the joint proposal. If not, the Delegation would like to know whether the catalogue could be revised for these to be included, if there were no problems with regard to the type of information that was requested.

372. The Delegation of Egypt, speaking on behalf of the African Group, reiterated its earlier request for clarifications on the implementation of certain recommendations. The Group enquired as to whether the Secretariat was prepared to complete the implementation of the recommendations included in the Section on the P&B in the joint proposal, especially recommendation (b), (c), (d) and (e), as these were identified in the Management Response as recommendations that were either being implemented or could be implemented. The Group referred to the external review of the WIPO Academy and concurred with the views expressed by the Delegation of Bolivia on this issue. The Group highlighted the fact that this issue was also included in the recommendations in Section K of the joint proposal where it was stated that an independent panel of leading academic authorities on IP and Development should be commissioned to review all WIPO training materials and curricula to ascertain and ensure their development orientation. The review should also, from a development perspective, assess the quality, delivery and orientation of training provided by the WIPO programs as well as the overall balance of training activities and the diversity of speakers with an eye to ensuring that the activities reflected the DA recommendations and were suitable and relevant for the beneficiary developing countries. The Group recalled that this was based on the recommendation included in page 130 of the Report on the External Review. It was identified as a category A or category B recommendation in the Management Response. In this context, the Group referred to subparagraph 2(a) in page 36 of the Management Response. The Group sought the guidance of the Secretariat on the extent to which this could be pursued in the broader context of the review of training activities provided by WIPO.

373. The Delegation of South Africa referred to the manual on technical assistance. It recalled that during the last session, the DAG had proposed that a manual should be prepared. The Secretariat had stated that, in principle, this should not be a problem. As such, the Delegation would like to know when the manual or catalogue was prepared because at the last session there was no such manual, and the Committee was informed by the Secretariat that the proposal by the DAG on what the guidelines could include could also be incorporated in the manual. Hence, the Delegation would like to know what was in the manual and when it would be developed.

374. The Chair invited the Secretariat to respond to the comments from the delegations.

375. The Secretariat (Mr. Onyeama) referred to the question raised by the Delegations of Bolivia and South Africa regarding the manual on technical assistance. It recalled that at the last session, the Committee had not formally requested the Secretariat to prepare a manual as there was no consensus. Nevertheless, the Secretariat believed there was merit in having such a manual and it would benefit developing countries to know what was available at WIPO, especially, in the context of country planning. Thus, the Secretariat went ahead unilaterally to

prepare the manual. Indeed, it was rushed through to be ready for this session of the Committee. As a result, even the cover of the brochure was temporary. The Secretariat had prepared the manual in the last two to three months. It reiterated that it was essentially a catalogue of the development cooperation activities undertaken by the Organization through its programs. Thus, in terms of the information that was requested through the joint proposal, the first most important requirement was satisfied. Referring to the focal points within WIPO for each of the activities, the Secretariat explained that different sectors and divisions of the Organization could be involved in the delivery of technical assistance activities. Thus, it was not always easy to definitively identify a particular division and the Secretariat did not believe that it would be that useful or important to include in the manual. It would also complicate matters, especially as the Secretariat wanted the manual or catalogue to be simple and user friendly. With regard to the process for requesting assistance and the time frame for receiving such requests, the Secretariat stated that this was also something that it felt could be excluded because it was not defined. All Member States knew that formal requests were made in writing to the Organization. The way in which such a request was made was not defined and it was also almost impossible to state the time frame within which such requests should be received. The Secretariat stated that there was no cutoff point for the receipt of requests for assistance from Member States. Referring to the possible modes of cooperation, the Secretariat explained that this was also something that it felt would not add any value as the manual already described the nature of the assistance that was provided by the various sectors of the Organization. As such, the Secretariat believed that the modes of cooperation would be almost self-evident. For these reasons, the Secretariat had not included all these other elements on the mechanisms of cooperation and how WIPO cooperated with its Member States. The Secretariat had focused on a catalogue that detailed all the different tools and services provided by the Organization in a simple and succinct manner in order for countries and all the different stakeholders and users within countries such as R&D institutions, universities and SME's, to have a clear idea of what the Organization was able to provide as well as what was on offer within the Organization. The Secretariat stressed that this was the essential aim of the catalogue. It then referred to the questions put forward by the Delegation of Egypt with respect to the WIPO Academy. Referring to its development component, the Secretariat stated that this would certainly be considered in the context of the external review of the Academy. The Secretariat reiterated that the Consultant who was undertaking the review was the same Consultant whose recommendations the delegations were quoting. That was the reason why the Secretariat had selected her to conduct the review of the Academy. It expected the report to be submitted by the end of the year. The Secretariat did not know what was in the report but the issues that were raised would certainly be taken into consideration. Referring to the request by the Delegation of Bolivia, the Secretariat stated that while it may not be possible to make the report available to the general public, the Secretariat believed that the report could be made available to the Member States and they would then have the opportunity to make their contributions. The Secretariat (Ms. Bachner) then turned to the questions raised by the Delegation of Egypt with regard to the P&B. It referred to recommendation 1(a) in Section B of the joint proposal where it was stated that the budgets and planning for all development cooperation activities should be integrated into the regular P&B process. Activities supported by Funds-in-Trust (FITs) and associated resources should be reflected in WIPO's regular budget, programming and reporting processes. The Secretariat recalled that this recommendation was categorized in its Management Response as being under implementation. In this regard, the Secretariat highlighted that the P&B for 2012 / 2013 provided an integrated view of the regular budget and the extra-budgetary resources available for the activities of each program as well as information on the achievement of the expected results within a program. This was done for the first time. In the past, information on extra-budgetary resources was only provided in a table in the annexes. The Secretariat also highlighted that the PPR for 2010/2011 included, for the first time in the annex, a very comprehensive account of the activities implemented under all the FITs. Thus, the PPRs contained performance data for both regular activities as well as activities implemented under the FITs. The reason why this was categorized as ongoing work was because further improvements were required. The Secretariat stated that this question was also

raised in other committees and assured the Committee that it was working to improve what had already been done. The Secretariat then referred to recommendation (b) in section B of the joint proposal where it was stated that WIPO should continue its efforts to improve measures for estimating personnel and non-personnel budgets for development cooperation activities, and improve information systems for estimating or tracking actual expenditures. In future P&B and PPR's, the reporting on development activities by each program, should be supplemented by a section summarizing the expected and actual results of development activities across the Organization's programs as a whole. In this regard, the Secretariat highlighted that the P&B for 2012/2013 provided, for the first time, a results-based budget. It included a calculation of the development share of each expected result. This was an improvement as the Secretariat had moved from providing a program level estimation to a much more detailed bottom up approach which began at the planning level. Thus, progress was being made in this area. The approach had been considerably refined and information could be found in an annex to the PPR for 2010/2011. With regard to the tracking mechanisms, the Secretariat stated that this was also discussed in other committees. It had instilled a mechanism to track actual expenditure. This was a move away from the previous methodology which required estimating expenditure. The tracking results would be reflected in the PPR in terms of actual expenditure. Thus, this recommendation was already under implementation. The Secretariat then referred to recommendation (c) in section B of the joint proposal where it was stated that future P&B should include a new budget category reporting on budget allocations by mode of delivery. The Secretariat recalled that this recommendation was categorized in its Management Response as meriting further consideration. In this regard, the Secretariat would need to look into what other aspects required tracking and whether any value would be added in doing so. The Secretariat explained that it had certain cost categories and these were related to missions, travel costs, conferences etc. Thus, the Secretariat would need to look into this in further detail and also consider whether there was any merit in introducing additional cost categories. The Secretariat agreed with the recommendation that the expected results in the Program and Budget should be refined and stated that it was doing so on a continuous basis. In this regard, it reiterated that in the P&B for 2012/13; the expected results had been considerably refined. The Secretariat would continue refining the results framework of the Organization together with the Member States. Finally, the Secretariat referred to recommendation (e) in section B of the joint proposal. The Secretariat noted that this concerned the MTSP. As the MTSP process was largely driven by the Member States, the Secretariat was not in a position to elaborate on this recommendation.

376. The Delegation of the United States of America stated that it was not in a position to adopt or approve any of the recommendations for implementation at this early stage. Having said that, it believed that the Group B proposal to discuss technical assistance, experiences and best practices in practical implementation would provide a path forward towards the implementation of specific recommendations made in the Deere-Roca Report. In response to some Member States' requests for further clarification, the Delegation saw the Group B proposal touching directly upon the following recommendations, as identified in the Management Response. First, recommendation B (7) concerning mapping of other intergovernmental initiatives and nongovernmental efforts to promote innovation, creativity, technology transfer and access to knowledge. This was on pages 50 and 144 of the Deere-Roca Report. Second, recommendation B (8) concerning work not just within WIPO but across multiple governments, IGOs, and NGOs to make available a menu or catalogue of development cooperation activities. This was on page 62 of the Deere-Roca Report. Third, recommendations B9 and B13 concerning implementing recommendations relating to cost saving and efficiency measures, including avoiding duplication and making better use of technological resources, and discussing best practices in these areas. This was found throughout the Deere-Roca Report. Fourth, recommendation B (10) concerning discussions on how other organizations monitor and assess the impact of technical assistance activities. This was in Roman xvi in the foreword to the Deere-Roca Report as well as on page 74 of the Report. Fifth, recommendation B (4) concerning focusing on issues relating to creativity and cultural industries, and not solely on industrial property. This was in the Deere-Roca Report on page 86. Finally, recommendation B

(11) concerning best practices in the area of IP training linked to other public policy issues, found in the Deere-Roca Report on page 130.

377. The Delegation of Peru referred to the Secretariat's comments on the manual. It believed that this was more a list of cooperation activities rather than a manual. However, the Delegation was grateful for it as it would enhance its knowledge of what was taking place.

378. The Delegation of Brazil, speaking on behalf of the DAG, referred to the manual on technical assistance. The Group stated that this was the first time it had seen the manual, which it viewed as a positive step in the implementation of the recommendation. The Group would also like the opportunity to further analyze the publication and to make some comments or suggestions based on the recommendations that were included in the joint proposal. The Group would study the Manual in detail and come back with comments on possible ways to enhance it according with what was suggested in the recommendations.

379. The Delegation of Belgium, speaking on behalf of Group B believed that progress had been achieved and this was a first step. The Committee had a very good discussion on what was workable or implementable. The Group noted that some recommendations were further detailed today. The longer they were discussed, the more detailed they became. It stated that this helped to enhance the understanding of members that had yet to agree entirely on these. Some Members of the Group had also tabled some very detailed and concrete proposals, thus more reflection was required. The Group believed that the Secretariat was also in a position to decide on what was implementable or workable, taking into account the discussions and the fact that the Group had made a statement that it would like to contribute to the debate through presentations on best practices. In this regard, it believed that the Secretariat would be able to come up with a document which could be discussed as a first step before going into further discussions in the next CDIP session.

380. The Delegation of Algeria thanked the Secretariat for its clear and precise replies. However it did not share the optimism of the coordinator of Group B that the discussion was useful as it could be even more useful if it led to decisions. In this regard, the Delegation referred to the comment made by the Delegation of the United States of America that it was not in a position to adopt any recommendations. The Delegation questioned the purpose of the meeting as/since some delegations were clearly stating that they did not want to adopt any recommendations. It was worried by that comment and requested the Delegation of the United States of America to be more precise in terms of whether it was referring to specific recommendations or if it generally did not want to adopt any. The Delegation then referred to the manual on technical assistance, to which it attached considerable importance because sometimes when it approached the Secretariat for information, the Delegation was sent from one division to another and it was not clear as to who was in charge of the program in which information was required. Thus, the manual should clearly identify the focal points for each program and indicate what was required to benefit from a program. If there was no established procedure for doing so, this could be mentioned. The Delegation stressed that such information was essential and would also help the Secretariat to tidy up the Organization. In this regard, the Delegation stated that it would be good for the Secretariat itself to have a manual that would identify focal points and clarify the procedures that should be followed in order to benefit from a project or to evaluate it. This would be a useful exercise for the Organization as well as the Member States. The Delegation enquired as to whether the Member States had any objections to having such a manual prepared based on those requirements. If not, suggested that the Secretariat could start work on the manual immediately and submit it to the Committee at its next session or the following as some time would be required to prepare it. The Delegation stated that this would be a concrete decision and add some meaning to the ongoing discussions in the Committee. The Delegation referred to the Secretariat's comments on internal coordination. Delegation recalled that the Secretariat had mentioned that it sometimes had difficulty in identifying who dealt with what. In this regard, the Delegation referred to recommendation 1(c) in section L of the joint proposal. It believed that this recommendation

could be adopted as it would help the Secretariat to define the roles and responsibilities of the various sectors and their sub-divisions in the implementation of the Organization's programs. That would be good for the Secretariat and the Member States. The Delegation believed that there should be no objections to these recommendations. If there were, it would like the Member States concerned to explain why there were difficulties in adopting these recommendations.

381. The Delegation of Bolivia shared the concerns of the Delegation of Algeria regarding the last statement by the Delegation of the United States of America. It stated that it would be important for the Chair to define a methodology through which progress could be achieved as this was a very interesting and rich discussion. The Delegation stated that the Committee was also having a fruitful exchange with the Secretariat in terms of identifying areas where more rapid progress could be made and others which required further examination. However, all this must lead to a decision or some kind of follow-up otherwise the Committee would not be able to make any progress. Thus, the Delegation requested the Chair to assist the Committee in making progress in a systematic way so as to avoid having the same discussion in the next session. The Delegation turned to the manual on technical assistance. It agreed with the Delegation of Brazil that this was an excellent first step. The Delegation stressed that it was the first time that it had seen the manual and reserved its right to examine the document in more detail and to come back, perhaps at the next session, with comments and suggestions taking into account the Secretariat's response to the joint proposal. The Delegation then turned to the three elements that were identified by the Secretariat to be either immediately implementable or were already being implemented by the Secretariat. It noted with interest that some delegations were not in a position to adopt any recommendations when in fact the Secretariat was actually already working on them. The Delegation welcomed the efforts of the Secretariat in this regard. It proposed that the Secretariat should submit a report on progress achieved in implementation to the Committee in future sessions as this item was going to be on the Committee's Agenda for a long time. For the next session, the Secretariat could submit a short report containing at least information on the three elements, namely, IP strategies, the external review of the WIPO Academy and the country plans. In this regard, the Delegation believed that the Secretariat had no objections to the following recommendations in the joint proposal, specifically, recommendation 1(a) in section M, recommendation 3 in section K including recommendations 1 and 2 in Section I. In this regard, it would welcome information from the Secretariat in the next session. On IP strategies, the Delegation stressed recommendation 1(a) in Section I requested the Secretariat to make available information on the external Consultant engaged to independently review the tools and methodologies used to inform IP strategies as well as the TORs of the review. The Delegation stated that if the information was already included in a project document, it would like the reference to be provided. If the review had already been completed, recommendation 1(b) stated that the tools or methodologies should be made publicly available for a reasonable period for comment. The Delegation stated that it would be important for such information to be included in the report to be submitted in the next session. The Delegation turned to the other elements of the joint proposal which were of interest and for which further information was required from the Secretariat. Firstly the recommendations on the Technical Assistance Database included in Section G of the joint proposal, found on page 170 of the report on the external review. The Secretariat was requested to take steps to redesign the database to facilitate internal and public searching. It should ensure more systematic and regular updating of the database by all its programs. The Delegation highlighted that the latter was agreed as part of the project and it was mentioned in the Management Response that this was already being implemented by the Secretariat. However, it noted that a lot of information had yet to be included in the database. For example, information concerning participants, donors and speakers as well as evaluation reports and other relevant documents such as Agendas, presentations, CVs of the speakers and so on. The Delegation stressed that such information was important and very valuable. The information should be included in the database, especially as it had already been agreed as part of the project document; however it was still missing. Thus, the Delegation would like to know if the Secretariat had any objections to implement recommendations 1 and 2 in section G of the joint proposal. Second, it referred to

recommendation 1 in section D and recommendation 1 in section E on Codes of Ethics. The Delegation was aware that there was already a Code of Ethics which was applied to staff and external Consultants. However, the joint proposal suggested that separate codes should be drawn up for staff and external Consultants because the degree of loyalty and requirements varied depending on whether a person was employed by WIPO as a staff member or as an external Consultant. Thus, it was recommended that a separate Code of Ethics should apply to external Consultants and the existing code should be revised to apply to WIPO staff and include the elements which were listed under recommendation 1 in section D of the joint proposal. In this regard, the Delegation would also like the Secretariat to state whether it had any objections and if it would be easy to separate both the codes and to include the elements described in the joint proposal. Similarly, it would like to ask the Secretariat whether recommendations 2 and 3 in section E of the joint proposal could be easily implementable and whether there were any objections to drawing up guidelines to ensure transparency in the selection of experts and to regularly update and improve the online Roster of Consultants.

382. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, expressed support for the statement made by the Delegation of Belgium on behalf of Group B for the Secretariat to prepare a paper on implementable and consensual recommendations, to allow for a substantive discussion in the next session.

383. The Delegation of the United States of America stated that it had the utmost respect for and confidence in the abilities of the interpreters. Thus, it could only assume that some members were not listening closely to what it had said. What the Delegation had said was that it was not in a position to approve or adopt any of the recommendations for implementation at this early stage.

384. The Delegation of India referred to the catalogue or manual on WIPO technical assistance which the Secretariat had prepared for the Member States. In this respect, it echoed the request made by the Delegation of Algeria for a manual containing detailed information on WIPO technical assistance. This could be an improvised version of the current catalogue. The Delegation stated that this would be very helpful to the Member States. With regard to making progress in a systematic way, the Delegation noted that the proposal by the Delegation of Pakistan was supported by several others. The plan would therefore be to set aside one day to discuss the Report on the External Review and all other related documents as a possible way forward. It also had no problems in accepting the proposal by Group B for a review and discussion of best practices in bilateral and plurilateral mechanisms which could support the preparation of the guidelines. This could perhaps take place in the next CDIP session. Overall, the Delegation was optimistic that a structured or consensual decision would be reached on this Agenda Item.

385. The Delegation of South Africa referred to the question which it had raised with regard to the manual on technical assistance. The Delegation noted that it was a unilateral effort by the Secretariat. It was pleased with the initiative which was both positive and forward-looking. However, the Delegation believed that it would be useful for the Secretariat to prepare, for the next session, a detailed report on the other recommendations which it considered to be already implemented or were under implementation. It had listened to the discussion between the Secretariat and the Member States. It seemed that progress had been achieved with respect to some recommendations. In this regard, the Delegation believed that a detailed report would be useful because the Management Response merely categorized the recommendations and did not go into the details. The Delegation requested for a clear and detailed report that would help the Committee to move forward and this should be based on the joint proposal of the DAG and the African Group as that proposal was tabled with a view to move forward with the implementation of the recommendations. The Delegation referred to the clarification provided by the Delegation of the United States of America that it was not ready, at that moment, to adopt any recommendations. Although the Delegation respected that decision, it highlighted that the rules of procedure allowed a Member State to make a reservation so as not to block the entire

process. In this context, the Delegation pointed out that some delegations were in a position to adopt certain recommendations. Thus, the Delegation suggested that the Delegation of the United States of America should exercise the right to make a reservation as it was not in a position at that point in time to join a consensus. The Delegation turned to the recommendations in the joint proposal. The Delegation referred to recommendation 3 in section E and requested the Secretariat to elaborate on whether there was any difficulty in implementing that recommendation, particularly as it could be categorized as implementable because it was merely about improving the Roster of Consultants. The Delegation recognized that there had been some recent improvements to the roster but it would like to hear from the Secretariat if there was any problem in implementing that recommendation. The Delegation then referred to the recommendations in section F which it regarded as being immediately implementable. The Delegation recalled that most of these were classified as category B recommendations in the Management Response. In this regard, the Delegation requested to know whether the Secretariat was in a position to implement these recommendations. The Delegation stated that some were merely basic principles. The Delegation was particularly interested in recommendation 4 in section F. It explained that this was because there were sometimes problems with the communication channels between the Mission and WIPO.

386. The Delegation of Brazil, speaking on behalf of the DAG, reiterated that it was guided by what had been decided in the last session of the CDIP. In this regard, the Group recalled that the Committee had agreed to discuss the Deere-Roca Report, Management Response and the joint proposal by the DAG, African Group and the Delegation of Bolivia with a view to consider the implementation of the recommendations. The Group stressed that it was participating in the discussions in this spirit and hoped that a good outcome would be achieved. It supported the suggestion by the Delegation of Bolivia, and complemented by the Delegation of South Africa, for the Secretariat to provide information in future sessions on progress in the implementation of the recommendations. The Group also echoed the view expressed by the Delegation of South Africa that the information provided in the Management Response may not be detailed enough. It would be more than happy to receive detailed information on how recommendations were being implemented and believed that the CDIP was the best place to discuss this. The Group requested that this issue be included in the work of the Committee for future sessions. The Group then referred to the comments made by the Delegation of Bolivia with regard to the recommendations in sections D and E of the joint proposal. Referring to the Code of Ethics, it noted that the Secretariat considered this to be already implemented. However, there remained things that needed to be done. The Group fully agreed with the idea to have a Code of Ethics for WIPO staff and a separate code for experts and Consultants, for the same reasons mentioned by the Delegation of Bolivia. It stated that this was required to fulfill those recommendations and to satisfy their concerns in that regard. The Group also stated that further action was also required with regard to the Roster of Consultants. In this regard, the Delegation stated that it had repeatedly pointed out in previous sessions of the Committee that information on all Consultants engaged by WIPO should be included in the roster. The Group noted that the information provided was limited and some was still missing. It recognized that there were issues such as confidentiality, however the purpose of the Roster of Consultants was to provide Member States and others who were interested to consult it with complete information on the Consultants. That would be very helpful, especially with regard to identifying Consultants to undertake future work on specific issues. In this context, the Group stated that it would be helpful for Member States to have more information on past experiences, recent activities and the kind of work which the respective Consultants were engaged in.

387. The Delegation of Australia was open to a Progress Report or an elaboration from the Secretariat on the implementation of recommendations identified as immediately implementable and in light of the discussions thus far. The Delegation considered the discussions to be fruitful and the Committee was making progress. It was also open to the idea of guide lines and manuals on technical assistance but at this stage, there were more issues to discuss before approving the recommendations in section A of the joint proposal. The Delegation delved into some of the specifics of those recommendations to illustrate that it was engaging with the idea

but there was more to discuss before coming to a decision. For example, paragraph (b) of recommendation 2 on page 2 included the incorporation of the 25 further recommendations contained in the appendix to the joint proposal into the manual. The Delegation drew the attention of the delegations to recommendation 2 on page 1 of the appendix to document CDIP/9/16; "WIPO staff should address obstacles and risks frankly with national authorities, so that expected outcomes and results are realistic". The Delegation stated that according to the document, that recommendation corresponded to what was mentioned on page 62 of the Report on the External Review. Therefore the Delegation requested the proponents of the proposal to explain how this recommendation related to recommendation 4 in section F of the joint proposal, which stated that all development activities should be routed through the Geneva-based missions. It stated that perhaps these were not inconsistent but it illustrated that within that broad and long list of further recommendations, there were issues that came up which needed discussion.

388. The Delegation of Pakistan believed that the discussions had been very fruitful and thought that this was the right way forward. It thanked the Delegation of the United States of America for stating the recommendations which corresponded to the proposal by Group B. The Delegation understood that the Delegation of the United States of America was at the moment not ready to adopt any recommendations. However, the Committee should have been in a position to adopt certain recommendations in this session. Having said that, the Delegation always believed in consensus-building and noted that there had been a lot of discussion on the recommendations. There was a need to utilize the discussion in the way forward. The Delegation noted that there had been many proposals from the floor which were already included in the joint proposal by the DAG, African Group and the Delegation of Bolivia. As such, it suggested that in the next session, the Secretariat could report on the recommendations which were ready for immediate implementation and in the case of those which were already being implemented, the Secretariat could provide details of the progress achieved with respect to the recommendations. The Delegation also suggested that in the next session, the Committee could identify further recommendations which were ready for implementation. The Delegation believed that by doing so, the current discussion would not be lost and it would support actions to be taken in the next session.

389. The Delegation of Switzerland joined the Delegation of Australia in stating that the Members of Group B were open to discuss the implementation of recommendations. It had closely followed the discussions and believed there were a lot of useful elements to be considered. However, the Delegation agreed with the Delegation of Australia that some points needed to be clarified before anything could be adopted. It stressed it was important to continue with the discussions in the next session. In this context, the Delegation of Pakistan had highlighted elements which were of interest. As such, the Delegation suggested that for the next session, the Secretariat could provide a document along the lines indicated by the Delegation of Pakistan to assist the delegations in achieving progress in the discussion on the implementation of the recommendations. The Delegation stressed that it was important for the Committee to undertake detailed discussions on the recommendations and how they should be implemented to ensure that the decisions to be taken would be useful and enlightened. There was no point in making hasty and premature decisions because certain details would probably be left out. It added that future discussions should also consider the presentations suggested by Group B as they could provide very useful elements in terms of discussing how to implement and improve WIPO technical assistance activities.

390. The Delegation of Sri Lanka agreed with the suggestion by the Delegation of Pakistan on the way forward. The Delegation referred to recommendation 3 in section J of the joint proposal where it was stated that the Secretariat should commission independent studies on the costs and benefits of acceding to WIPO treaties. In this regard, it would like the Secretariat to state whether it was possible to implement this recommendation and if the Secretariat had looked into this issue.



391. The Delegation of Egypt supported the statements made by the Delegations of South Africa, Algeria and Brazil on the way forward. It also noted the recommendations identified by the Delegation of the United States of America and would like to receive the references in writing so as to prepare for the discussion in the next session of the Committee. The Delegation stressed that the adoption of the recommendations should be the basis for the Committee's work on this issue, particularly as guidance should be provided to the Secretariat. The Delegation drew attention to the fact that the Secretariat was already implementing the recommendations. Thus, there was no point arguing about whether or not the recommendations should be adopted. However, the Delegation stated that there was a need to examine whether the Secretariat's implementation was in line with the recommendations in the External Review. Thus, it stressed that the intention was not to prevent the Secretariat from continuing with the implementation of the recommendations. The Delegation noted that the report on the external review of the WIPO Academy would be published this year and looked forward to receiving it. The Delegation also noted that the recommendations on IP strategies were being implemented, while those on the guidelines and manual could be implemented. The Delegation further noted that the recommendations on the P&B were being implemented. The Delegation stated that this was all good. The Secretariat should continue with implementation and the Committee should not prevent the Organization from doing useful work. The Delegation then referred to recommendation 2 in section D of the joint proposal where it was stated that the Secretariat should swiftly conclude a gap analysis of staff skills and competences to understand where it lacked skills, competencies and expertise relevant to improving the orientation, impact and management of its development cooperation activities. The Delegation stated that this recommendation was on page 170 of the Report on the External Review and was identified by the Secretariat as both a category A recommendation and category B recommendation. This was mentioned in paragraph 7(a) of Appendix II of the Management Response. As such, the Delegation would like to know whether this recommendation was being implemented by the Secretariat and if so, when the Committee could expect to receive the results of the gap analysis.

392. The Delegation of the Philippines shared the experience of its country and the ASEAN region in terms of the technical assistance provided by WIPO in recent years. The Delegation understood that the Deere-Roca Report provided an important assessment of WIPO technical assistance but it would like to go beyond that report. The Delegation highlighted the need to consider the fact that the Report covered the period from 2008 to 2010. It noted that a lot had happened since then, at least in the Philippines and the ASEAN region. The Delegation explained that when the IP Office in the Philippines requested WIPO or any development partner for technical assistance, the Office always laid down its priorities. It identified what it required from a particular partner and requested for technical assistance once these were decided. As such, the assistance provided was largely demand-driven. The IP Office was not dictated by any entity to implement activities, and the technical assistance was largely driven by the needs of the country. The Office laid down everything that was required and then requested for assistance. It also knew who to talk to in WIPO. The Office knew where to go and which division offered the type of technical assistance required in a particular case. For example, the IP Office was currently implementing an automation project. The project was about to be completed but the Office knew where to go before it was implemented. The Office knew what it needed and the technical assistance provided was based on its request. The Delegation believed that it may be worthwhile for the Committee to have an idea of what was going on in the national offices in the various countries in the context of the ongoing discussions on technical assistance. On the mode of delivery, the Delegation stated that this largely depended on what was needed. For instance, expert assistance could be provided for automation or legal advice if the country was considering accession to a treaty. In this regard, the Delegation stressed that accession to a treaty was dictated by the sovereign will of a country. It stated that when the Philippines decided to accede to a treaty, the country would approach WIPO or any other relevant partner for the type of technical assistance which was required. The Delegation highlighted that the time frame for implementation was not solely dictated by WIPO. It was determined by the country or national IP Office based on the personnel or resources that it was

willing to contribute towards the implementation of a project. The Office was not restricted by manuals or guidelines and went beyond these. Thus, the Delegation stated that guidelines or manuals served as a guide to help the country or office to identify how and what was required to move forward. The Delegation assured the Committee that in recent years, the Philippines and the ASEAN region had received the technical assistance that was required from WIPO. In concluding, the Delegation reiterated that it may be worthwhile for the Committee to consider what the Offices had been doing in terms of availing themselves of the technical assistance offered by WIPO in order to meet the needs of the IP stakeholders and to further develop the IP systems in their countries.

393. The Delegation of Belgium, speaking on behalf of Group B, noted that several groups had made interventions and some of its Members had also asked questions. Other groups had come up with answers. The Group believed that this provided a basis to continue with further work in the next session. It stated that the next session should focus on these discussions and should also take on board the proposal to look more into the technical assistance that was provided by other donors as well as the experience of the beneficiary countries. The Group noted that the Delegation of the Philippines had just shared the experience of its country regarding technical assistance. The Group believed that if there were more of these discussions, focusing on best practices as it had proposed, that would be a way forward. The Group suggested that the Secretariat could be requested to provide a small outline and to indicate when the Committee could expect to receive a document summarizing the day's discussions and taking into account the proposals that were made. It would take matters a bit further. The Delegation stated that this had been a very good discussion.

394. The Delegation of Japan expressed support for the statements made by the Delegations of Australia, Switzerland and Belgium on behalf of Group B. It believed that in order to obtain fruitful results, it would be more effective to hold discussions after, for example, listening to presentations on technical assistance as proposed by the Delegation of Belgium, and receiving the Secretariat's inputs on what was feasible in terms of implementation.

395. The Delegation of Brazil, speaking on behalf of the DAG, thanked Group B for the clarification provided on the recommendations of the Deere-Roca Report which corresponded to their proposal. It was helpful and would assist in the Committee's work on the implementation of the recommendations in the Deere-Roca Report. It echoed the suggestion by the Delegation of Pakistan that for future sessions the Secretariat could provide information on the implementation of the three recommendations that were identified by the Secretariat in the last session including on the actions taken by the Secretariat in relation to the implementation of other recommendations. The Group had just taken note of the manual and would welcome information on other initiatives taken by the Secretariat concerning the recommendations. It referred to the question put forward by the Delegation of Australia. The Group explained that the appendix to the joint proposal was based on the Deere-Roca Report and included many recommendations which could be applied in different areas as they were of a general nature. They could provide guidance in/to implementing different recommendations. Thus, the Group believed it would be useful to collate and include these in the appendix. This avoided the risk of them being lost in the process.

396. The Chair invited the Secretariat to respond to the comments from the floor.

397. The Secretariat (Mr. Onyeama) referred to the catalogue or manual on technical assistance and recalled the request from a number of delegations for more details regarding how a country could request technical assistance. In this context, the Secretariat highlighted that there were four Regional Bureaus within the Organization, including Bureaus for the Arab countries, Africa, Latin America and the Caribbean as well as Asia and the Pacific. The Bureaus provided the interface between developing countries and the Secretariat. They held the master plan for development in developing countries. The Bureaus had the overview of the situation in developing countries and were the focal points for the elaboration of IP strategies,

because the IP policies and strategies of countries were horizontal and cross-cutting. The Secretariat stated in terms of contacting the Organization to request for technical assistance, countries were not expected to identify the different divisions and sections within the Organization that could respond to their particular needs. The request should be channeled to the relevant Regional Bureau which would then take it on and engage the relevant units within the Organization. In this regard, the Secretariat believed that it would be problematic to include in a manual the inner workings of the Organization as it would actually complicate matters even further. It preferred things to be streamlined. Requests for technical assistance should be directed to the Regional Bureaus and they would coordinate the delivery of the requested assistance to the countries concerned. The Secretariat referred to the implementation of the recommendations in the Deere-Roca Report. It recalled that when the Report was issued, the Secretariat had pointed out that it was slightly outdated as the period covered was only up to 2010. Since then, the Organization had been proactive and had already started to undertake a lot of the activities that were incorporated in the recommendations of the Report. The Secretariat emphasized that these initiatives were taken in parallel with those recommendations. A lot of the activities were undertaken because the Secretariat believed they would add value to its activities. It pointed this out because it appeared that these parallel activities and initiatives were actually undertaken to implement the recommendations of the Deere-Roca Report. In this regard, the Secretariat also drew attention to the fact that it had yet to receive formal instructions from the Committee relating to the recommendations of the Deere-Roca Report. The Committee was still discussing how to move forward. Meanwhile, the Secretariat had and was going ahead with a number of activities that also coincided with many of the recommendations in the report. In this regard, the Secretariat referred to the questions posed by the Delegation of Bolivia and others on whether particular recommendations could be implemented by the Organization and if it would be easy to do so. The Secretariat stated that it served the Member States, thus it was duty bound to carry out their instructions. However, there must be a consensus and the instructions should be unequivocal and clear. The Secretariat assured the Committee that as and when requested, it could indicate what it considered to be more easily implementable or what it was already implementing. In the next session, the Secretariat would be more than happy to provide the Committee with further information and details on some of the activities it had been undertaking which also corresponded to the recommendations in the Deere-Roca Report. With regard to the question raised by the Delegation of South Africa on communication, the Secretariat stressed that as a policy, correspondence was routed through the Permanent Missions in Geneva. The Organization had no problems in doing that. Referring to independent studies on the costs and benefits of acceding to WIPO treaties, the Secretariat stated that these had not been carried out. However, the Organization provided countries with studies on the advantages or otherwise, of acceding to the various WIPO treaties, including the issues that should be taken into consideration. For countries that were considering accession, the Secretariat also organized information briefings and workshops. All the relevant stakeholders were invited, although they may hold competing views on the treaty. Thus, it tried to ensure that the process was transparent and Member States were provided with as much information as possible to enable them to make informed decisions with regard to acceding to WIPO treaties. The Secretariat referred to the question on conducting a gap analysis to identify areas where skills, competencies and expertise were lacking regarding the delivery of development cooperation activities. In this regard, the Secretariat explained that the Human Resources Division had a methodology for addressing this issue. The PMSDS had been put in place and it was designed to do that. It included training programs which were already being conducted by the Secretariat to ensure that staff members were fit for the positions which they occupied. The Secretariat referred to the comment made by the Delegation of the Philippines that technical assistance was demand-driven, and stated that this was indeed the case. The Organization adopted a demand-driven approach to technical assistance. Programs, policies and strategies were not foisted on any country. The assistance provided by the Secretariat responded to the needs of particular countries and was tailored to the situation in each country. The Secretariat observed that this approach was working well in relation to all the regions and not just ASEAN.

398. The Delegation of El Salvador thanked WIPO for all the assistance provided to its country. The Secretariat had helped to identify their technical assistance needs. The Delegation highlighted that the Secretariat's response was always immediate. It was also grateful for the creativity of those working on specific projects. The Delegation recognized the excellent work done by the Deputy Director General and the Bureau for Latin America and the Caribbean for El Salvador.

399. The Chair referred to the draft conclusions for Agenda Items 6 and 7. He informed the Committee that the draft conclusions to Agenda Item 6 had been revised following informal consultations with a number of delegations that had expressed an interest in contributing to the conclusions. The Chair read out the revised conclusions to Agenda Item 6 as follows:

“Also under Agenda Item 6, the Committee addressed a number of project evaluations:

- (a) Evaluation Report of the Project on Intellectual Property Development Matchmaking Database (IP-DMD) (document CDIP/10/3);
- (b) Evaluation Report of the Smart IP Institutions Project (recommendation 10) (document CDIP/10/4);
- (c) Evaluation Report of the Project on Intellectual Property, Information and Communication Technologies (ICTS), the Digital Divide and Access to Knowledge (document CDIP/10/5);
- (d) Evaluation Report of the Project on Developing Tools for Access to Patent Information (document CDIP/10/6);
- (e) Evaluation Report on the Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity (document CDIP/10/7); and
- (f) Evaluation Report of the Project on Innovation and Technology Transfer Support Structure for National Institutions (document CDIP/10/8).

Following the presentation of the evaluation reports by each Evaluator, an exchange of views took place. The Delegations expressed interest in following up on the implementation of recommendations contained in this report, taking into account the comments made by Member States and in certain cases requested further information from the Secretariat.”

400. The Delegation of Brazil, speaking on behalf of the DAG, requested for the draft conclusions to be provided in writing as further reflection was required before the Group could agree to the conclusions.

401. The Chair stated that when the procedure for discussing the conclusions was agreed, the aim was to speed up the Committee's work and not to bring it to a halt. The Chair stressed that it was already working behind schedule. He believed that the text was not particularly controversial and delegations had been consulted. The Chair was afraid that if the Committee were to continue working in this manner, it would be very difficult for work to be concluded on time. He then turned to the revised conclusions on Agenda Item 7. These were read out as follows:

- (a) “The Committee discussed the study, “Assessing WIPO's Contribution to the Achievement of the United Nations Millennium Development Goals” (document CDIP/10/9). Delegations supported the continuation of the work by WIPO in achieving the MDGs and an effective mechanism for reporting on that contribution to the Member States

on a regular basis. The Secretariat will submit to the next session of the CDIP, a document on:

- (i) WIPO's participation in the MDG Task Force;
- (ii) feasibility of the use of WIPO's RBM framework to assess the contribution of the Organization to the MDGs and how it would be implemented; and
- (iii) WIPO's ongoing work on MDGs."

402. The Chair stressed that the text was based on the informal consultations which were carried out with many interested delegations.

403. The Delegation of Brazil, speaking on behalf of the DAG, stated that it was helpful to discuss the language of the Summary by the Chair well in advance. The Group was not questioning the methodology, rather it supported the methodology. However, more time was required for its Members to consult amongst themselves. The Group reiterated that it supported the methodology and had contributed to the drafts which were discussed. However, it was necessary for these to be printed and consolidated as it needed to check if something had been missed. The Group stressed that this was not an attempt to delay the process but to make sure that it was agreeing on language that adequately reflected the discussions.

404. The Chair requested the Group to inform the Committee when it was ready to consider the text.

405. The Delegation of Australia suggested that perhaps the draft conclusions could be read at dictation speed in order for the delegations to write them down.

406. The Chair stated that written versions of the two draft conclusions which he had just read out would be circulated. He then turned to the draft conclusions under Agenda Item 7 on the documents related to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The Chair believed that these reflected the substantive discussions in the morning. He stated that a written version of what he was about to read out would be circulated to the delegations for their consideration. The Chair then proceeded to read out the following:

"The Committee agrees as follows:

- (i) based upon the discussions at CDIP 10, the Secretariat should prepare a document for the next session of the Committee, identifying those recommendations which are immediately implementable and those in the process of implementation and report on the progress thereon;
- (ii) during CDIP 11, one full day will be devoted to discussing:
  - (a) the above document;
  - (b) sharing of best practices from national and other entities involved in technical assistance, which may *inter alia* contribute to the improvement of WIPO's technical assistance; and
  - (c) possible identification of further recommendations for implementation, based upon *inter alia* the constructive and substantive discussions held during this session;

- (iii) based upon discussions amongst Regional Coordinators and interested delegations on the modalities of the presentation of best practices referred to above, the Secretariat will invite interested entities to take part in the exercise;
- (iv) the approach contained in (ii) above will continue subject to the results and further agreement by the Committee.

Consideration of Documents:

CDIP/10/16 - Suggestions for the Conference on Intellectual Property and Development

CDIP/10/17 - African Group Contribution to WIPO Conference on Intellectual Property and Development

407. The Chair opened discussions on the Conference on Development and IP. He invited the Secretariat to introduce the document.

408. The Secretariat recalled that the matter of holding a conference on development and IP had been on the table in the last few sessions of the Committee. In the last session, the Committee decided that the Chair would facilitate consultations amongst delegations. The consultations were held and the Chair had invited Delegations to submit proposals. In this regard, the Secretariat informed the Committee that it had received two proposals. One was from the DAG, and the other, from the African Group. These proposals were contained in documents CDIP/10/16 and CDIP/10/17 respectively. The objective of the discussion was to provide guidance to the Secretariat as to what actions should be taken for convening the conference.

409. The Delegation of Brazil, speaking on behalf of the DAG, stated that it was very happy to provide ideas and to contribute to the process. The Group believed that it was a good exercise as the consultations provided delegations with an opportunity to reflect on the details of the proposed conference. It also allowed for a preliminary exchange of ideas and guidance was provided on how to proceed. Following the consultations, the Group's members had consulted amongst themselves to prepare the proposal which was on the table. The Group explained that the proposal contained some preliminary and non-exhaustive ideas which were intended to foster a discussion among Member States in that session of the Committee. It highlighted that the separate proposals submitted by the DAG and the African Group were complementary in nature, thus both could be discussed in that session with a view to reach agreement on the many important issues which were related to the conference. The Group highlighted the main elements of its proposal. Referring to the title of the conference, it stated that this was for the Member States to decide. However, it believed that the title should reflect the spirit of the conference and that was why some ideas were provided. With regard to the venue, the Group proposed that the conference should be held in Geneva as it would make it possible for the Geneva-based delegates to attend as it was sometimes difficult for them to travel to other venues. It also made sense in terms of the logistics as many meetings were held in Geneva. Regarding the dates, the Group stated that it was important for the conference to be held in the second half of 2013, however it was flexible in terms of the actual dates. The Group believed that three days were required to allow for meaningful discussions on all the themes, however it was flexible with regard to the format. Plenary sessions should be held for everyone to participate. However, there should be some flexibility to hold smaller sessions and / or side events on specific topics where necessary. With regard to the outcomes, the Group believed that it would be a good idea, and this was applicable to all WIPO conferences and meetings, for all the presentations and articles to be discussed in the conference to be made available on a dedicated web site. This would help those attending to prepare for the conference and would also help the delegations to assess the discussions and to continue working on them after the

conference. A full report, including all the interventions, should also be made available to the Member States. The Committee should dedicate time to discuss the ideas, results and recommendations that may arise. Referring to the content and speakers, the Group stressed that these were the most important aspects of the conference. The Group was interested in having meaningful discussions that could draw the attention of the delegates and NGO's based in Geneva including other parties that were interested in contributing to the debate. The Group had included a list of suggested themes which was not intended to be exhaustive. The first was on designing a development-oriented IP system, which involved examining the interface between IP and development, a subject which was central to the conference. It also proposed a session on IP and public health. The Group believed there were many issues that should be explored in this context. Some were mentioned in the proposal but there may be others which could be discussed as most of the ongoing discussions were very interesting. The Group also proposed a session on IP rights and creativity. As this topic covered a wide range of issues, the Group suggested looking at how to combine access, creativity and innovation as well as to optimize the interests of rights-holders and society. The proposal also included a session on IP and environment which could include issues such as challenges relating to food and agriculture, climate change and genetic resources. Finally, the Group suggested a session on WIPO's role in related governance issues. It highlighted that further topics could be added to facilitate a broad discussion. With regard to the speakers, the Group stated that they should be selected on the basis of their expertise and development-orientation. It had not suggested speakers for each topic. This was something that the Committee should discuss. The Group believed that the conference would be more helpful if it included the participation of IGO's, academia, civil society, business and other interested parties. This was to facilitate a broad discussion and for fresh ideas to be injected into the discussions at WIPO. As such, it would be good to broaden the participation. The Group was happy to discuss concrete ideas and suggestions to make the conference a reality. The Group recalled that it had been on the Agenda of the Committee for a long time. It believed that a conference on the interface between IP and development could be a good contribution by the Committee to renew the debate, develop new ideas and inject interest into the themes that were being discussed. The Group believed that the Committee played an important role in the discussions on progress in the implementation of DA recommendations as well as a forum for a broader discussion. As such, the Group's view was that the organization of such a conference would not only be of interest to the members of the Committee, but also a wider range of people who were interested in a more in-depth analysis of the interface between IP and development.

410. The Delegation of Belgium speaking on behalf of Group B, took note of documents CDIP/10/16 and CDIP/10/17. It remained engaged to constructively contribute to the discussion, taking into account the fact that the two proposals were presented late. It also noted that this Agenda Item was separate from the Agenda Item on IP and development. The Group made some preliminary comments on the organization of the conference. First, any thematic and methodological duplication of WIPO activities should be avoided. The conference should have its own dedicated focus and enable a discussion on the role of IP as a tool for fostering development. Second, the Group took note of the fact that it could potentially be held in Geneva. The Group also noted that some thematic activities were planned under the proposal by the DAG and the proposal by the African Group. As such, it would like the proponents to explain the similarities and differences in the two proposals. Third, the organization of the conference should take into account WIPO's workload in 2013. Finally, the Group was interested in more details on financial transparency. It stated that proposals should always contain detailed budgetary information in order to better understand where money was allocated. As financial means were limited, resources should be used effectively. Therefore, the Group thought that activities in the field could contribute more directly to development rather than the mere repetition of conferences.

411. The Delegation of Pakistan aligned itself with the proposal presented by the Delegation of Brazil on behalf of the DAG. It reiterated that the two proposals before the Committee were inclusive in nature and had many things in common. The Delegation noted that certain details

needed to be worked out and believed that this could be done. Regarding the broad scope of the conference, the Delegation highlighted that this was a very important activity and the opportunity should not be wasted. The substance and process should be well prepared, mindful of the fact that the conference could lead to very substantive results. With regard to the preparatory process, the Delegation welcomed the suggestion which was included in the proposal by the African Group. Coherent and coordinated efforts were required in the run-up to the conference. The Delegation highlighted the need for the Committee to diligently decide on all these issues, including the content and speakers. It looked forward to the positive engagement of all stakeholders.

412. The Delegation of Ecuador expressed support for the statement made by the Delegation of Brazil on behalf of the DAG. The Delegation congratulated the Group for the work done which would be very useful in streamlining the work of the Committee on this issue.

413. The Delegation of Argentina, speaking on behalf of the DAG, welcomed the proposals. They reminded the Delegation of the aim of the DA and its 45 recommendations which were adopted in WIPO, in particular the strong call to focus action on various dimensions of development, for instance: norm-setting in terms of flexibilities, public policy and public domain; technology transfer and access to knowledge; technical cooperation and capacity-building; development-oriented enforcement trends; and the role of WIPO as a UN institution. As such, it welcomed the suggestion that the conference should consider how the different dimensions of development were currently being addressed and what steps should be further undertaken to fully integrate them into the IP regimes at the domestic, regional and international levels. The Delegation noted that the proposals recognized that IP had important implications such as on public health, education, nutrition, the environment and the dissemination and transfer of knowledge in general. For these reasons, it thanked the African Group and the DAG for their efforts and expressed support for the proposals. The Delegation hoped that the Committee could soon reach agreement to carry forward an inclusive preparatory process to realize these initiatives. It was quite certain that the conference would be very useful for all Member States, observers and the general public.

414. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, echoed Group B that the discussion on the Conference on IP and Development, as indicated in the Chair's program of work for that week, was separate from the discussion on the new Agenda Item on IP and development, and was without prejudice to the discussions and conclusions on the new Agenda Item. The EU and its Member States had read with interest the suggestions of the African Group and the DAG to hold a Conference on IP and Development in Geneva in 2013. In considering such a conference, they would request a prior discussion on the feasibility of hosting such an event next year given WIPO's heavy workload in terms of meetings already planned for 2013, the complementary nature of the conference, being careful to avoid duplication of the discussion and resources dedicated to WIPO's South-South Cooperation Project as well as the discussions in the CDIP and other WIPO bodies, and the inclusiveness of the meeting in terms of participation as was the rule in UN organizations.

415. The Delegation of Bolivia fully supported the proposals, including two aspects in particular. The first was the format. In this regard, the Delegation joined others in stating that it was important for the conference not to duplicate the work which was being done in the CDIP and other committees. It should be open to other interested parties, including those from the academic and business circles in order to exchange views, information and ideas which would enable the Committee to strengthen its work. As such, the Delegation stated that the proposed format was good as it was not intended to duplicate the work of the committees. The conference would not create a negotiating space, rather it would provide a forum for the exchange of views and experiences which could be very useful in terms of the work of the Committee. The Delegation also liked the themes, especially three which were of particular importance to its country, concerning public health, environment as well as food and agriculture. These were areas where the implications of IP protection were extremely important. The



Delegation highlighted that these issues were under discussion in other forums but WIPO had yet to create a space for them to be discussed. For this reason, it welcomed the suggestion for these to be discussed in the conference.

416. The Chair invited the Delegations of Brazil and Egypt to respond to the request for clarification.

417. The Delegation of Brazil, speaking on behalf of the DAG, thanked Group B for the question on the budgetary implications. The Group stated that during the informal consultations which were held by the Chair, information was provided that there were budgetary resources for holding the conference in the current biennium. Its proposal was based on that assumption. As such, the Group requested the Secretariat to provide further information.

418. The Chair invited the Secretariat to respond to the request. He also recalled that this was mentioned in the informal consultations.

419. The Secretariat (Mr. Baloch) thanked the Delegation of Brazil for its question. The Secretariat reiterated that the DACD had a budget allocation for undertaking this activity. However, it was not sure that the allocated budget would be adequate as this would depend on the characteristics of the conference, including its shape and form, activities, scope and the number of speakers. Thus, more details were required and based on those the Secretariat could do the costing and determine whether the costs could be met through the available funds. The Secretariat would then revert to the Committee with the required information.

420. The Delegation of Egypt, speaking on behalf of the African Group, pointed out that the proposal generally complemented the proposal by the DAG. The Group stated that this was an issue which could be discussed under the Agenda Item on IP and development which was in accordance with the third pillar of the Committee's mandate. The Group recalled that in the previous session, the Committee had agreed to discuss this issue. The Chair had subsequently invited the delegations to submit contributions. This proposal was the Group's contribution. It was also open to discuss contributions from other Member States and regions on this issue. The Group believed that the conference should consider how the different dimensions of development were currently being addressed and what further steps should be taken to fully integrate them into the IP regimes at the domestic, regional and international levels in the context of the UN MDGs and post 2015 Development Agenda. It could also include some important issues which were discussed in the Committee as well as within the wider IP community, academia, civil society etc. The Group was open to a wider debate and envisaged a preparatory process at the national and regional levels that should lead to the convening of an International Conference on IP and Development in Geneva next year based on the findings resulting from the national and regional meetings. The proposal also suggested themes which could be addressed, including: developing and designing a development-oriented IP system; IP and public health-related issues; IP, education, creative industries and other development dimensions; IP, food security and agriculture; IP and environment; and innovation, creativity, competition and IP. The Group stated that although these issues were being discussed, the discussions were somewhat fragmented. Thus, it believed it would be useful for these to be discussed in a coherent manner. The proposal also suggested some additional emerging themes which could be considered. These included, for instance, access and diversity of communication technologies for persons with disabilities (IP and ICTs); the role and contribution of IP and its flexibilities in the attainment of MDGs (IP and MDGs); and the evolution of the Internet and development (IP and ICTs /emerging issues). The Group noted that some of these issues were discussed in the Committee and suggested that the conference could be convened in September 2013. It could take place in Geneva for three days and the Group was flexible on the dates. It believed it would be useful for Member States, civil society, academia as well as UN specialized agencies and development programs to participate in the regional meetings and international conference in order for the discussions to be inclusive. The Group was confident that the conference would have a positive outcome. As such, the materials, including studies,

presentations, reports, recommendations, etc. produced in the preparatory process and the conference should be made available in a transparent manner. These should contribute to the future work of the Committee. The results of the meeting could also be submitted to the General Assembly. The Group suggested that it be entitled "International Conference on Integrating Development into IP Policy-Making", as this was a recurring issue at WIPO. Concerning the format, the Group suggested that this could be in the form of plenary sessions and with two parallel simultaneous sessions reporting to the plenary. In concluding, it reiterated that it remained open to other ideas and contributions by Member States and looked forward to a constructive approach to take this issue further.

421. The Delegation of Peru supported the proposal by the DAG, and supported, in principle, the proposal by the African Group. The Group believed the proposals were complementary in nature and contributed to the preparatory process. The Delegation was certain that if some additional information was provided on funding, that would be of interest to all delegations. It stated that the preparatory process required regional meetings and flexibility. The results of the regional meetings were aimed at providing more clarity on what each region required with respect to IP. The Delegation stated that the conference was timely and it had some suggestions regarding the topics included in the proposal by the African Group in document CDIP/10/17. The topics would complement those suggested by the African Group. The Delegation highlighted that the list of topics was provisional. It was not exhaustive and would depend on the requirements of each region. In this regard, the Delegation stressed that each region had its own set of problems and may wish to have sessions on different topics which were of interest to them.

422. The Delegation of South Africa agreed with the statements made by the African Group and the DAG as well as the proposals made by both groups. It stressed that the two proposals were mutually reinforcing, they were not at all contradictory. The Delegation highlighted that the African Group proposal went further to make things easier, and it appreciated the Delegation of Peru's support. The Delegation stated that the points outlined by the Delegation of Peru were the reasons why preparatory meetings were required at the regional level. It highlighted that the Committee had been talking about the conference since last year. Discussions had also taken place in the PBC. Hence, this was not the first time it was being discussed. As such, the Delegation would like a decision to be made by the end of the session on a precise date for the conference. It believed that a set date would enable the Committee to work towards a target. The Delegation reiterated that the conference was included in the P&B for 2010 / 2011 but it never took place. Referring to the interventions from the floor on whether it was feasible for it to be held in 2013, considering the Organization's schedule, the Delegation stated that the schedule was subject to discussion every year and many meetings were always scheduled. This was because there was work to be done and delegations were there to work. The Delegation highlighted that the question on funding was also raised in the PBC. In this regard, it recalled that the Secretariat had stated there was adequate funding for the conference. The Delegation stated that the term "adequate" meant that there was enough money. Thus, there should be no problems with funding. As such, the Delegation would appreciate receiving an assurance that there was money for the conference. Referring to the interventions on the issue of duplication, the Delegation stressed that there were no duplications, and it emphasized that South-South Cooperation was among the interactions within those countries. However, this was an international conference on development and it involved everyone. That was why the proposals by the African Group and the DAG suggested the involvement of all stakeholders. The Delegation pointed out that this was clearly different from the Project on South-South Cooperation which was merely inter-governmental. However, the Delegation agreed that the conference should not duplicate what was being done in WIPO. In this regard, the Delegation highlighted that it should provide a platform to identify emerging issues. It observed that there were many emerging and outstanding issues which the Organization was not involved in. The conference was a platform to explore those issues. The Delegation stated that the conference should also contribute towards the MDGs, particularly as WIPO was involved in the work on the post-2015 Development Agenda. In concluding, the Delegation reiterated that it was important

for the Committee to agree on a date to enable the delegations to work towards a target. The Delegation encouraged the Member States to consider this as one of the outcomes for this Committee session.

423. The Delegation of Belgium, speaking on behalf of Group B, reiterated that it was there to engage constructively on this topic. Thus, the Group looked forward to further discussions. To hasten the process, it highlighted some possible themes which could be considered by the delegations for inclusion in the conference. The Group recalled that the African Group had suggested a theme in relation to the Internet and development. In this context, it suggested some potential themes could also be added such as promoting innovation through IP or supporting the competitiveness of developing countries through innovation. The Group also recalled that the Delegation of Brazil, speaking on behalf of the DAG, had mentioned that it was interested to work further on creativity. Thus, the Group suggested doing something around the theme of IP contributing to development, for instance, utilizing IP in the creative industries and to look deeper into the film and music sectors. The Group also believed that all delegations could agree that SMEs were important both for developing and developed countries. Thus, a potential theme could be the utilization and commercialization of IP, in particular, by SMEs. The Group highlighted that although the conference was on development, IP was also important. In this regard, it stressed that it had highly valued awareness. The Group proposed a few potential themes which could address that concern. These included IP as an enabler of economic development; awareness of IP protection in developing countries, particularly by business and industry groups; the impact of pirated and counterfeited goods; the use of design rights to protect industrial products and handicrafts in developing countries; and a theme with the title, "Platforms for Cooperation on IP and Development: WIPO Re:Search, WIPO Green and the IP and Development Matchmaking Database".

424. The Delegation of Egypt associated itself with the comment made by the Delegation of South Africa that there were available resources for the conference. It recalled that in the informal consultations which were held in the intersessional period, precise figures were provided in this respect. The Delegation would like to know the figures and whether the funding could be used to organize the conference next year.

425. The Delegation of China expressed appreciation for the proposals by the DAG and African Group. It noted that the proposals covered various areas which were related and were complementary in nature. It believed that conferences and other forums to further discuss and examine how IP could promote development would assist Member States, especially developing countries, to improve the orientation of their IP policies as well as to support the mainstreaming of development into the various activities of the Organization.

426. The Chair invited the Secretariat to respond to the question raised by the Delegation of Egypt and whether specific figures could be provided.

427. The Secretariat (Mr. Baloch) stated that it was not able to provide the exact figure. It reiterated that, as mentioned in the informal consultations after the last session of the CDIP, there were funds available in the budget of the DACD. The Secretariat stated that around 50,000 to 60,000 Swiss francs should be available but it would need to verify the amount because expenditures had been made, including in relation to this session of the CDIP. It reiterated that it would verify the figure to respond to the question which was raised.

428. The Delegation of Spain referred to the statement made by Group B and stated that it was not so interested in whether or not there were sufficient resources to hold the conference, but rather in a detailed budget which indicated the funds that were allocated under each cost category.

429. The Chair stressed that it was important for the Committee to agree on the main requirements of the conference. He pointed out that decisions had to be made in this session

as he had been informed by the Secretariat that if these were not taken, it would be very difficult to hold the conference in 2013. Hence, there was a need to work on the modalities, dates, length, participants and themes for the conference. The Chair proposed that a Working Group be established for this purpose. He enquired as to whether Group B would be open to the proposal.

430. The Delegation of Belgium, speaking on behalf of Group B, stated that it was interested in listening to the views of other delegations first. In addition to the proposal by the Chair, the Group suggested that informal consultations could be held with the participation of the Regional Coordinators and perhaps three other parties. The Group believed that this approach would be preferable to setting up another Working Group.

431. The Delegation of Egypt, speaking on behalf of the Africa Group, thanked the delegations for their engagement on this issue and stressed that it was important for decisions to be taken. In this regard, the Group would need to consult its Members on their preferred approach.

432. The Chair agreed to the request to hold further consultations on the preferred way forward.

#### Consideration of Document CDIP/6/12 Rev. - Proposal for a CDIP New Agenda Item on Intellectual Property and Development

433. The Chair opened discussions on the Proposal for a CDIP New Agenda Item on IP and Development. He invited the Secretariat to introduce the document.

434. The Secretariat recalled that document CDIP/6/12 Rev. was presented at the sixth session of the CDIP by the Delegation of Brazil on behalf of the DAG. The proposal contained in the document *inter alia* sought to establish a standing item on IP and development in the Committee's Agenda.

435. The Delegation of Egypt enquired as to whether the Agenda Item could be adopted.

436. The Delegation of Brazil, speaking on behalf of the DAG, raised the same question as the Delegation of Egypt. The Group explained the reasons for its proposal. It stated that the Committee had an important role to play in terms of monitoring the implementation of the DA. However, it was also necessary for a slot to be allocated on a permanent basis for it to discuss issues related to IP and development in order to implement the third pillar of the decision by the General Assembly to establish the Committee. This was important as those issues should be discussed. The Group recalled past arguments made that this involved duplication of work or was unnecessary because the Committee's work was all related to IP and development. However, it stated that it was necessary for a standing Agenda Item to be included on IP and development to allow for meaningful discussions on new and emerging issues. The Group stressed that the Committee's discussions on the implementation of the project-based approach was of value but it should not be the only activity. In this regard, the Group reiterated that a standing Agenda Item to discuss IP and development should be established for the Committee to fulfill its mandate.

437. The Delegation of Pakistan highlighted that the Delegation of Brazil on behalf of the DAG had rightly pointed out that the third pillar of the Committee's mandate was related to IP and development. It noted that the Committee had been working on the 45 recommendations of the DA, which were very important to the DAG. The Committee also continued to work on the project-based methodology which was adopted. However, the Group believed there was room for broader and more detailed discussions on IP and development as a whole. This was why it had been requesting for a standing Agenda Item to be established. The Group believed that this was necessary in order to discuss many other issues which related to IP and development.

438. The Delegation of Belgium, speaking on behalf of Group B, reiterated the position expressed by the Group in earlier CDIP sessions concerning the creation of a new standing Agenda Item on IP and development. The Group remained convinced that the role of the Committee was to discuss IP and development. Therefore, it saw no purpose in adding an item on the Agenda with the same title; it would only be repetitive of the core role and objectives of the Committee. Nevertheless, the Group emphasized that it remained open to discuss specific Agenda Items relating to individual issues with respect to IP and development. The Group stated that in the past, the absence of a specific Agenda Item on IP and development had not prevented the Committee from discussing matters related to development. In view of the above, it did not see the need to introduce such a new standing Agenda Item.

439. The Delegation of Monaco associated itself with the statement made by the Delegation of Belgium on behalf of Group B. It stated that introducing an Agenda Item with such a general title would result in overlaps. The Delegation stated that the proposed Agenda Item was too broad. The Delegation referred to the statement made by the Delegation of Belgium on behalf of Group B and stated that the Rules of Procedure had to be followed. In this regard, the Delegation stated that any Member State could propose specific Agenda Items related to individual issues with respect to IP and development for discussion. Thus, it did not see the value of creating an Agenda Item with such a vague and general title.

440. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, reiterated the position they had expressed at earlier CDIP sessions concerning the creation of a new standing Agenda Item on IP and development. The EU and its Member States were still of the view that the core objective of the Committee was to discuss IP and development. Therefore, they saw no purpose in adding an item on the Agenda with the precise same objective and which would only repeat the title of the Committee. Having said that, the EU and its Member States emphasized that they were always open to discuss specific Agenda Items relating to individual issues of IP and development. In view of the above, they did not see a need to introduce such a new standing Agenda Item and they would not recommend a discussion at the next session.

441. The Delegation of Egypt referred to the WIPO General Assembly decision in 2007 described in document A/43/13 Rev. The decision established the CDIP and its mandate was to develop a work-program for the implementation of the 45 adopted recommendations, to monitor, assess, discuss and report on the implementation of all recommendations adopted, and for that purpose it shall coordinate with relevant WIPO bodies, and to discuss IP and development-related issues as agreed by the Committee, as well as those decided by the General Assembly. The Delegation stressed that so far, the Committee had focused on the first two elements of its mandate. It had yet to implement the third element of its mandate, which should be addressed as the CDIP must respect the decision by the General Assembly. The Delegation stressed that the decision must be implemented, otherwise the Committee could send a very negative message to the General Assembly which was the highest decision-making body in the Organization. It stated that this was important to maintain efficiency in the Committee. The decision of the General Assembly must be respected. The Delegation stated that the message so far was very negative and this had systemic implications for WIPO. It then referred to the statements made by certain groups that they were open to the introduction of new Agenda Items. The Delegation welcomed this and enquired as to whether it would be possible to approve a request for an Agenda Item on WIPO's contribution to the MDGs and post-MDGs in this session of the Committee. If so, the Delegation would like this item to be included in the Agenda for the next session of the Committee. It submitted this as a proposal to be considered by the Committee.

442. The Delegation of Iran (the Islamic Republic of) supported the statement made by the Delegation of Brazil on behalf of the DAG. It supported the inclusion of a new standing Agenda Item entitled "IP and Development-Related Issues for Implementing the Third Pillar of the Mandate of the Committee as Agreed and Decided by the General Assembly". The Delegation

stated that the proposed Agenda Item would facilitate discussions on the important linkages between IP and development and would provide a space for discussing important issues which were not currently discussed in the Committee. It stressed that the Committee had failed to reach an agreement on this matter since 2010. The Delegation looked forward to the adoption of the Agenda Item as soon as possible in order to facilitate focused discussions on important issues related to IP and development. This included WIPO's contribution to the MDGs which was partially discussed in the study by the external Consultant, and to provide guidance on what was referred to in the DG's report as WIPO's contributions to the UN inter-agency process in relation to the DA after 2015.

443. The Delegation of Japan associated itself with the statement made by the Delegation of Belgium on behalf of Group B. It did not object to the suggestion by the Delegation of Brazil for Member States to discuss IP and development related issues under the mandate of the Committee. However, the Delegation observed that the Committee had actually been dealing with IP and development-related issues by discussing specific Agenda Items since its establishment. In this light, it strongly believed that it would be fine if each of the proposed topics in the document were to be suggested and discussed as a single project by the Committee. Therefore, the Delegation did not see the need to establish the proposed Agenda Item to discuss those specific issues.

444. The Delegation of South Africa pointed out that rhetorical statements had been made in five consecutive sessions and it was time to take this matter further. It noted that the General Assembly had mandated the CDIP to do three things and only one had been implemented. The Delegation stated that the other two were subjected to never-ending discussions, thus it was time for the Committee to take the matter to the General Assembly for discussion at that level. Everything had been heard before and there was nothing new coming from the floor, therefore the Delegation believed that it was better not to waste any more time on this matter. The General Assembly had decided on the mandate of the Committee and the matter should be referred back to that body which was the highest decision-making body in WIPO. The Delegation recalled that the Delegation of Egypt had read out the General Assembly decision and there was no need for it to be repeated continuously. It suggested that it should be mentioned in the Summary by the Chair that it was time for the issue to be taken to the General Assembly, in order for the Committee could get clarity from the General Assembly on how to proceed. The Delegation drew attention to the fact that the General Assembly decision did not mention a project approach. In this regard, the Delegation stressed that it would also like to discuss issues outside the project approach and the discussions should be structured under a dedicated Agenda Item. This had been prevented and the Delegation was not pleased, and would like the issue to be resolved.

445. The Delegation of Pakistan reiterated that this was a very important Agenda Item and related to the mandate of the Committee. It supported the proposal by the Delegation of South Africa. The Delegation stated that if the Committee could not decide on this matter, it should be referred back to the General Assembly for a decision.

446. The Delegation of Belgium, speaking on behalf of Group B, stressed that it did not want to repeat its previous statements. The Group had stated very clearly that it was open to discuss specific Agenda Items and there was no need to go back to any General Assembly language.

447. The Chair enquired as to whether the Delegation of Belgium was opposing the proposal made by the Delegation of South Africa to take the matter back to the General Assembly.

448. The Delegation of Belgium, speaking on behalf of Group B, confirmed that it had problems with the proposal.

449. The Delegation of Egypt supported the proposal by the Delegation of South Africa. It noted that the proposal was also supported by the Delegation of Pakistan.

450. The Delegation of Brazil, speaking on behalf of the DAG, also supported the proposal by the Delegation of South Africa. It was worried because as mentioned by this delegation, there was always resistance to implement the second and third pillars of the Committee's mandate. The Group was afraid that in future, the Committee may be blamed for not implementing the mandate of the General Assembly. It did not want to be in that situation. The Committee had a commitment with regard to the decision. This was not only due to the fact that it was related to development but also because it was a General Assembly decision. The Group was concerned that it was having difficulties in finding ways to implement a decision of the General Assembly.

451. The Delegation of Sri Lanka recalled that during the General Assembly, it was one of the delegations that had highlighted this matter. In its general statement, it had mentioned that it was necessary for this Agenda Item to be introduced. Thus, as a member of the DAG, the Delegation also supported the proposal by the Delegation of South Africa.

452. The Delegation of Monaco did not see any need to go over the General Assembly decision, as it believed that the mandate of the CDIP had already been fulfilled. The Committee had been working on IP and development. Indeed, it was established to discuss all aspects of the relationship between IP and development. The Delegation observed that the Committee had been doing this for many sessions. Thus, the Delegation failed to understand the view that this element of its mandate had not been fulfilled.

453. The Delegation of the United States of America fully aligned itself with the statements made by the Delegation of Belgium on behalf of Group B. It also referred to the mandate of the CDIP found in document A/43/13 Rev. The Delegation noted that the third pillar that was discussed quite a bit in the last few minutes specifically said, "discuss IP and development related issues as agreed by the Committee, as well as those decided by the General Assembly". The Delegation highlighted that there was no call for a specific standing Agenda Item. The Committee discussed development issues and that was as far as it needed to go at that moment.

454. The Chair noted that views continued to be divided on whether this should be included as a standing Agenda Item. There were also divergent views on the way forward.

#### Consideration of Document CDIP/10/10 - Further Steps in the Work Program on Flexibilities in the Intellectual Property (IP) System

455. The Chair opened discussions on Further Steps in the Work Program on Flexibilities in the IP System. He invited the Secretariat to introduce the document.

456. The Secretariat (Mrs. Longcroft) recalled that at its ninth session, the Committee had considered and agreed to certain elements of a work program on flexibilities in the IP system based on discussion on new elements that had been proposed at the eighth session. Since its last session earlier in the year, the Secretariat had been implementing the agreed work program as discussed by the Committee, and in respect of some agreed activities now sought the Committee's further guidance, necessary in order to take this work further. Specifically, document CDIP/10/10 sought the Committee's guidance regarding the development of a database facility as reflected in paragraph 2(f) of document CDIP/9/11; on making available of information in relation to national and regional seminars organized on the issue of flexibilities as reflected in paragraph 2(h) of document CDIP/9/11; and on the extension of work on flexibilities in the IP system beyond the patent system as reflected in paragraph 2(d) of document CDIP/9/11.

457. The Delegation of Belgium, speaking on behalf of Group B, underlined that when developing new activities in this area it was important to always keep in mind the role of WIPO with regard to legal and technical assistance. The Group stated that new activities should be

within this scope and should avoid duplication of existing work. It also underlined several points concerning the database proposed in document CDIP/10/10. The Group welcomed the member-driven collection of information in the database, noting that the contents and format of the database had not been determined and the Secretariat requested examples of information from Member States to develop a prototype database for further consideration. The Group supported the Secretariat's proposal to invite interested Member States to contribute a limited set of documents for the development of the prototype. This would contribute to improving the standardization of available information and would make the database more useful. The Group suggested that it should be limited to court decisions, case studies, and WIPO academic training materials as examples of information documenting the practical experience of Member States in the implementation of flexibilities. Moreover, the Secretariat should make available the information provided for inclusion in the database.

458. The Delegation of Cyprus, speaking on behalf of the EU and its Member States referred to document CDIP/10/10. Regarding the question posed by the Secretariat in paragraph 4(i), the Delegation reiterated that the EU and its Member States supported the hosting of court decisions, case studies, WIPO Academy training materials and other available materials. Referring to the question posed in paragraph 4(ii), the EU and its Member States believed that WIPO should concentrate on standardizing the information for inclusion in the database and translating the information into the official WIPO languages. As it was not clear how burdensome the activity would be, they would not support the suggestion for the Secretariat to research information to be included in the database at least until such time when it was populated and used. The Delegation also reiterated that in standardizing the information for inclusion in the database, the Secretariat should be mindful that Member States had different views on the implementation of the individual flexibilities. It should avoid making any value judgments on the appropriateness or effectiveness of the use of the given flexibilities. With regard to document CDIP/10/11 the EU and its Member States observed that very few responses were received by the Secretariat. They believed that this was perhaps indicative of the level of interest in pursuing further work on flexibilities through the Committee. This may be because the topic of flexibilities was being expertly and exhaustively dealt with in the SCP or because it was more appropriately dealt with in the context of the World Trade Organization (WTO). To avoid repeating the work of the SCP and to allow this already overburdened Committee to consider other matters, the EU and its Member States believed that it would be better for efforts to be concentrated on the practical matter of the development of the database rather than to pursue further research in this area.

459. The Delegation of the United States of America, at the last meeting, had supported proposal 2(f) to create a web page that would include a facility similar to the IP Advantage Database, enabling countries to share their experiences and best practices in the implementation of flexibilities on a voluntary basis. At the last meeting, the Delegation had also requested for additional information and clarification with respect to proposal 2(d) to expand work on flexibilities in the field of trademarks, and proposal 2(h) to organize additional national and regional seminars on the topic of flexibilities. It noted that with respect to proposal 2(f) to establish a database facility, the Secretariat sought guidance on the content and format of the information to be included in a database. Referring to the content of the information, the Delegation did not have any objections to including links to court cases, material written or commissioned by WIPO in the course of its regular technical assistance activities, documents and presentations from WIPO commissioned seminars and meetings conducted in the course of its regular technical assistance activities, case studies of national experiences in implementing flexibilities and case studies of implementation of flexibilities in developed countries as long as the case studies did not move in the direction of best practices or prescriptive norms. The Delegation did not see much practical value in including academic articles since they merely represented the point of view of an author or group of authors which were often purely theoretical and not based on any practical experiences. In addition, in many cases, such articles would be protected by copyright. Thus, if WIPO were to post such materials on the web site, it would require the author's permission. With regard to the case studies, the Delegation



requested clarification on the meaning of the phrase, "submitted by the Member State concerned". It would like to know whether this meant that a Member State could also submit a case study on the implementation of flexibilities in other Member States. In this regard, the Delegation would favor limiting the submission of case studies by Member States whose national experiences were reflected in the studies. Referring to the format of the information and the work the Secretariat was expected to do with the information submitted by Member States, the Delegation would support simply making the information submitted by Member States available in the database without requiring the Secretariat to do additional work on it. It stated that additional work such as standardizing, translating and researching information could be expensive and time-consuming.

460. The Delegation of Brazil, referred to the question posed by the Secretariat in paragraph 4(i) of the document. It supported the inclusion of the items stated in that paragraph. Concerning the question posed in paragraph 4(ii), the Delegation stated that it had no objection to the suggestion provided that the Member State which submitted the information was consulted as it may include some substantive information. It stressed that the Member State concerned should be consulted before any information was made available. The Delegation then referred to paragraph 6 on further national and regional seminars on the topic of flexibilities. The Delegation highlighted that it had checked the webpage on the work program on flexibilities and was glad to see that in relation to one of the seminars that was held this year for instance, it could find information on the program, a list of participants and other related documents such as the presentations and biographies of the speakers. The Delegation reiterated that this information was important for Member States to assess the work of the Organization, especially with regard to seminars and events as well as to obtain information on the substantive items that were discussed, information on potential speakers for future events and work that was being done in the field. As such, the Delegation highlighted that the availability of information on seminars and events was a very positive step and encouraged the Secretariat to make such information available for all events and seminars.

461. The Delegation of Sri Lanka referred to the Asian Group statement which mentioned that there was room for further understanding and awareness in this area. Therefore, it welcomed the efforts by the Secretariat to organize national and regional seminars on the topic of flexibilities. The Delegation also stated that as mentioned by the Asian Group, it would be beneficial for regional workshops to be organized throughout the year in consultation with the regional groups in order to understand which topics they would specifically want to focus on. In this regard, the Delegation would like the Secretariat to elaborate on whether it had any further plans in this area.

462. The Delegation of Pakistan commented on the contents of the database. The Delegation believed that it should include important flexibilities such as exclusions, exceptions and limitations, parallel importation, compulsory licenses and government use licenses. It stated that the database should also be about actual experiences in using flexibilities, just as the IP Advantage database was about chronicling the IP experiences of inventors, creators, entrepreneurs and researchers. Furthermore, the Secretariat should continue to facilitate the translation of the information provided and summarize the court cases submitted by Member States on a factual basis. Regarding national experiences in the implementation of the TRIPS Agreement, the Delegation stated that the Secretariat could publish information as provided by the Member States. It noted that information would be uploaded on the database subject to it being provided and submitted by the Member States. In this regard, the Delegation suggested that perhaps the Committee could also look into how this could be expanded to include other entities that use flexibilities such as the local industries which relied heavily on the use of pre-grant opposition. Separately, the Delegation suggested that the Secretariat could also make available studies and reports on flexibilities by other UN agencies such as the World Health Organization (WHO) and Food and Agriculture Organization (FAO) on the flexibilities webpage.

463. The Delegation of Venezuela stated that everything done in the area of flexibilities may be useful to the developing countries. It stated that the topic of flexibilities was very broad and the discussions should not be based on the number of topics to be covered by WIPO. The Delegation believed it would be beneficial to the developing countries if flexibilities were included to the maximum extent possible. The Delegation then referred to the recurring comments on duplication of work and stated that although WIPO had done work on some of the flexibilities which were listed in the document, it was not done from the perspective of development. That perspective was of interest to the Committee. This was also the most interesting aspect for the developing countries.

464. The Delegation of the Republic of Korea referred to paragraph 7 of document CDIP/10/10 which requested Member States to discuss flexibilities in the field of trademarks in relation to the TRIPS Agreement. It highlighted that this Agreement dealt with limitations and exceptions in the field of trademarks on a fundamental level and countries could decide on the limitations and exceptions to be included in their trademark laws. Thus, the Delegation noted that although the limitations and exceptions should comply with Articles 8, 17 and 20 of the TRIPS Agreement, studies had yet to be conducted on whether, and to what degree, Member States observed the TRIPS Agreement in their trademark laws and practice. Thus, the Delegation believed that it would be beneficial to study the limitations and exceptions which were applied to all Member States. However, it was concerned that the case studies could be controversial in terms of whether or not a particular limitation or exception was consistent with the provisions of the TRIPS Agreement. The Delegation also stressed that it should be understood that case studies did not guarantee whether a particular limitation or exception provided by a Member State was consistent with the TRIPS Agreement. Nevertheless, the Delegation recognized that it was necessary to undertake and examine case studies on the limitations and exceptions in trademark laws. However, this should be purely for the purposes of research.

465. The Delegation of Bolivia had explored the webpage on flexibilities and welcomed that it included detailed information on the conferences and events that were held. It also observed that a lot of the information was not found in the technical assistance database. The Delegation had repeatedly requested for similar information to be included in the database. As such, it requested information as to why it was possible for this to be included in relation to flexibilities and not for other activities. The Delegation congratulated the Secretariat on its work enabling Member States to access the presentations that were made in the sevenths. This was very useful as it gave Member States a much broader and fuller picture of what was being done. The Delegation highlighted that apart from the database, document CDIP/9/11 included several others proposals. It was particularly interested in the proposal in paragraph 2(c) on preparing additional studies on patent-related flexibilities. Hence, the Delegation had several suggestions which the Committee could consider. The most important was the preparation of a study on the challenges and obstacles faced by developing countries in applying flexibilities. The Delegation had made this request some time ago and stressed that although there were flexibilities in the IP system, these were not fully used in many countries. Thus, the study could be very useful. It suggested that studies could also be undertaken in relation to other topics. For instance, there could be one on the flexibilities related to public health. In this regard, the Delegation stated that work was being done in the WHO and other organizations and it would be useful for WIPO to contribute to the ongoing work on flexibilities and access to drugs.

466. The Delegation of South Africa supported the recommendation in paragraph 4(i). It understood that the court cases and case studies were submitted by Member States with their consent, however clarification was required. It was important that there be an agreement between the Member States and WIPO for the information to be included on the web site. The Delegation also supported the proposals in paragraph 4(ii)(b) and (c) on translation and links with the WHO, FAO, United Nations Conference on Trade and Development (UNCTAD) and other relevant international organizations. However, clarification was required in relation to the proposal in paragraph 4(ii)(a). The Delegation would like to know what was intended in terms of the standardization of information and what it would entail. It then referred to the proposal in

paragraph 7 and stated that it supported further work on trademarks. In this context, the Delegation suggested that Member States be invited to identify flexibilities in the area of trademarks that could be considered for moving forward.

467. The Delegation of Cuba supported the continuation of studies on flexibilities. It stated that this topic was of great importance to the developing countries and LDCs in terms of the development dimension in IP systems.

468. The Delegation of Indonesia was of the view that most developing countries and LDCs continued to face tremendous challenges in using IP-related flexibilities effectively, and in accordance with their development and public policy objectives. Therefore, the Delegation would like to encourage progress in the Committee's work on IP-related flexibilities, particularly in enhancing the understanding of Member States with regard to the flexibilities that were available and how they could be implemented in key areas of public policy. This should be addressed by WIPO according to the recommendations of the DA. The Delegation also stated that the discussion on further steps in the work program of flexibilities in the IP system should take into account the fact that countries were at different levels of development. It highlighted that the availability of a dedicated webpage on flexibilities could assist Member States, in particular, developing countries and LDCs, to implement and to benefit from the flexibilities which were available. In this regard, the Delegation stressed that there should be concrete discussions on the preparation of the webpage. The data and information to be made available must meet the objectives of the flexibilities. Hence, the Committee must decide on the different types of information which should be provided on the webpage. The Delegation stated that this should include, for instance, rules and regulations, IP-related flexibilities and their implementation as well as national policies. It supported the availability of IP-related flexibilities and their implementation, and hoped that Member States would share their experiences and best practices through the database.

469. The Delegation of Costa Rica stressed that it was for Member States to submit the information requested by the Secretariat in order for the database to be created. This included examples of the application of flexibilities by Member States, especially developing countries. It was also important for the Committee to decide on the types of information to be included in the database. The Secretariat should put the information in order and translate it into the official WIPO languages before including it in the database. It could also research other types of information such as studies conducted by other international organizations as proposed by the Secretariat in document CDIP/10/10. The Delegation also supported the proposal for the Secretariat to continue organizing national and regional seminars on flexibilities such as the workshop recently organized by WIPO in Costa Rica on flexibilities, particularly in relation to patent-related flexibilities. The workshop had been held in San Jose and many interesting issues were discussed. The Delegation stated that this had led their authorities to discuss how certain areas of their legislation could be reformed. It also supported extending the Secretariat's work on flexibilities to other areas of industrial property which were included in the TRIPS Agreement such as trademarks in order to support the development of countries through, for instance, protecting local products and supporting the use of IP by SMEs.

470. The Delegation of Ecuador supported the creation of the database. It stressed that it was important for countries to have easy access to it. The Delegation stated that it was also important for the work on flexibilities to be extended beyond patents to other areas of IP in order for IP to be used as an overall tool for development. In this regard, it was interested in further work on flexibilities in the area of copyright.

471. The Delegation of Peru, speaking on behalf of GRULAC, referred to document CDIP/10/11 and recalled that the Committee had agreed at its last meeting that the Secretariat would prepare, for this session, an extended document on four patent-related flexibilities. These included the scope of the exclusion from patentability of plants (Article 27 of the TRIPS Agreement); flexibilities in respect of the patentability, or exclusion from patentability, of

software-related inventions (Article 27 of the TRIPS Agreement); the flexibility to apply, or not to apply, criminal sanctions in patent enforcement (Article 61 of the TRIPS Agreement); and measures related to security which might result in a limitation of patent rights (Article 73 of the TRIPS Agreement). The Group noted that as requested by the Committee, the Secretariat had prepared document CDIP/10/11. Concerning the flexibilities on the patentability of plants and software, the Group stated that any future work by the Committee was not a duplication of work done by the Organization. In this context, the Group highlighted that the SCP had adopted a different approach to its work in this area therefore the results were also different. With respect to the flexibilities on the application of criminal sanctions and security exceptions, the Group stressed that there was no information on any work previously undertaken by WIPO in relation to these flexibilities. As such, there was no duplication of work in these areas. The Group observed that the comments submitted by Member States on those four flexibilities did not call into question the continuation of work on these flexibilities. As such, it requested the Secretariat to continue working on these flexibilities. The Group believed that future proposals on flexibilities could be discussed in the intercessional meetings to be convened for that purpose. Meanwhile, the Group requested the Secretariat to focus its work on a detailed examination of the four flexibilities which were set out in document CDIP/10/11. In this regard, the Group stated that it should continue using the methodology employed in previous documents such as CDIP/5/4 and CDIP/7/3. It was in the Group's and developing countries interests that work on flexibilities should continue.

472. The Delegation of the United States of America referred to document CDIP/10/10. With respect to the proposal in paragraph 7 to extend the work on flexibilities into the field of trademarks, it stated that it was still unclear as to what flexibilities may be cited in this area and how they may relate to developmental concerns.

473. The Delegation of Colombia aligned itself with the statement made by the Delegation of Peru, on behalf of GRULAC. This was a very important topic and following discussions with the Director of the Patents and Innovation Division, the Delegation considered these proposals to be fundamental to the work on flexibilities. Pertaining to the creation of the database mentioned in document CDIP/10/10, it stated that IP-related flexibilities were very important and it would be useful for countries to have access to court decisions as well as other written documents on implementing flexibilities in different countries. The Delegation stressed that the information in the database should be regularly updated, and should be easily accessible and available in all official WIPO languages. The Delegation also supported the proposal for the Secretariat to continue organizing national and regional seminars on flexibilities such as the meeting which took place in Bogota in February. It stated that seminars could assist countries to further discuss and examine the flexibilities as well as to benefit from the practical experiences of countries outside its region. With regard to further issues for discussion, the Delegation stated that different topics could emerge, for example, new policies, taking into account the possibility that there may be normative problems in terms of the implementation of flexibilities.

474. The Delegation of El Salvador associated itself with the position expressed by GRULAC and emphasized that a factual approach should be adopted in relation to the document on flexibilities. This was the prevailing sentiment in the Group. With respect to the database, it joined other delegations in emphasizing that it was very important and should be enriched with the information that was pointed out by the Delegation of Colombia. With regard to the issue of languages, the Delegation emphasized that information and data should also be made available in Spanish. Hence, the Delegation highlighted that its national office had a lot of information which may be of use and which could be provided in Spanish.

475. The Chair invited the Secretariat to respond to the questions from the delegations.

476. The Secretariat referred to the question posed by the Delegation of the United States of America regarding the wording concerning case studies to be submitted for inclusion in the database on flexibilities. It stated that the wording used in document CDIP/10/10 was that case

studies would be submitted by the Member State concerned, to clarify that a Member State should submit a case study according to its own national experiences. Referring to the question posed by the Delegation of Sri Lanka as to whether further information could be made available relating to future or planned meetings, the Secretariat stated that since many had noted, a new facility was introduced in the webpage on flexibilities to provide clear links to all meetings that had been held specifically relating to the field of flexibilities and also to planned or future events. The Secretariat was committed to updating the web site as soon as any event had reached the stage of planning where the Member States or organizations co-organizing the meeting were comfortable with the information being made public. It would continue to do so as these events were organized and finalized. The Secretariat referred to the question posed by the Delegation of Bolivia relating to the wealth of information on certain meetings on flexibilities, which were included in the webpage on flexibilities and the fact that such information was not always available in the technical assistance database. It was aware of the difference in data availability, and in this case, in the technical assistance database. The Secretariat explained that currently, the information relating to any particular meeting organized by WIPO depended upon the program or division concerned in organizing that meeting making available the information for inclusion in the database. The large amount of material relating to meetings on flexibilities was due to the diligence of colleagues in the Patent Law Division who had made it available on the meetings web site hosted by WIPO. However, the Secretariat assured the Committee that it was aware of this particular issue and the standardization of submission of information relating to all WIPO meetings, including programs, links, webcasts, transcripts and other material was underway. The Secretariat hoped there would be a standardization and regularization of the submission of that information so that the technical assistance database would contain the same information currently provided on the flexibilities web site. Referring to the specific question posed by the Delegation of South Africa relating to the submission of information on court cases that may involve flexibilities, the Secretariat assured it that the Member State's consent involved in that court case would be required because, as mentioned earlier, it would need to be submitted by the Member State concerned in that particular activity and therefore their consent would be required for the submission of the information. The Secretariat then briefly summarized what it perceived as the Committee's views and agreed activities according to the questions posed under document CDIP/10/10. It observed that there was a clear consensus on the types of content that should be included in the database and that it should continue to be developed by the Secretariat. There seemed to be an agreement to including links to court cases submitted by Member States; academic articles submitted by Member States; case studies of national experiences by the Member States concerned; material written or commissioned by WIPO in the course of its regular technical assistance activities; and documents and presentations from WIPO commissioned seminars conducted in the course of its regular technical assistance activities should be included in the database. There had not been an agreement on WIPO playing a role in standardizing, translating or undertaking any academic or other research for including material in the database. Referring to the query on standardization, the Secretariat stated that the issue on this related to the Committee's previous analogies to the IP Advantage database. The Secretariat explained that the information included in the IP Advantage database was not directly submitted by Member States. It undertook a considerable amount of work in receiving, researching and standardizing the information on case studies included in this database. The Secretariat had sought the Committee's guidance, and it now had clear guidance that it should not undertake such an intensive role in standardizing information. Information received by Member States should be included in the database without further editing or other activity by the Organization, including translation or standardization. Finally, in relation to paragraph 7 of document CDIP/10/10, the Secretariat observed that there did not appear to be an agreement on areas or specific areas in the field of trademarks or other fields of IP where further work on flexibilities could, at this stage of the Committee's work, be examined.

477. The Delegation of Sri Lanka, speaking on behalf of the Asian Group, took note of document CDIP/10/11. The Group supported the work of the Organization on patent-related flexibilities, keeping in view the concerns of the Member States.

478. The Delegation of the United States of America clarified what was mentioned in its previous intervention. With respect to academic articles, it did not see much value in such information.

479. The Secretariat noted the clarification and would revise the agreed inclusion of items in the database accordingly.

480. The Delegation of South Africa asked which delegations objected to further work on flexibilities in the field of trademarks as the Secretariat had concluded that there was no consensus in this regard.

481. The Delegation of the United States of America stated that before it could agree to study flexibilities in the trademark area, it would like to understand what flexibilities would be studied and their links to the DA.

482. The Delegation of South Africa thanked the Delegation of the United States of America for the clarification, and that it did not view it as an objection. There was a need to identify flexibilities and to ascertain their relevance to the DA. It believed that the Committee could explore the proposal by the Secretariat.

483. The Secretariat stated that there had been continued interest among the Member States in extending the work on flexibilities beyond the work currently being undertaken in the field of patents. It recalled that in document CDIP/9/11, the Secretariat had invited Member States to put forward suggestions of specific areas for work in the field of trademarks or copyright that may be of interest to the Member States. At that time, some views were expressed from the floor that there was no interest in work being undertaken in the Committee in the field of copyright because of the extensive work being undertaken by the SCCR. The Secretariat reiterated that in the intercessional period leading up to this session, Member States had not put forward specific proposals on work that could be done. Therefore, there were no specific proposals from them on which to take further action.

#### Consideration of Document CDIP/10/11 - Future Work on Patent-Related Flexibilities in the Multilateral Legal Framework

484. The Chair opened discussions on Future Work on Patent-Related Flexibilities in the Multilateral Legal Framework and invited the Secretariat to introduce the document.

485. The Secretariat (Mr. Baechtold) recalled that at the last session, the Committee decided that the Secretariat should prepare, for this session, a document in respect of four flexibilities. These included: the scope of the exclusion from patentability of plants, flexibilities in respect of the patentability, or exclusion from patentability, of software-related inventions, the flexibility whether to apply criminal sanctions in patent enforcement, and measures related to security which might result in a limitation of patent rights. It was also agreed that the document would indicate if any of those flexibilities had already been addressed in the SCP and whether such work would be addressed from the same or a different perspective by the Committee. It would also contain further explanations on the last two flexibilities. It was further agreed that the Secretariat would compile the comments received from the Member States. In this regard, the Secretariat informed the Committee that it had received seven contributions from the Member States. It stated that the instructions of the Committee were realized in document CDIP/10/11. Referring to the document, the Secretariat mentioned that regarding the first two flexibilities on exclusions for plants and software, the SCP had indeed done some partial work on these/those. However, this was perhaps done from a different perspective compared to the Committee's work on flexibilities. Referring to the last two flexibilities, the Secretariat did not know of any previous work undertaken by the Secretariat in relation to them/these. It stated that the Committee could decide on whether to agree on all the four patent-related flexibilities contained

in the document or only some. In this regard, the Committee could agree on one, two, three, or all four of the flexibilities. Its decision would provide guidance to the Secretariat on the flexibilities to be addressed in the document to be submitted to the next session. The Secretariat stated that if there was no agreement on at least one of the flexibilities, as agreed at the last session, others may be considered for future work. However, that would be the subject of intercessional consultations. It stated that this was the procedure that should be followed with regard to the discussions on the document. The Secretariat then referred to the four flexibilities contained in the document. The first flexibility was on the scope of the exclusion from patentability of plants. This concerned the implementation of Article 27.3(b) of the TRIPS Agreement which allowed for the exclusion of plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, plant varieties should be protected either by patents or by an effective *sui generis* system or by any combination thereof. There were different options for implementing this flexibility and the scope of the exclusions from patentability varied from one jurisdiction to another. There were also some jurisdictions that provided for the patentability of plants. As such, the idea was to identify how this flexibility had been implemented in different jurisdictions world-wide/globally. The second flexibility related to the patentability of software. Again, the idea was to identify the situation across the world. There were countries that allowed for the patentability of software, some allowed it under certain conditions and others excluded such subject matter from patentability. The third flexibility related to criminal sanctions in patent enforcement. In this regard, the minimum requirement of the TRIPS Agreement was for civil sanctions to be applied in patent enforcement. However, certain jurisdictions also provided for the application of criminal sanctions. Again, the idea was to map the situation globally. The last flexibility concerned security exceptions. Some countries patent laws did not require the disclosure of information when it was considered to be contrary to national security interests. There were also some jurisdictions which provided for the possibility of excluding from patentability, certain inventions such as fissionable materials. These flexibilities were related to the implementation of specific provisions in the Patent Cooperation Treaty (PCT), Patent Law Treaty (PLT), or the TRIPS Agreement. The Secretariat concluded that these four flexibilities were included in the document in accordance with the Committee's request in the last session. It was now up to the Committee to decide whether any of those flexibilities should be addressed in a future document on patent-related flexibilities.

486. The Delegation of Venezuela referred to the comment made by the Delegation of South Africa in relation to document CDIP/10/10. It was very interested in flexibilities in the field of trademarks and wanted to know more. The Delegation believed that this Delegation had requested for more information because it did not have the information which was required in dealing with that topic. It also recalled that the Delegation of the United States of America had asked the Delegation of South Africa why the topic was related to development. The Delegation did not think that the Delegation of South Africa could answer that but perhaps the Delegation of the United States of America could, because it was clear that the topic could not contribute to development. It stated that perhaps the Delegation of the United States of America could clarify its position tomorrow.

487. The Delegation of Belgium, speaking on behalf of Group B, reiterated that it intended to stick to the work plan and would work in a constructive way. The Group hoped that the other groups would also stick to the agreed timeline. It noted that the document contained a list of four patent-related flexibilities as incorporated in Articles 27, 61, and 73 of the TRIPS Agreement. It also showcased various WIPO activities that had been undertaken with respect to those flexibilities. It contained a limited number of comments submitted by Member States before August 31, 2012, on the flexibilities. The Group reiterated its support for WIPO's efforts to make advice available to developing countries and LDCs on the implementation and operation of their rights and obligations and the understanding and use of flexibilities contained in the TRIPS Agreement, as expressly required by recommendation 14 of the DA. However, the Committee should ensure that any future work on the TRIPS Agreement was not duplicative with activities that had already been undertaken. In this regard, the Group believed that

substantial work had already been undertaken with regard to Article 27 of the TRIPS Agreement in relation to the scope of the exclusion from patentability of plants and the patentability or exclusion from patentability of software-related inventions. Finally, the Group noted that the limited response to the questionnaire may be indicative of a rather unsubstantial degree of interest to pursue the subject matter further.

488. The Delegation of Peru, speaking on behalf of GRULAC, stated its interest in document CDIP/10/11. The Group recalled that at its last session, the Committee had agreed that with respect to paragraph 2 (c) of document CDIP/9/11, the Secretariat would prepare a document on four patent-related flexibilities for this session. These included the scope of the exclusion from patentability of plants (Article 27 of the TRIPS Agreement); flexibilities in respect of the patentability, or exclusion from patentability, of software-related inventions (Article 27 of the TRIPS Agreement); the flexibility to apply, or not to apply, criminal sanctions in patent enforcement (Article 61 of the TRIPS Agreement); and measures related to security which might result in a limitation of patent rights (Article 73 of the TRIPS Agreement). With regard to the flexibilities on the patentability of plants and software, the Group stated that any future work by the Committee was not a duplication of work done at WIPO. It highlighted that the SCP had adopted a different approach to its work in this area; therefore the results were also different. With respect to the flexibilities on the application of criminal sanctions and security exceptions, the Group stressed there was no information on any work previously undertaken by the Organization. Thus, there was no duplication of work in these areas. The Group observed that the comments submitted by Member States on the four flexibilities did not call into question the continuation of work in this regard. Hence, it requested the Secretariat to continue working on these flexibilities. It believed that future proposals on flexibilities could be discussed in the intercessional meetings to be convened for that purpose. In the meantime, the Group requested it to focus its work on a detailed examination of the four flexibilities set out in document CDIP/10/11. In this regard, the Group requested the Secretariat to continue using the methodology employed in previous documents such as CDIP/5/4 Rev and CDIP/7/3. In concluding, the Group reiterated that work on flexibilities should continue.

489. The Delegation of Chile noted that the document provided a summary of the work undertaken by the Secretariat in relation to four patent-related flexibilities. This also included the comments submitted by various Member States regarding those flexibilities. The Delegation stressed that it was very important to continue with studies on patent-related flexibilities in the CDIP in accordance with the recommendations of the DA. The studies helped Member States to make informed decisions on the development of their IP systems and ensured these were balanced. Concerning the duplication of work with the SCP, the Delegation agreed that this/it should be avoided. In this context, it noted that the document clarified there was no duplication, particularly as there was a difference in the approach of the SCP and the CDIP. The Delegation recognized that the SCP had done a lot of good work on flexibilities concerning the patentability of plants and software-related inventions. However, it was not complete and further work was still required. For example, on the scope of the exclusion from patentability of plants under Article 27 of the TRIPS Agreement, the Delegation believed that a full and complete analysis of this flexibility should include the difference between patent protection and the *sui generis* protection of plant varieties. On the exclusion from patentability of software-related inventions, it noted that software could be protected in different ways. Some countries protected it through patents, others through copyright and there were also some that combined the two systems of protection, establishing specific criteria for each form of protection. In this regard, the Delegation felt that much more analysis was required, including the impact of each form of protection on the development of the software industry in different countries and how these systems of protection can promote innovation in the software sector. There was also a need to examine the link between the industrial application mentioned in the patent application and the actual use of the invention. Referring to the flexibilities concerning the application of criminal sanctions and security exceptions, the Delegation suggested work could begin through collecting information and data on how these were applied in Member States. The Secretariat could also undertake a comparative study on the provisions included in different national laws.



The Delegation noted that some delegations had highlighted that the low level of response to the Secretariat's request may be indicative of a lack of interest. It did not share that opinion, believing that the low level of response was probably due to the lack of knowledge and this meant that the Committee must continue working on this topic. The Delegation highlighted that it was very important for work to continue, as there were no suggestions that the SCP would undertake further work on the four patent-related flexibilities set out in document CDIP/10/11.

490. The Delegation of Argentina highlighted the importance of Article 27 of the TRIPS Agreement in terms of the requirements for patentability. This Article required countries to make patents available for any inventions as long as they were new, involved an inventive step and were capable of industrial application. The requirements were not defined and nothing was specified on the application of the criteria. Thus, there was a lot of flexibility and the definitions could vary from one country to another. The Delegation also noted that several studies had pointed out that there was a proliferation of patents on products and processes which were incremental in nature and this was probably due to the lack of defined standards. It believed it was very important for progress to be made in this regard. For example, patents in the pharmaceutical field could be used to delay the development of generic medications and this could create a significant obstacle to the right to health. It believed that there was room to define standards for patentability and it could prevent patent holders from committing abuses. A well-defined policy may also lead in some cases, to compulsory licensing. The flexibilities or rights provided in Article 27 could be used to define very strict criteria for patentability in all cases. This would prevent problems related to speculative or strategic patenting. The Delegation believed that the proper implementation of Article 27 would have repercussions in many different areas such as public health. It agreed with the Delegation of Chile and others that much remained to be done on patent-related flexibilities. As such, it joined GRULAC and the Delegation of Chile in supporting further work on patent-related flexibilities and for efforts to be coordinated in this regard. The Delegation was willing to work with all Member States in order to move forward.

491. The Delegation of Ecuador supported the statement made by the Delegation of Peru on behalf of GRULAC. It pointed out that Ecuador was a developing country with an IP law since 1998. This law included all areas of IP. However, it did not previously include flexibilities which could help to balance the IP system. As such, the public's perception was that IP limited development. The authorities had made great efforts to try and correct the situation. The law now included flexibilities such as the flexibility to apply, or not apply, criminal sanctions in patent enforcement. The Delegation stated that this was very useful for Ecuador and was sure it would be for other developing countries also. It highlighted that before WIPO began working on these issues, the country did not have the necessary tools for using IP to support development. Thus, it was grateful for the work carried out by the Organization. It was important that such knowledge was available to all countries and WIPO should continue its work so that developing countries can benefit from their IP systems. As such, the Delegation encouraged WIPO to continue its work and undertake further work on the four flexibilities set out in document CDIP/10/11. In addition, it would like documents to be prepared on copyright flexibilities as tools were required to promote legal access to culture, knowledge and education.

492. The Delegation of Uruguay supported the statements made by GRULAC and Delegations of Chile, Argentina and Ecuador. It reiterated that WIPO should continue to carry out in-depth studies on all TRIPS-related flexibilities.

493. The Delegation of the United States of America supported the statement by Group B. It made some additional comments on the patent-related flexibilities proposed to be studied at the CDIP. As mentioned in the Delegation's comments which were part of the document, at least two of the four flexibilities, i.e., exclusions from patentability of plants and software-related inventions had been studied extensively at the SCP. It noted that the SCP studies addressed the exclusions from the perspectives of their policy objectives and role, the international legal framework, and provisions contained in national and regional laws. Member States could draw

their own conclusions on whether or not to use these flexibilities for their national needs. Therefore, the Delegation would not support any further studies on these two exclusions. It noted that the proposal by the DAG to analyze the exclusions from patentability of plants and software-related inventions more comprehensively and to study their developmental impact was very prescriptive and presumptive of the outcome. Member States may, in fact, believe that providing reliable incentives for innovation through the patent system was the best method to achieve the same developmental and public policy objectives that were noted by the DAG as being important. It stated that there was ample evidence to show that the patent system was a key component in industrial development. The Delegation stressed that without the incentives provided by patent protection, few companies would invest in life saving medicines, much less those that enhanced quality of life for people with chronic conditions. The Delegation also stated that using the patent system to stimulate advances in biotechnology and agriculture was the best route to food security. It believed that more work was needed on measuring the positive role that IP played in economic development. As mentioned in its comments, the Delegation favored organizing and making more accessible the studies and resources on flexibilities that WIPO had already produced in the subject matter committees. It encouraged the Secretariat to transmit those studies to the CDIP. The Delegation also encouraged the Secretariat to share with Member States the information collected by the WTO on patent-related flexibilities. In summary, the Delegation would oppose any work that would not be faithful to the full scope of recommendation 14 of the DA, i.e., it would shift the balance towards flexibilities at the expense of rights and obligations; would jeopardize the neutrality and objectivity of the Secretariat or sovereignty of Member States; would place WIPO in the position of criticizing other international agreements on the ground that they constrained the use of TRIPS flexibilities; or would be duplicative and not respect the subject matter expertise of other committees.

494. The Delegation of Brazil, speaking on behalf of the DAG, referred to the views expressed by some delegations on the low level of response to the request for submissions. The Group shared the view that it did not imply a lack of interest in the subject, but there was a need for a better understanding of it. The Group stressed that its submission was from several Member States that were interested in the discussion. Its submission included a broad description of some aspects of the four selected patent-related flexibilities. These included the scope of the exclusion from patentability of plants (Article 27 of the TRIPS Agreement); flexibilities in respect of the patentability, or exclusion from patentability, of software-related inventions (Article 27 of the TRIPS Agreement); the flexibility to apply, or not apply, criminal sanctions in patent enforcement (Article 61 of the TRIPS Agreement); and measures related to security which might result in a limitation of patent rights (Article 73 of the TRIPS Agreement). It stressed that the CDIP had an important role to play in the discussion on flexibilities in the IP system. Due to its cross-cutting nature, it had the credentials to promote a wide and substantive debate on IP flexibilities. That was why the Group supported the strengthening of the Work Program on Flexibilities in the IP System. It also included practical activities such as the development of a database on national experiences in the implementation of flexibilities. In this regard, the Group noted that other delegations had also supported the continuation of the Work Program on flexibilities. It supported those statements. The Group also recalled that reference was made to recommendation 14 of the DA in one of the earlier interventions. The Group believed that the Work Program on flexibilities was completely in line with recommendation 14 and contributed to the implementation of that recommendation. Its activities supported and gave due orientation to the work to be developed by WIPO, with respect to technical assistance on the use of flexibilities contained in the TRIPS Agreement. The Group emphasized that flexibilities were included in the TRIPS Agreement and other international agreements. As such, they were embodied in the international legal system. Countries must be able to make effective use of flexibilities in the IP system. The results of the Work Program would also help Member States to calibrate their national IP systems to achieve the fundamental trade-off in the patent system which was to guarantee the temporary monopoly of a given product or process in order to stimulate, and not stifle, innovation. The Group referred to document CDIP/9/11. The document should continue to form the basis for discussions on the work program, in addition to

the Secretariat's paper on the four patent-related flexibilities and comments submitted thereon. The discussion on these should be within the framework of the elements proposed in document CDIP/9/11. The Group noted that these flexibilities which were identified in the previous session of the Committee were non-exhaustive in terms of patent-related flexibilities. The Group also stressed that document CDIP/9/11 was not limited to patent-related flexibilities and the Committee should give further consideration to other IP flexibilities. It was important for Member States to agree on other elements of document. The Group was ready to contribute constructively to the discussion. It then highlighted the main elements of its submission on the four patent-related flexibilities. It referred to the first flexibility on the scope of the exclusion from patentability of plants under Article 27 of the Agreement. The Group noted that Article 27 was on patentable subject matter. It was one of the most important provisions on the protection of patents under the TRIPS Agreement as it provided the general orientation to that protection. Given the importance and the impact of patent protection, Article 27 did not only establish parameters but also provided important flexibilities in the implementation of such protection, especially with regard to what WTO Members may exclude from patentability. The Group noted that this flexibility was examined in the SCP Experts' Study on Exclusions, Exceptions and Limitations contained in document SCP/15/3. It considered the study to be a good basis to enhance the discussion on this topic. However, as it concluded, "empirical studies would be required before reaching any conclusions on the developmental dimensions of patent and plant variety protection and exclusions, exceptions and limitations there from in relation to biotechnological inventions." It was also important that the ongoing SCP survey on exceptions and limitations was only limited to farmers' privilege and/or the breeders' exception. It did not address the issue of exclusion of plants from patentability. Taking those observations into account, the Group was of the view that there was scope for further work within the CDIP without duplicating the work that had been undertaken or was ongoing in the SCP. It proposed that the Committee should take a more comprehensive approach to Article 27.3(b). The issue of the scope of exclusion of plants should be analyzed together with the other elements of Article 27.3 (b). Thus, it was submitted that the CDIP should map how countries had implemented this provision nationally and regionally. The analysis should also include other relevant information with regard to Article 27.3 (b), for example, patent examination guidelines, judicial decisions and interpretations as well as decisions taken by administrative authorities. This should be followed by empirical studies on the developmental impact of Article 27.3 (b). The Group referred to the flexibility on the patentability, or exclusion from patentability, of software-related inventions. It considered document SCP/15/3 to be a good basis to discuss this flexibility. However, the Group believed there was room for further development. The CDIP could conduct a study to analyze how the exclusion of software from patentability had contributed to the development of the software industry in different countries. The Group recalled that other delegations had also highlighted this issue. The Group then referred to the flexibility to apply, or not apply, criminal sanctions in patent enforcement. This was contained in Article 61 of the TRIPS Agreement. The Group suggested that this provision should be read in conjunction with the provisions of Article 41 of the TRIPS Agreement. It believed that it was important to analyze this flexibility in a broader sense and in conjunction with other important flexibilities applicable to patents in Part III of the Agreement. Thus, the Group stated that apart from Article 41, it would be very useful to discuss how WTO Members had also been implementing Article 44.2. It included a very important flexibility by allowing WTO Members to limit the use of injunctions as a remedy. With regard to the flexibility on measures related to security which might result in a limitation of patent rights, the Group stated that this was a very important flexibility. However, it thought other flexibilities could be preferably explored by the Committee. For instance, it would be more useful to discuss flexibilities that had a direct impact on social and economic development such as Articles 27.1, 27.2, 27.3(a), 30 and 31 of the TRIPS Agreement. Nevertheless, the Group favored further work on this flexibility. Lastly, it believed it would be useful to conduct a study which could provide a comparative analysis of national experiences in the implementation of those four patent-related flexibilities and a review of the literature on these topics.

495. The Delegation of Pakistan believed that the Committee needed to focus on this very important area. It pointed out that the Committee had a cross-cutting role. As such, it was very important that the Committee discussed the flexibilities in the IP system. The Delegation stated that the four patent-related flexibilities were important. Referring to the scope of the exclusion from patentability of plants, it believed that there should be a more comprehensive approach to further work on this issue; all aspects of Article 27.3 (b) should be included. It would also be useful to map how countries had implemented this provision nationally and regionally. In addition to specific legislation pertaining to Article 27.3 (b), information should be provided on patent examination guidelines, judicial decisions and interpretations including the decisions taken by administrative authorities. The Delegation also believed it was very timely to undertake an empirical study on the developmental impact of Article 27.3 (b). With regard to the flexibility on the patentability or exclusion from patentability of software-related inventions, the Delegation believed that it was important to analyze how the exclusion of software-related inventions from patentability had contributed to the development of the software industry in different countries. It believed that the Committee should continue its work on flexibilities in the area of patents. It was also important to investigate other patent-related flexibilities. In this regard, the Delegation supported the suggestions by the Delegation of Brazil on behalf of the DAG. It reiterated that it fully supported those suggestions and would like the Secretariat to continue its work on this issue.

496. The Delegation of Sri Lanka, speaking on behalf of the Asian Group, supported the continued work of the Organization on patent-related flexibilities keeping in mind the concerns of the Member States.

497. The Delegation of Venezuela supported everything that was discussed the previous day on document CDIP/10/11. It stated that everything to be done on the subject of flexibilities would be of use to developing countries. The field was very broad and the discussions should be based on how to make these flexibilities work for countries. The Delegation referred to the comments on the duplication of work. It had never really understood the argument and there had not been a convincing explanation. The Delegation stated that these issues were not monopolized by any committee; there were various perspectives to the issues. Although some work had been done on certain flexibilities, it was not carried out from a development perspective. Referring to the views expressed by some delegations that the low rate of response to the request for submissions was due to a lack of interest, the Delegation stated that the conclusion was erroneous. It recalled at university, when students were asked whether they had understood and nobody answered, it was presumed that they had all understood when, in fact, they had not understood anything. Referring to the possibility that the Secretariat might not be objective, the Delegation did not believe that its objectivity would be jeopardized. In any case, the issue of objectivity was always very subjective. In concluding, it requested the developed countries not to be inflexible and to show flexibility on the issue of flexibilities.

498. The Delegation of Japan associated itself with the statements made by Group B and the Delegation of the United States of America. The Delegation pointed out that Article 27 of the TRIPS Agreement had already been discussed in various *fora*, including the SCP. Therefore, it believed that no further work in the CDIP was necessary with a view to avoiding the duplication of work. It referred to document CDIP/10/11 and requested for some amendments. The reference to Japan should be deleted from footnote 15 on page 19. The Delegation also noted that it was mentioned in paragraph 64 and footnote 15 that Article 61 of the TRIPS Agreement had motivated some Member States such as Japan and Brazil to adopt criminal sanctions for the enforcement of IPRs beyond trademarks and copyright. It stated that Japan had provided for criminal sanctions beyond trademarks and copyright. However, these were introduced before the TRIPS Agreement. As such, Japan had not been motivated by Article 61 in doing so.

499. The Delegation of Egypt, speaking on behalf of the African Group, commented on documents CDIP/10/10 and CDIP/10/11. The Group attached great importance to the WIPO work program on flexibilities. This should continue in both the CDIP and the SCP, especially

after the Secretariat's analysis revealed there were no duplications. It stressed that flexibilities were integral to the IP system. They were embraced by all Member States and provided safeguards for them to achieve important public policy objectives and to ensure that the IP system was balanced. The Group thanked the Secretariat for preparing the document on the four patent-related flexibilities as a first step in a comprehensive work program by WIPO on flexibilities in the areas of patents, copyright and trademarks. The Group expressed support for the statements made by GRULAC and the DAG. It requested the Secretariat to continue its useful work, focusing on flexibilities related to Article 27 of the TRIPS Agreement. In this regard, the Group noted the important submission by the Delegation of South Africa in document CDIP/10/11. It then referred to the request by the Secretariat for future work on flexibilities, particularly in the area of trademarks. In this regard, the Group provided some ideas which were based on document CDIP/9/11. First, a study should be commissioned to identify legal, institutional, administrative and other challenges and constraints faced by developing countries and LDCs in the implementation and use of IP flexibilities to achieve development and public policy objectives, particularly in the areas of patents, copyright and trademarks. Second, the Secretariat should prepare a paper on public health related flexibilities in the TRIPS Agreement to facilitate access to affordable medicines in developing countries and LDCs. The Group noted that WHO, UNDP and UNAIDS had issued policy briefs on the use of flexibilities to improve access to medicines. In this regard, it would be useful for WIPO to prepare a paper on flexibilities available in the TRIPS Agreement to facilitate access to medicines. Third, a study should be conducted on the role and importance of copyright related flexibilities to facilitate access to knowledge and to bridge the digital divide in developing countries and LDCs. The study should also make recommendations on measures or initiatives that could be taken at the international level.

500. The Delegation of South Africa associated itself with the statements made by the DAG and the African Group. The Delegation reiterated its position that the CDIP and the SCP had different mandates. Therefore, their work on flexibilities was different but mutually reinforcing. It was pleased that the Secretariat had arrived at the same conclusion by stating that further work may be done on the four flexibilities. The Delegation supported this. It highlighted that it had also contributed to document CDIP/10/11. The Delegation had shared the provisions of its national laws with respect to the four patent-related flexibilities. In this regard, the Delegation highlighted that South Africa did not provide for criminal sanctions in relation to patent infringement. It would be interesting for the Committee to start work on that immediately as South Africa was in the process of strengthening its IP laws. The Delegation then referred to its earlier statement on document CDIP/10/10. It had indicated that it would like further work to be done on flexibilities in the area of trademarks. The Delegation would like that further work to be carried out as document CDIP/8/5 included a proposal that the Committee could consider undertaking work in this area in future sessions. In this regard, it believed it was time for the Committee to at least undertake studies on the interface between flexibilities and trademarks.

501. The Delegation of the Russian Federation did not object to the work being done to enhance knowledge on the various flexibilities in the IP system. However, its position was that the Committee's work and discussions, particularly on the scope of the exclusion from patentability of plants and the patentability, or exclusion from patentability, of software-related inventions, should not duplicate the work of other WIPO bodies, including the SCP.

502. The Delegation of Canada was of the view that the scope of the exclusion from patentability of plants (Article 27 of the TRIPS Agreement) and flexibilities in respect of the patentability, or exclusion from patentability, of software-related inventions (Article 27 of the TRIPS Agreement), were issues that had been dealt with in other WIPO Committees such as the SCP. Therefore, it supported the statements made by the Delegation of Belgium on behalf of Group B and the Delegation of the United States of America. With regard to pursuing work on other flexibilities beyond the four mentioned in document CDIP/10/11, the Delegation was not in a position to agree on the inclusion of new flexibilities at this CDIP session.

503. The Representative of the International Association for the Protection of Intellectual Property (AIPPI) noted that there was a great desire for further information on existing flexibilities and the situation in countries around the world. In this regard, it drew the Committee's attention to the 150 or so comparative law studies carried out by the AIPPI in the last 100 years. Its web site provided references to all of these, including the reports from national groups in over 60 countries and a synthesis of those reports in most cases. The Representative believed it would be useful for the delegations to look at the information and to maybe take it on board when the Committee looked further into the situation.

504. The Delegation of Cuba fully supported the statements made by GRULAC and the DAG. It supported the continuation of studies on flexibilities with a view to making further progress. The Delegation believed this was crucial for the development of national strategies in developing countries.

505. The Delegation of the United States of America referred to the suggestion by some delegations for the CDIP to analyze how the exclusion of software from patentability had contributed to the development of the software industry in different countries. It stated that the premise of this suggestion was flawed and it presupposed the outcome. One of the problems with it was that the software industry was not the only one relying on software patents. The software industry primarily relied on copyright protection. The Delegation noted that software-related patents had many applications, for example, in automotive, medical, telecommunications and other industries. Thus, the software industry was not the only industry affected by software-related inventions. As stated earlier, it could not support additional studies on this flexibility.

506. The Chair invited the Secretariat to respond to delegations' questions and comments.

507. The Secretariat (Mr. Baechtold) referred to the comment by the Delegation of Bolivia yesterday on whether the constraints encountered by some countries in the implementation of flexibilities should be included in the document. It stated that there were several reasons why it had not done so. The constraints varied from one country to another. In addition, this matter was discussed in the Committee and it was agreed that such issues should be addressed in national and regional seminars. Indeed, the reason why the Committee had requested the Secretariat to organize regional seminars on flexibilities was because it was often much easier for countries to share their experiences with other countries that had a common or similar background. The Secretariat (Mr. Aleman) then referred to the comments made by some delegations on the methodology and contents of documents. Apart from the provisions of national laws, the delegations had highlighted the importance of including other relevant information on the implementation of flexibilities at the national level. The Secretariat stated that in the case where there was not enough information to identify the position in a particular jurisdiction, information was included, for instance, on patent examination guidelines or administrative instructions in order to identify how the provisions of multilateral treaties were implemented at the national level. The Secretariat referred to the work that had been undertaken on patent-related flexibilities and highlighted that it was not exhaustive. The list that was presented earlier was not exhaustive and it was clear that the work to be undertaken was an open exercise that depended on the Committee's decisions. Further flexibilities could be considered with respect to future work. The Secretariat noted that ten flexibilities had been examined in previous documents and the Committee was discussing the possibility of a further document on the four flexibilities that were under consideration. Other flexibilities could also be considered, for example, the suggestion by the Delegation of Brazil on behalf of the DAG which related to enforcement provisions, and particularly, the flexibility concerning the use of injunctions as a remedy.

508. The Vice-Chair noted that there was support for further work on the flexibility to apply, or not apply, criminal sanctions in patent enforcement (Article 61 of the TRIPS Agreement), and measures related to security which might result in a limitation of patent rights (Article 73 of the

TRIPS Agreement). Concerning the scope of the exclusion from patentability of plants (Article 27 of the TRIPS Agreement) and flexibilities in respect of the patentability, or exclusion from patentability, of software-related inventions (Article 27 of the TRIPS Agreement), the Vice-Chair noted that some concerns were expressed. At the same time, there was also wide support and interest in further work in relation to those flexibilities. Thus, there was a need to hold informal consultations on how to proceed with regard to those two areas. He requested the Secretariat to facilitate the consultations.

#### Consideration of Document CDIP/9/INF/5 - "Study on Misappropriation of Signs"

509. The Vice-Chair opened discussions on the Study on Misappropriation of Signs and invited the Secretariat to introduce the document.

510. The Secretariat (Mr. Höpferger) recalled that the study was presented at the ninth session of the Committee by the Consultant who had coordinated and compiled the reports by 15 regional experts. It explored the notion of "public domain" in relation to trademark law and included a fact-based analysis of the trademark laws in different regions and countries. The document also contained a summary of the main findings and offered an impact-assessment and concluding remarks on the question of the criteria that could be applied to determine a preferable strategy to prevent the misappropriation of common patrimony signs and the abusive appropriation of signs that should remain available for the public.

511. The Delegation of Cyprus, speaking on behalf of the European Union and its Member States, referred to the previous Agenda Item on Future Work on Patent-Related Flexibilities in the Multilateral Legal Framework. It understood that the Vice-Chair had concluded that there was agreement to pursue further work in certain areas. The Delegation stressed that the European Union and its Member States had not agreed to do so in their statement on that Agenda Item. As such, it requested clarification on the conclusion that was read out by the Vice-Chair regarding the last Agenda Item.

512. The Vice-Chair reiterated that he had concluded that the Committee had not reached consensus on the first two flexibilities. As such, he had requested the Secretariat to facilitate informal consultations on those flexibilities.

513. The Delegation of Brazil noted that the study included a broad analysis of national trademark laws and legal safeguards to avoid misappropriation of signs related to the cultural and historical heritage of countries. The Delegation believed that the study offered valuable information for policymakers who were interested in comparative analysis as it covered different jurisdictions. It highlighted that the issue of misappropriations of signs had a high profile in Brazil. The Government had made significant efforts to reverse trademarks and the registration of names that were related to the country's culture and biodiversity. One of the initiatives was on the elaboration of a non-exhaustive list of customary names used in Brazil in relation to biodiversity. This was officially circulated as document SCT/16/7. It was also distributed to many trademark offices as an input for their examiners. The Delegation stressed that the misappropriation of customary Brazilian names in the form of trademarks had a negative effect on trade. It also had a negative impact on small traditional communities that depended on the export of typical Brazilian products. Certain generic names had been registered in some jurisdictions as trademarks by companies and individuals in bad faith. Some of those registrations were eventually reversed through administrative and legal remedies. The Delegation noted that its country was not the only one affected by such forms of misappropriation which increased every year. Given the nature of the subject matter of the study and its importance to Member States, it suggested that it should be considered by the SCT. In terms of a practical follow-up to the study, the Delegation was of the view that WIPO could enhance its technical assistance activities by incorporating tools to identify customary names in order to avoid misappropriation. National experiences and initiatives such as the

Brazilian non-exhaustive list could be used as a reference for that purpose. It stated that Brazil would be ready to share its experience in this area.

514. The Delegation of the United States of America noted that upon an initial review, it appeared that the report consisted of a comparative analysis of how mechanisms within each Member State's national trademark laws handled the misappropriation of signs belonging to a common patrimony and the abusive misappropriation of signs that should remain useable by the public. This compilation of information should be useful in getting a better understanding of how each system provided solutions for addressing these issues. As mentioned in the section addressing the U.S. trademark regime, there were mechanisms in place within the U.S. trademark system that would address such scenarios. These would include, for example, refusing trademark protection based on a false association, connection or deceptiveness; refusing protection if the sign was contrary to morality or public order; refusing protection based on functionality; and specifically where the sign lacked distinctiveness or was generic. The Delegation stated that, in particular, the last grounds mentioned, i.e., lack of distinctiveness or genericness and functional feature, would prevent matter in the public domain from receiving trademark protection. In addition, the scope of protection granted to trademark rights was already narrowly defined as protection in relation to the nature of the goods and / or services for which the trademark was used. Moreover, the scope of protection was limited to confusing uses and to commercial uses. The Delegation stated that trademarks, in general, were vital tools to help producers to distinguish themselves from their competitors while at the same time providing consumers the ability to identify the goods and services that they most desired. To that end, it cautioned that providing weakening exceptions to the already narrow scope of the right would negatively impact consumer's expectations and owner investment in quality goods and services for the benefit of consumers. As for the draft report, given the length of the document, the Delegation suggested to the Committee that if Member States had additional comments to the report, they should be allowed to submit them to WIPO before the next CDIP. Since the report consisted of a comparative analysis of trademark regimes, it should be transmitted to the SCT for their information and review. The Delegation noted that the SCT had engaged in previous work in this area and would likely be most interested in reviewing the study. In concluding, it thanked the author and contributors for a comprehensive and informative report.

515. The Delegation of Argentina highly appreciated the study as a very good tool to help introduce countries to the subject of misappropriation of common patrimony signs and the abusive appropriation of signs that should remain available for the public. The Delegation had information on how this was addressed under its national law and legal system. The Delegation would submit the information in writing to the Secretariat. It generally agreed with the impact-assessment included in the study. The Delegation believed it was necessary for these signs to remain in the public domain. It stated that its national trademark law had very specific provisions with respect to refusing trademark protection for signs that lacked distinctiveness or was contrary to public order. These should not be protected by trademarks.

516. The Vice-Chair hoped that the Committee took note of the document and discussions.

#### Consideration of Document CDIP/9/INF/3 - "Using Copyright to Promote Access to Information and Creative Content"

517. The Chair opened discussions on Using Copyright to Promote Access to Information and Creative Content. He invited the Secretariat to introduce the document.

518. The Secretariat (Ms. Croella) recalled that this study related to the implementation of recommendations 19, 24 and 27 of the DA. It was prepared under the project on Intellectual Property, Information and Communication Technologies (ICTs), the Digital Divide and Access to Knowledge (CDIP/4/5/Rev.). The implementation plan included the organization of a workshop



to present and discuss the results of the study. The workshop was held at WIPO on November 16, 2011, as a side-event during the eighth session of the CDIP. There was significant interest and it was well attended. It provided an opportunity for Member States and NGOs to take stock and analyze the preliminary results of the studies prepared by Mr. Sisule Musungu, Mr. Rishab Aiyer Ghosh, Professor Bernt Hugenholtz and Ms. Catherine Jasserand. The study was finalized after the workshop and released at the ninth session of the Committee, in May 2012. The Secretariat recalled that due to the lack of time, it was not possible to discuss the findings of the study in that session and the discussion was postponed to this CDIP session. The Committee had earlier discussed the report prepared and submitted by the independent Evaluator on the outcome of the studies. The Secretariat (Mr. Lanteri) presented some of the highlights of the study. It stressed that the views and opinions expressed were those of the authors. The study was not intended to reflect the views of the Secretariat or the Member States, it addressed the growing need to raise awareness of opportunities provided by the copyright system to support new models for distributing information and creative content. It included a survey of laws, public policies and government strategies that had proven to be successful in accessing information and content in three areas, namely, education and research, software development practices and public sector information. The first part was on education and research, and included a selection of existing examples of pilot projects and national strategies from Africa, Asia, Latin America and the Caribbean. Overall, it was clear that the open access approach to managing copyright in education and research was as an important model to promote access to information and creative content. In terms of economic sustainability, the case studies generally suggested that open access was financially and economically viable as it was not mutually exclusive with revenue and profit. With regard to incentives, the idea of higher visibility, accessibility and impact appeared to speak to most players in the sector. Financial considerations also seemed to be important, particularly for governments and institutions. The second part was on software development practices and included a selection of initiatives that had been implemented to provide incentives for the development of software. These were mostly based on open source licensing. Although open source was seen as an alternative to proprietary software, as far as its legal foundation was concerned, it fell completely within the copyright legislative framework and did not rely on any limitation or exception. The economic viability of the model was reflected in the success of many business initiatives based on it. Open source arrangements for software development provided a training environment that enhanced the ability to create by lowering barriers to the transfer of knowledge, reducing transaction costs and enabling a protected commons. The third part of the study was on public sector information. It was increasingly acknowledged worldwide that promoting the re-use of government-produced documents and data as well as permitting its commercial exploitation by the private sector may provide an important stimulus to emerging information economies. The study briefly described the laws, national policies and government practices relating to the reutilization of public sector information which were either in place or being developed in seven Member States. In principle, public sector information can be protected by copyright. The Berne Convention left it to the members of the Berne Union to decide whether official acts such as texts of a legislative, administrative and legal nature should be granted copyright protection. The research revealed that there were differences in the national solutions. At least three different models were identified. These included placing all public sector information in the public domain; excluding only official acts from copyright protection and allowing re-use of other types of public sector information under permissive licenses; and protecting all public sector information but allowing re-use through copyright waivers or permissive licenses. Finally, the study also found that without laws on freedom of information in place, re-use policies would remain largely ineffective, regardless of whether or not they were based on open content licenses. The Secretariat highlighted that the study only represented a first step. It provided Member States with a basic understanding of the issues under consideration. The study was also intended to facilitate an assessment of the role that could be played by WIPO, within its mandate, to engage in new activities that could assist Member States to achieve their development goals through enhanced access to knowledge. In this regard, the authors had included a number of recommendations on what WIPO could do

with respect to the areas covered in the study. The recommendations were submitted to the Committee for its consideration. A final feasibility assessment would be prepared for the next session based on the comments provided by the Committee.

519. The Delegation of the United States of America commented on the first part of the study on education and research. It found many of the findings and conclusions in the study to be interesting and highlighted some. First, the rapid emergence of open source journals over the past ten years from 33 journals in seven countries in 2002, to 7,000 journals in 117 countries by October 2011. Second, the fact that the open access model operated within the established copyright framework because it relied on the consent of the copyright owner, often through Creative Commons licenses as noted on pages 18 and 19. Third, the past success and likely future sustainability of the “author pays” model for scientific publications to the extent that governments and other public institutions continued to be the main funders of key research, and the limited applicability of this model to non-scientific publications in the area of arts and entertainment. The Delegation supported private sector open access initiatives as an alternative model that can complement the traditional subscription based model for increasing access to education and research resources. As the study noted, both models depended on the copyright system to provide incentives for the creation and dissemination of works to the public. With respect to open access to the results of publicly funded research, the Delegation noted that the Federal Research Public Access Act mentioned in section 2.4.1 on page 16 had yet to become law in the United States of America. Legislation had been introduced in both the House and Senate to expand the mandatory public access policy adopted by the National Institute of Health (NIH) to other funding agencies but the bill remained under consideration by Congress. Independently, a Working Group within the Office of Science and Technology Policy in the White House was currently studying agency policies related to the dissemination and long-term stewardship of the results of federally funded research, including the role that scientific publishers played in the peer review process and the investments and added value that they provided. The Delegation reserved its right to comment on the author's recommendations at a later time.

520. The Delegation of Bolivia found the study to be very interesting and it complemented the work that was being done in other projects. For example, the Project on Open Collaborative Projects and IP-Based Models which looked at initiatives such as open source software and others that were based on open innovation environments and the sharing of knowledge. The Delegation was interested in the use of the copyright system to promote access to knowledge and the dissemination of knowledge rather than its use to restrict access and to monopolize information. It was particularly interested in the General Public License (GPL) which was developed in relation to open source software. The Delegation would like further information on the GPL license and how free access to knowledge was ensured. It also requested the authors for more details on their recommendations and ideas for future activities.

521. The Secretariat (Ms. Croella) referred to the comment made by the Delegation of the United States of America on the status of the Federal Research Public Access Act. It would inform the author and look into how the information could be reflected in the study. The Secretariat (Mr. Lanteri) then referred to comments made by the Delegation of Bolivia on the recommendations contained in the study. The Secretariat stated that the study included many recommendations based on the findings in each respective area. For instance, on education and research, the Consultant suggested that WIPO should provide a forum for continued discussion and learning about open access approaches to the dissemination of education and research information and content to increase awareness. It was also suggested that WIPO should contribute to the gathering and dissemination of evidence to policymakers on the effectiveness of these approaches, particularly in developing countries. In this regard, the study found that the majority of open access initiatives were actually launched in developed countries. With regard to software development practices, the Consultant suggested that WIPO should include open source licensing and IPR issues in technical training to increase knowledge and awareness among Member States. It was also suggested that WIPO should specifically

address open source in discussions on standards and IPRs, in relation to policies on standards and patents where open source software may be penalized. The Secretariat then referred to public sector information and stated that this was a new area for WIPO. The Consultant had suggested that the Organization could play a dual role by drafting model laws as well as educating lawmakers in Member States and/or providing technical assistance in this area. The Secretariat referred to the question put forward by the Delegation of Bolivia regarding open source licensing. It believed the Delegation was referring to the viral effect of some forms of open source licensing. The Secretariat pointed out that there were many different kinds of open source licenses. Some provided that in exchange for certain rights to use and study the software, licensees could only modify it if the modified software was also distributed under the same terms. This requirement ensured that the software was always distributed under the same conditions.

522. The Delegation of the United States of America referred to the second part of the study. Among the many conclusions that it found interesting in the study was that the lack of legislative or regulatory initiatives for improving access to software through copyright exceptions had led to the development, over the past two decades, of an alternative and now mainstream software development model that did not rely primarily on the economic exploitation of exclusive rights but which nonetheless, worked within copyright systems. As the study observed, open source software licenses relied on copyright law for their functioning and they had been enforced through copyright law in the courts. Another interesting conclusion was that the open source software model may be an important tool for local economic development because it opened up the possibility of modifying the software to adapt to local needs, thus, turning users into active participants rather than passive consumers. The Delegation noted that the longstanding policy of its Government was that it did not give preference to proprietary software over open source software in its procurement decisions. This policy was reinforced on January 7, 2011, when the U.S. Chief Information Officer, the Administrator for Federal Procurement Policy, and the IP Enforcement Coordinator issued a joint statement to senior procurement executives and chief information officers reminding them that the Administration's policy of making information technology procurement decisions was based on performance and value. It was free of preconceived preferences based on how the technology was developed, licensed or distributed. The statement explained that in the context of acquiring software, agencies should generally analyze all suitable alternatives, including proprietary, open source and mixed source technologies to allow the government to pursue the best strategy to meet its needs. The Delegation stated that while the study provided a useful survey of the development of open source software models and their advantages, it did not sufficiently discuss some of the disadvantages. For instance, some open source software may not have a large enough supporting developer or user community to ensure sufficient maintenance and support of the software. Although low initial purchase price was often an attractive feature of open source software, there may be other costs that should be carefully considered, including transition costs involved in software configuration and installation, training costs and maintenance costs. Thus, the decision on whether or not to use open source software was generally very fact specific. The Delegation reserved its right to comment on the study's recommendations at a later time.

523. The Delegation of Egypt noted that the authors of the study had made very interesting recommendations on the role that WIPO could play in this regard. It stressed it would be important for Member States to follow-up on the recommendations. They should request the Secretariat to develop a work program based on the recommendations which concerned mainstreaming open access approaches to access educational and research resources, including in the field of arts and cultural information, and mainstreaming open sources licensing issues in WIPO's activities.

524. The Delegation of Ecuador informed the Committee that its authorities were conducting an anti-piracy campaign and it was yielding some good results. It encouraged the use of open source software to combat piracy. The Delegation stated that some users were not aware of this software. They only used proprietary software illegally. The authorities managed to greatly

reduce the illicit use of proprietary software by letting users know that the use of open source software would allow them to do exactly what they were doing with proprietary systems while respecting the copyright system. This was an example of the use of open source software to combat piracy. The Delegation highlighted that open source software could assist developing countries, particularly those that did not have access to proprietary software because it was often very expensive. Open source software was an alternative which gave them access to knowledge and the digital age without having to spend a lot of money on proprietary software.

525. The Delegation of Brazil noted that the document included valuable information and concrete recommendations on how to use copyright to enhance access to information and creative content. It was pleased that two Brazilian case studies were included in the document, and hoped to contribute to the discussion on the recommendations of the studies based on these and other Brazilian initiatives concerning access to knowledge. The Delegation pointed out that in Brazil, the discussion was framed in the broader context of digital inclusion. Brazil had an important program on digital inclusion covering not only infrastructure but also national policies regarding access to content. The Government believed that initiatives related to open access and open source software were practical ways to provide content to the public. Those initiatives promoted access to knowledge while respecting copyright. They also advanced the interests of both right-holders and users in light of Article 7 of the TRIPS Agreement. The Delegation noted that they were effective not only in promoting access to knowledge but also in combating piracy. They also helped to raise public awareness with regard to copyright and the use of licenses. It noted that promoting the use of open licenses depended on investment and commitment by both governments and civil society. Governments could play an important role in promoting such initiatives. The Delegation was aware that many important projects on open access and open source emanated from civil society, and many were further developed. The role of civil society was highly valuable in this regard. However, the Delegation was convinced that governments should also support the initiatives through appropriate public policies. This approach was in line with many of the recommendations in document CDIP/9/INF/3. It referred to the Brazilian initiatives included in the study. The Delegation highlighted that the SciELO project illustrated how a public/private partnership can contribute to enhancing access to knowledge. SciELO was a repository of technical and scientific articles that relied on public and private support. As noted in the study, it was replicated in other countries such as South Africa. The Delegation pointed out that SciELO had recently expanded its operations and created a book network. It published national and thematic academic book collections on-line to enhance access to research and studies that were published in Brazil. The books published by SciELO were selected by a scientific committee. The digitized texts were prepared in accordance with international standards that allowed for use in a wide range of electronic devices such as e-books, tablets and smartphones. The Delegation highlighted that its country had numerous other public repositories of scientific and educational content. These included, for instance, the Brazilian Digital Library, the Federation of Repositories, the Portal of Professors and the International Bank of Educational Objects. These initiatives were coordinated by the Ministry of Education and the Ministry of Science, Technology and Innovation. The Delegation referred to the case study on the Brazilian Public Software Portal ([www.softwarepublico.gov.br](http://www.softwarepublico.gov.br)) on page 62 and provided some additional information. It stated that the software on the portal was not only available to the public sector but also to any interested person or company. The portal was created to promote the sharing of software among government authorities, universities, civil society and non-profit organizations. The software was distributed under a FLOSS GPL license, ensuring that it can be accessed, studied, modified and redistributed. All modifications remained accessible under the same terms. For-profit organizations also made use of the resources on the portal. They only needed to respect the terms of license in order to do so. The Delegation stated that the government gave preference to free software in its technological solutions and had endeavored to encourage the development and use of open source software. It believed that the software model could be instrumental in helping developing countries to bridge the digital divide. Licensing costs were lower and this made it possible for the software to be used by low-income users and on a large scale. The model also democratized technological development and consolidated the use of open and universal standards. The

Delegation stated that Brazil also supported the International Free Software Forum. During the World Summit on the Information Society (WSIS), Brazil engaged in the discussions on the valorization of free software and the adoption of open standards in the internet architecture. Brazil continued to follow the guidelines of the follow-up mechanisms of the world summit, including the Internet Governance Forum (IGF). The Delegation stated that the discussion on free software was also included in the debates of the Information Society Action Plan for Latin America and the Caribbean (eLAC) and the Working Group on Information Society of the India-Brazil-South Africa Dialogue Forum (IBSA). Finally, it observed that many of the recommendations in the three studies were related to what Member States and the Organization could do to further support the development of initiatives relating to open access, open source and public sector information. It encouraged further work on these/them.

526. The Delegation of the United States of America made some comments on the third part of the study. Its comparative approach to the issue, examining one country per continent, four from the common law tradition and three from the civil law tradition, produced some fascinating commonalities and contrasts. The Delegation noted that the study clarified that for countries such as the United States of America which exempted the works of the federal government from copyright protection, the role played by copyright in access to and dissemination of public sector information was minimal. Of greater importance, were laws on freedom of information. The Delegation stated that in the United States of America, these were adopted under the Freedom to Information Act in 1969, and in the Office of Management and Budget Circular (A-130) in 2000. It noted that the authors invited Member States to make comments and corrections on their draft. The Delegation would like to correct one small mistake that occurred in a sentence on page 89. It read as follows, "Individual states remain free to grant copyright protection to state works under their state laws". The states referred to were the 50 states of the U.S. In this context, the Delegation explained that under American law, states cannot grant copyright protection. Even the Federal Government cannot grant copyright protection since copyright protection arose automatically when a work was created, as required by the Berne Convention. Following the Copyright Act of 1976, there was a single national system under which works of authorship were made exclusively subject to federal, and not state, copyright law. Therefore, the Delegation suggested revising the sentence to read as follows, "Works created by individual states and local governments may enjoy copyright protection under federal copyright law". The Delegation would be happy to follow-up with the Secretariat on this matter. It then referred to the study's recommendations. It supported, in principle, the suggestion that WIPO should provide additional information to Member States on how they might implement one or a combination of three models discussed in the study to clear the copyright status of public sector information, keeping in mind DA recommendation 1 which stated that technical assistance should be demand driven or requested by Member States. The Delegation would strongly support such technical assistance to any interested Member State.

527. The Secretariat (Ms. Croella) thanked the Delegations of Egypt, Brazil and Ecuador for providing information on the initiatives and activities taking place in their countries. These were further examples of the many initiatives taking place to enhance access to information and creative content within the copyright system. The Secretariat also took note of the comments by the Delegation of the United States of America. It would check with the Delegation on the wording of the suggested amendment and a corrigendum would be provided. It thanked the delegations that had provided guidance in taking the work further. This would be reflected in the feasibility study to be prepared and submitted to the next session of the CDIP. An important objective of the project was to facilitate an assessment of the role that could be played by WIPO, within its mandate, to engage in new activities that would assist Member States to achieve their objectives in relation to development goals in the area of copyright and access to information and content. The Secretariat had taken note of the comments provided and these would be considered in the feasibility study. The Secretariat also noted that the Delegation of Brazil had provided some comments for certain aspects of the text to be modified. It would liaise with the Delegation on the wording of the revised text.

528. The Vice-Chair noted that the delegations had expressed various views on the document and hoped that the Secretariat had noted the interventions and guidance which was provided to assist it in preparing an assessment of the feasibility for WIPO, within its mandate, to engage in new activities that could potentially assist them to achieve their development goals. This would be submitted to the next session of the Committee.

Consideration of Documents:

CDIP/9/INF/2 Rev - "Scenarios and Possible Options Concerning recommendations 1(c), 1(f) and 2(a) of the Scoping Study on Copyright and Related Rights and the Public Domain"

CDIP/10/14 - "Terms of Reference for a Comparative Study on Copyright Relinquishment"

529. The Vice-Chair opened the discussions on the Scenarios and Possible Options Concerning recommendations 1(c), 1(f) and 2(a) of the Scoping Study on Copyright and Related Rights and the Public Domain, and the Terms of Reference for a Comparative Study on Copyright Relinquishment. He invited the Secretariat to introduce the documents.

530. The Secretariat (Mr. Vázquez-López) introduced document CDIP/9/INF/2 Rev. and document CDIP/10/14. Both were related to the Project on IP and the Public Domain and were derived from the Scoping Study on Copyright and Related Rights and the Public Domain prepared by Mrs. Séverine Dusollier, Professor at the University of Namur. The study was published as an official document for the eighth session of the CDIP in 2011, and had already been discussed in the Committee. It included a number of recommendations on future activities that may be carried out by WIPO in three areas, including the identification of the public domain; the availability and sustainability of the public domain; and non-exclusivity and non-rivalry of the public domain. During the eighth session of the CDIP, Member States agreed that the Secretariat would prepare an information document clarifying the scope and possible implications of the implementation of recommendations 1(c), 1(f) and 2(a) for discussion at the ninth session. In the discussions at that session, the Member States requested for certain modifications to the document. These were reflected in document CDIP/9/INF/2 Rev. With regard to recommendation 1(c), Member States had highlighted the need for the proposed study on copyright relinquishment to be balanced, taking into account the interests of users and right holders. It was also suggested that the study should not promote any specific regime. It should merely showcase the various approaches in different countries. The Secretariat stated that these aspects were reflected in the amendments to the applicable paragraphs on recommendation 1(c) in document CDIP/9/INF/2 Rev. On recommendation 1(f), in the previous session, Member States had requested the Secretariat to organize a meeting for interested Member States to discuss priorities in the area of copyright infrastructure. The Secretariat was currently engaged in internal discussions on the time, content and format for those consultations. Given the current budget constraints, the Secretariat would prefer to convene the meeting in conjunction with another meeting, for instance, a session of the CDIP or the SCCR. On recommendation 2(a), Member States requested the Secretariat to delete all references to the protection of traditional knowledge and folklore from the document. This was required in order to dissipate any concern that the public domain overlapped with such protection. Member States also encouraged WIPO's participation in the United Nations Educational Scientific and Cultural Organization (UNESCO) International Conference on Memory of the World in the Digital Age: Digitization and Preservation which took place in Vancouver in September. However, Member States emphasized the need for WIPO keep both notions separate in the conference. The Secretariat took certain actions in this regard. The sections relating to traditional knowledge and traditional cultural expressions and all such references were removed from the document. WIPO organized three sessions in the UNESCO conference, namely, Challenges Related to Access, Identification, and Re-use of Digitized Material; Challenges Related to Preservation of Digitized Material: Exceptions and Limitations and the Role of

Libraries and Archives, and IP and the Protection of Traditional Knowledge and Traditional Cultural Expressions. The third session was separated from the rest. The Secretariat then referred to document CDIP/10/14 on the Terms of Reference for a Comparative Study on Copyright Relinquishment. The document described the possible structure and scope for the proposed study as well as the countries that were included at this stage. The study would cover issues and questions arising from copyright relinquishment. The first issue concerned the nature of copyright itself. If copyright was considered to be a fundamental right, it was essential to determine whether it would be legal to abandon such a right. However, if it was deemed to be a mere property right, the matter would be less complicated as it was possible to renounce property in most countries. There was also the issue of the inalienability of moral rights. The protection of moral rights was deemed inalienable in many countries and it may contradict the will of the author to abandon his/her copyright. A further issue concerned the mechanisms to ensure that the author made a free and informed decision on the relinquishment of his/her rights. These mechanisms may consist of formalities such as requirements that the abandonment of rights be expressed in writing or before a public authority, informational tools ensuring that information on the consequences of the decision be provided by public authorities or representatives of authors, and remedies afforded to challenge any decision that was not derived from an expression of the free and informed will of the author. There was also the issue of the irrevocable nature of relinquishment. Thus, it was important to determine whether the author should be able to change his/her mind and choose to exercise his/her exclusive right on the work again. Regarding the structure, the study would begin with a preliminary outline of the issues and questions arising from copyright relinquishment. This would be followed by a detailed analysis in three different stages. First, it would address a survey of national legislation and jurisprudence on voluntary copyright relinquishment. The survey would cover Brazil, Chile, China, Colombia, Egypt, France, India, Kenya, the Republic of Korea, and the United States of America. Second, the study would look at the practice of copyright relinquishment in the context of distribution and use of creative material, for example, in the online environment for collaborative creativity and user generated content as well as with regard to materials prepared by not-for-profit and public institutions. Third, it would include conclusions outlining the trends and common features identified in the previous stages with regard to copyright relinquishment in the different national jurisdictions. It would address, on the one hand, the interests of users in voluntary copyright relinquishment, in particular from the perspective of the availability of the public domain and access to knowledge. On the other hand, it would present the possible ways to protect the interests of the authors in the promotion of any such regime. It would also outline possible future activities to be undertaken by WIPO and Member States in this area.

531. The Delegation of Chile referred to document CDIP/10/14. It welcomed the proposed study. Under its national law, when an author renounced his/her rights to a work, it became part of the common national heritage. In this way, the public domain was able to contribute to a balanced copyright system that fostered creativity. It provided the necessary resources for creativity to develop. The Delegation would like a comparative study on the different approaches that were currently used and the impact of voluntary copyright relinquishment in the countries to be included in the study. This would assist Member States to come up with appropriate recommendations.

532. The Delegation of Kenya also referred to this document. It supported the commencement of the study. The Delegation highlighted that Kenya was one of the countries selected for the first stage of the study and it would cooperate with WIPO in this regard as the study was in line with recommendation 16 of the DA.

533. The Delegation of Colombia expressed support for the statement made by the Delegation of Chile. It shared the same position with regard to the proposed study. The Delegation requested for Colombia to be included in the study.

534. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, made some remarks on CDIP/9/INF/2 Rev.. It recalled in the last session of the Committee, no

agreement was reached on the document and its recommendations. Therefore, the EU and its Member States were still not convinced of the benefits of creating national and international platforms with the aim of facilitating searches in national and regional registries to compile information on copyright content and public domain materials. Referring to the recommendation to maintain the cultural heritage of humanity, the Delegation stated that the suggestions and considerations made should be taken into account by the individual Member States and not addressed by the Committee.

535. The Delegation of the United States of America noted that Member States had yet to agree upon commissioning a study on copyright relinquishment. It requested further discussion to clarify the views of Member States on whether such a study should be commissioned. The Delegation's position was that a study surveying the status of copyright relinquishment could provide useful information on this topic, therefore it would support this initiative moving forward. The Delegation noted that as currently drafted, the study would provide a preliminary outline on three specific issues followed by a detailed analysis of the issues in three stages. However, it was concerned about the clarity regarding the terms of reference (TORs) for any study. The Delegation highlighted some of its key observations and concerns in order to have a productive discussion aimed at developing satisfactory TORs that would support a successful study. First of all, the TORs appropriately focused on ensuring that authors relinquished their rights only upon full understanding of the consequences and the irrevocability of relinquishment. Second, any study focusing on the legislation and jurisprudence of copyright relinquishment must also address Article 5 of the Berne Convention. That article stated that enjoyment and exercise of copyright should not be subject to any formality. Given the lack of formalities in many copyright laws, it was likely that a number of regimes to be surveyed would also not contain specific provisions for the relinquishment of rights and the study would have to delve into national jurisprudence and policies, including related laws such as contract and intestate succession. Third, the TORs also called for the study's authors to examine the impact of both unwaivable economic rights and inalienable moral rights on systems for voluntary relinquishment. Turning to its first concern, the Delegation saw that the proposed TORs, as currently drafted, also indicated that the author of the survey should prepare a third stage that would include conclusions on trends observed among other issues and would also outline possible future activities to be undertaken by WIPO and Member States. It believed it was appropriate for the author to identify trends and such, in his/her conclusions. However, the Delegation did not, at this time, believe that a project aimed at surveying the current landscape on copyright relinquishment should contain potential normative recommendations. It believed that Member States were in the best position to review the results of this survey and then determine next steps, including potential future activities. In addition, the Delegation believed that it would be important for Member States whose laws were being reviewed in the first stage, to be able to review the initial work of the author and provide input in order to ensure that the survey of national legislation and jurisprudence accurately reflected their domestic law and jurisprudence. Finally, the Delegation requested for additional information from the Secretariat as well as the views of the members as to the expected timelines for the project. In addition, it recommended that the American system for copyright relinquishment not be included in the study. The United States of America was frequently selected as a participant in WIPO surveys and studies. The Delegation stressed that its authorities worked diligently to respond fully to the authors and this could be especially resource intensive in its common law system. It was further complicated, as it may be here, by overlapping federal and state law issues. The Delegation pointed out that an in-depth study of copyright relinquishment practices would require intensive study of arcane areas of contract and intestate succession laws of the 50 states. While this may be academically interesting, it did not think it was particularly relevant for members that were seeking to identify subject matters that had fallen into the public domain within their respective jurisdictions. The Delegation highlighted that unlike laws such as the recently passed Indian Copyright Act, American copyright law did not have specific provisions that could serve as a model. The Delegation believed that Member States would be better served if the TORs were to include another more relevant study participant. The Delegation understood that Colombia had just volunteered to be included. The Delegation suggested that Colombia could replace the



United States of America in the study. If the above considerations could be better reflected in a revised TORs, it would be in a position to support the project.

536. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, noted that the document CDIP/10/14 provided further clarification and information on the scope of the study. However, the EU and its Member States still had concerns about it. They could support the study to identify the trends and common features in different national jurisdictions, however could not support any possible proposals coming from it to promote the relinquishment of copyright. The EU and its Member States noted that legal certainty for its users was very important. Legal certainty should be the starting point for any analysis on the subject.

537. The Delegation of Colombia pointed out that perhaps there was an inconsistency in the interpretation of its previous statement. It clarified that it did not make an offer. Colombia had been selected together with Brazil, Chile and China and others for the study.

#### **AGENDA ITEM 9: SUMMARY BY THE CHAIR**

538. The Chair invited the Secretariat to take the Committee through the draft conclusions which would be included in the Summary by the Chair. These had already been distributed to the delegations.

539. The Secretariat (Irfan Baloch) referred to the first conclusion which was read out by the Chair after the Committee completed its consideration of document CDIP/10/2 on Progress Reports. It proceeded to read out the conclusion as follows:

“Under Agenda Item 6, the Committee considered document CDIP/10/2 entitled Progress Reports and took note of the progress achieved on 13 projects under implementation. The Committee agreed to the revised timelines for the following projects:

- (a) Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations;
- (b) Project on Enhancement of WIPO’s Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of Development Activities; and
- (c) Project on Intellectual Property and Socio-Economic Development.

540. The Secretariat provided explanations as requested and took note of the comments made by the delegations on the various aspects of the Progress Reports. The Committee also took note of progress on the implementation of 19 recommendations for immediate implementation. It was requested to provide certain clarifications and enhance the quality of the report further.

541. The Chair thanked the Secretariat. The conclusion to the discussion on document CDIP/10/2 was adopted given that there were no observations from the floor. The Chair then turned to the draft conclusion to the discussion on the evaluation reports.

542. The Secretariat highlighted that all the evaluation reports of the DA projects were clustered together in a single paragraph. The Secretariat read out the draft conclusion as follows:

“Also under Agenda Item 6, the Committee addressed a number of project evaluations, namely:

- (a) Evaluation Report of the Project on Intellectual Property Development Matchmaking Database (IP-DMD) (document CDIP/10/3);

- (b) Evaluation Report of the Smart IP Institutions Project (document CDIP/10/4);
- (c) Evaluation Report of the Project on Intellectual Property, Information and Communication Technologies (ICTS), the Digital Divide and Access to Knowledge (document CDIP/10/5);
- (d) Evaluation Report of the Project on Developing Tools for Access to Patent Information (document CDIP/10/6);
- (e) Evaluation Report on the Project on Improvement of National, Sub-Regional and Regional IP Institutional and User Capacity (document CDIP/10/7); and
- (f) Evaluation Report of the Project on Innovation and Technology Transfer Support Structure for National Institutions (document CDIP/10/8).

Following the presentations of the evaluation reports by each Evaluator, an exchange of views took place. The Delegations expressed interest in following up on the implementation of recommendations contained in these reports, taking into account the comments made by Member States and in certain cases requested further information from the Secretariat.”

543. The Chair thanked the Secretariat. The conclusion to the discussion on the evaluation reports was adopted since there were no objections from the floor. He turned to the draft paragraph on the Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda recommendations.

544. The Secretariat read out the draft conclusion to the discussion on the Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda recommendations:

“Further under Agenda Item 6, under document CDIP/10/12, the Committee discussed the Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda recommendations. Different views were expressed as regards the term “relevant bodies” due to the difference of interpretation of the decision by the Assembly. Views also differed as to the structure of the reports presented to the CDIP on the subject.”

545. The Delegation of Belgium, speaking on behalf of Group B, would like the phrase, “due to the difference of interpretation of the decision by the Assembly” to be deleted. The Group had long held the position that it was up to the bodies themselves to determine whether they were relevant. As such, the reference to the Assembly should be removed.

546. The Delegation of Brazil, speaking on behalf of the DAG, stated that the Summary by the Chair should be as concise as possible. However, it should also accurately reflect the main points discussed in a session, particularly as it served as a reference for future meetings. In this regard, the Group would like more clarity on the decision by the Assembly. It suggested that the phrase, “the difference in interpretation of the 2010 decision of the General Assembly establishing the Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities”, should be included to provide a clear reference to that decision of the General Assembly. It would also like another element to be reflected in the conclusion, i.e., the Committee or delegations appreciated the information received from the various committees on their contributions to the implementation of the DA recommendations, but some delegations expressed concerns on not having received information from the CWS and the PBC. The

Group stressed that this was a factual account of what had taken place in the discussions and was important for reference purposes.

547. The Delegation of Egypt, speaking on behalf of the African Group, noted the proposals by Group B and the DAG. It would like the paragraph to reflect some other points in its statement on this item. This included the concerns expressed on the implementation of the 2010 General Assembly decision on the Coordination Mechanism. The decision was not implemented by the PBC and the CWS. The reporting of the WIPO Committees should also include an analysis of the actual contributions instead of a compilation of statements. This was in line with the decision by the Assembly. As such, the Group suggested that the sentence, "This matter should be referred back to the General Assembly for further clarification", be included at the end of the paragraph proposed by the Chair. It would also like the words "and content" to be included after the word "structure" as it recalled that views differed on both the structure and content of the reports.

548. The Delegation of Belgium, speaking on behalf of Group B, noted that some Member States wanted to refer to a specific decision. The Group could entertain the idea of referring to a specific decision if it was also stated in the paragraph that it was up to the bodies themselves to determine whether they were relevant.

549. The Delegation of Switzerland believed it would be easier to stick to the draft proposed by the Chair. This should only include the conclusions of the discussion. The statements made by the delegations would be included in the report. Thus, it was not necessary for the Summary by the Chair to reflect all the views that were expressed. The Delegation noted that the African Group had requested the summary to be limited to the conclusions and not for all the viewpoints to be reflected. It stated that it would be easier to just include the results of the discussion instead of adding the views expressed by each group.

550. The Delegation of South Africa supported the proposals by the DAG and the African Group. It stated that the African Group had not mentioned that the language of the summary should be limited. Indeed, the Group had just put forward a suggestion to reflect the discussion that had taken place. The Delegation had no problems in including what was proposed by Group B as it reflected what the Group had been saying on this matter.

551. The Delegation of Monaco stated that if the paragraph included the details of what had been said, these should be reflected in a balanced manner. From that point of view, it supported the proposal made by the Delegation of Belgium. However, the Delegation believed that the suggestion by the Delegation of Switzerland deserved consideration as the Chair's draft reflected what had occurred. It recalled that there were diverging points of view and it was not necessary for these to be mentioned as they would be reflected in the report for this session. Thus, the Delegation proposed in order to save time and in the interest of clarity, the Committee should stick to the Chair's draft.

552. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, aligned itself with the statement made by the Delegation of Switzerland. However, if there were any further additions to the text, the EU and its Member States could not accept the language proposed by the African Group.

553. The Delegation of Ghana believed there was considerable merit in the proposals by the Delegations of Brazil and Egypt on behalf of the DAG and the African Group respectively. It stated that if views differed on a term, there was a need to refer to the mandate that provided the term, in this case, the 2010 decision by the General Assembly. Thus, what was said by the Delegation of Brazil made sense and was cogent. The Delegation also believed that the suggestions by the Delegation of Egypt carried a lot of weight. The Committee would do itself a disservice if it did not capture the salient points raised by this delegation.

554. The Delegation of the United States of America agreed with the Delegation of Switzerland, stating that it would be comfortable with the paragraph as drafted. There was a need to bear in mind what was said in the 2010 mandate. The Delegation stressed that it specifically referred to relevant bodies. If the General Assembly had intended to identify those bodies or had referred to all WIPO bodies, the Committee would not be having this discussion. The Delegation reiterated that as mentioned by the Delegation of Belgium on behalf of Group B, it was up to the bodies to determine whether they were relevant, not the General Assembly. It stated that the Committee should stick with the language presented by the Chair.

555. The Delegation of South Africa stated that the General Assembly decision did not elaborate on the relevant bodies. Thus, what the Delegation of the United States of America had said was true and had merit. That was why some delegations would like the General Assembly to clarify the meaning of the term "relevant bodies". The Delegation understood that it was the main decision-making body and it instructed Committees on what it required. It did not see any difficulty in including the proposal by the Africa Group in this regard. It was a fair reflection of what was discussed with respect to this Agenda Item, and was nothing new.

556. The Chair observed that there was still no agreement on how the paragraph should be drafted. There were two positions, one supported the text as it stood and the other required the different views to be reflected. The Chair explained that he had not included these in his draft as he did not wish to further emphasize the divisions on this issue which had taken up a lot of the Committee's time.

557. The Delegation of the United States of America referred to the language suggested by the Delegation of Egypt to the effect that there was an agreement to refer the matter back to the General Assembly for consideration. It emphasized that there was no agreement to do so. Thus, the Committee could not include something that did not exist.

558. The Delegation of Egypt clarified that it did not state that there was an agreement to refer the matter back to the General Assembly. It had proposed that the sentence, "This matter should be referred back to the General Assembly for further clarification", be included at the end of the paragraph proposed by the Chair.

559. The Chair stated that there was no need to discuss the point any further. The positions expressed on whether the matter should go to the General Assembly were clear. It was also clear that there was a disagreement on this issue. Thus, the Chair believed that the easiest option would be to reflect the different positions. He requested the Secretariat to work on a new draft which would take into consideration the different views that were expressed. The Chair then turned to the draft paragraphs on Agenda Item 7. He invited the Committee to consider the draft conclusion to the discussion on Assessing WIPO's Contribution to the Achievement of UN Millennium Development Goals (MDGs).

560. The Secretariat (Mr. Baloch) read out the draft conclusion to the discussion on document CDIP/10/9, as follows:

"The Committee discussed the study, Assessing WIPO's Contribution to the Achievement of United Nations Millennium Development Goals (MDGs) (CDIP/10/9). Delegations supported the continuation of the work by WIPO in achieving the MDGs, and an effective mechanism for reporting on that contribution to the Member States on a regular basis. The Secretariat will submit to the next session of the CDIP a document on:

- (i) WIPO's participation in the MDG Gap Task Force;
- (ii) The feasibility of the use of WIPO's RBM framework to assess the contribution of the Organization to the MDGs and how it would be implemented; and
- (iii) WIPO's ongoing work on MDGs"

561. The Delegation of Egypt, speaking on behalf of the African Group, believed that there was an understanding that the document to be submitted by the Secretariat to the Committee would address three recommendations in the study. The Group would like these to be mentioned in the conclusion in order to accurately indicate what the Secretariat would be looking at. First, “that WIPO should take the necessary steps to join the MDG Gap Task Force and engage with the Inter-Agency Expert Group on MDG indicators (IAEG) as a matter of priority”. Second, “the integration of MDGs-related needs/outcomes into the WIPO program-planning phase and specific indicators for MDGs can also be developed”. Third, “the need by WIPO to refine the reporting of its work and contribution to the MDGs on the dedicated webpage by providing more credible and concrete results drawn from the performance data in the relevant PPRs and the MDG-specific indicators. The information on the webpage should be regularly updated to reflect the evolving nature of the Organization’s work related to the MDGs.”

562. The Delegation of Belgium, speaking on behalf of Group B, stated that the Chair’s draft was succinct and factual. The Group found the language proposed by him to be perfectly acceptable. The Committee should not delve too much into the details. The Group believed that the language captured what had been said and could be done.

563. The Delegation of Brazil, speaking on behalf of the DAG, supported the statement made by the Delegation of Egypt on behalf of the African Group. The Group believed that the current draft did not convey the information concerning specific indicators to assess WIPO's contribution to the MDGs. Thus, it was necessary to clearly mention that the Secretariat was requested to develop a more precise methodology incorporating specific indicators to assess WIPO's contribution to the MDGs. It noted that this aspect was captured in the proposal by the Delegation of Egypt on behalf of the African Group.

564. The Delegation of the United States of America understood from the Delegation of Brazil's intervention their desire to include more description under subparagraph (ii) on the indicators and other aspects of that item. As the Delegation had asked the questions during this item, it was pretty familiar with why the Committee had asked the Secretariat to produce the document. If the change was to be made, it would also like to keep the words "the feasibility of the use of". In other words, the document which the Committee had asked the Secretariat to provide would be looking at the feasibility of using WIPO’s RBM framework and performance reporting for these purposes. The Delegation reiterated that the said words should be kept if the Committee decided to lengthen that item by adding the reference to the indicators and so on.

565. The Chair suggested the paragraph be rewritten based on the proposal by the Delegation of Egypt on behalf of the African Group and supported by the Delegation of Brazil on behalf of the DAG. The words "the feasibility of the use of" would be retained as suggested by the Delegation of the United States of America.

566. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, supported the suggestion by the Delegation of Belgium on behalf of Group B to keep to the original proposal. However, if the Committee were to consider the proposal by the African Group, the EU and its Member States would like to see the amended language in writing before they could agree to it.

567. The Chair stated that the revised draft would be submitted to the Committee for its consideration. He requested the Secretariat to prepare a revised draft, which would be circulated and every delegation would be able to examine it before action was taken. He then turned to the draft conclusion to the discussion on Further Steps in the Work Program on Flexibilities in the IP System.

568. The Secretariat (Mr. Baloch) read out the draft conclusion to that discussion as follows:

“The Committee discussed Further Steps in the Work Program on Flexibilities in the Intellectual Property System (CDIP/10/10). The Secretariat took note of the Member States’ guidance on the agreed areas of work for further implementation.”

569. The Delegation of Brazil, speaking on behalf of the DAG, recalled that during the discussion on the work program on flexibilities there was a request for documents CDIP/9/11 and CDIP/8/5 to be retained as a basis for future discussions. The Group would like the request to be included in the conclusion, and requested for clarification on the agreed areas of work for further implementation.

570. The Chair enquired as to whether the Delegation of Brazil could propose specific language regarding its first request.

571. The Delegation of Brazil stated that it did not have any specific language in mind but the idea was to reflect the request for documents CDIP/9/11 and CDIP/8/5 to remain as a basis for future discussions.

572. The Delegation of Switzerland recalled that there was no agreement on this in the discussion. Those documents were not on the Agenda for this session. Hence, the discussion was being reopened. The Delegation was surprised that the Committee was going into substantive discussions at this stage.

573. The Secretariat (Mrs. Longcroft) referred to the Delegation of Brazil’s question. Its recollection of the agreed further steps in relation to document CDIP/10/10 was that there was consensus among delegations concerning the types of content that could be included in the database on national experiences in terms of the implementation of flexibilities. The content could include links to court cases submitted by Member States, case studies of national experiences in implementing flexibilities, prepared and submitted by the Member State concerned, material written or commissioned by WIPO in the course of its regular technical assistance activities, and documents and presentations from WIPO commissioned seminars conducted in the course of its regular technical assistance activities.

574. The Delegation of Brazil enquired as to whether all the discussions on flexibilities would be captured in this paragraph. In this regard, it would like to know if there would be a separate paragraph on document CDIP/10/11.

575. The Secretariat (Mr. Baloch) stated that the paragraph under discussion was on document CDIP/10/10. It informed the Committee that there was a separate paragraph on document CDIP/10/11, which was being circulated.

576. The Delegation of Brazil thanked the Secretariat for the clarification. It would wait for that paragraph to be circulated. The Delegation reserved the right to comment on that paragraph as well as the paragraph on document CDIP/10/10.

577. The Delegation of Egypt, speaking on behalf of the African Group, understood that document CDIP/9/11 would be discussed at the next session under the same item for various reasons. For instance, document CDIP/10/10 was drafted on the basis of document CDIP/9/11. This was mentioned in paragraph 2 of the document. The Group had also stressed that a number of areas of future work were based on document CDIP/9/11. Thus, it was logical for the latter to be retained for the next CDIP session.

578. The Delegation of Belgium, speaking on behalf of Group B, referred to the statement made by the Delegation of Egypt. The Group suggested that maybe some Member States had made the comments referred to by the Delegation of Egypt. However, the summary of the Chair clearly referred to the Secretariat taking note of the Member States’ guidance on the agreed areas of work for further implementation. The Group suggested that perhaps the areas

mentioned by the Delegation of Egypt were not subject to complete agreement. It stated that the Committee should stick to the draft proposed by the Chair.

579. The Delegation of Egypt appreciated the statement made by the Delegation of Belgium as it clearly indicated that the reference to the agreed areas was ambiguous. Clarification was required on the agreed areas.

580. The Chair stated that he would return to this item later. Meanwhile, he invited the Committee to consider the draft conclusion to the discussion on the terms of reference (TORs) for a Comparative Study on Copyright Relinquishment.

581. The Secretariat (Mr. Baloch) read out the draft conclusion to that discussion as follows:

“The Committee discussed the Terms of Reference for a Comparative Study on Copyright Relinquishment (CDIP/10/14). The Committee supported the undertaking of the proposed study. The Secretariat would proceed with the study taking into account Member States’ comments, including the development of a timeline for conduct of the study, the exclusion of any recommendations on future activities or normative solutions, and the exclusion from the study of legislation from the United States of America.”

582. The Delegation of Egypt, speaking on behalf of the African Group, affirmed the right of each country to decide whether or not to be included in a study conducted by WIPO. However, the Group questioned the exclusion of recommendations from the study. It believed it was for the authors to decide whether or not they wished to make recommendations. The study would be examined by the Committee and it would decide on its adoption. As such, the Group believed it was necessary for this matter to be left to the discretion of the authors. For this reason, it suggested that the phrase, “the exclusion of any recommendations on future activities or normative solutions” be deleted from the text.

583. The Delegation of Belgium, speaking on behalf of Group B, referred to the comments by the Delegation of Egypt and stated that this issue was not raised in the discussion. As such, the text proposed by the Chair should remain.

584. The Chair suggested that the text could end with the phrase, “taking into account Member States’ comments” and the rest of the paragraph could be deleted. He enquired as to whether this would be agreeable to all the Member States.

585. The Delegation of the United States of America clarified its position on the study. As noted in its original intervention, Member States had not agreed to move forward with this particular study. They reviewed the TORs provided by the Secretariat and found that there were certain issues that needed to be remedied. The Delegation had agreed it would support the study if the TORs were changed. However, without changes to the TORs, it could not approve moving forward on the study.

586. The Delegation of Switzerland indicated that it was not comfortable with the amendment suggested by the Chair. It noted that paragraphs adopted earlier were factual and precise. The same should apply for this paragraph.

587. The Chair enquired as to whether the Delegation of Egypt could live with the original text taking into account the clarifications by the Delegations of the United States of America and Switzerland.

588. The Delegation of Egypt respected the positions of other Member States on this issue. However, it emphasized that costs would be incurred in the preparation of a study. If the authors were not allowed to make recommendations, the study would serve no purpose, thus it should be for the authors to decide on whether or not to make recommendations. With regard to research and information to be included, the Delegation stated that the study would be

weakened if these were limited. If it did not include conclusions and recommendations, the study would serve no purpose. However, the Delegation could consider limiting the recommendations to certain areas. It also noted that although the study would cover many countries, the United States of America was not included in these. As such, the issue of whether any recommendation would be inconsistent with its legislation should not arise. However, some other countries preferred conclusions and recommendations to be included as these would be useful for them.

589. The Chair suggested the deletion of the reference to future activities. The sentence would then read as follows:

"The Secretariat would proceed with the study taking into account Member States' comments, including the development of a timeline for conduct of the study, the exclusion of any recommendations on normative solutions, and the exclusion from the study of legislation from the United States of America."

590. The Delegation of the United States of America recalled that when this item was opened for discussion, several delegations noted that the report was intended to be a survey of practices with respect to copyright relinquishment. They noted they would be uncomfortable with the idea of the Committee promoting copyright relinquishment. That was the Delegation's concern with respect to the language suggested by the Chair. It was open to reaching compromise on this. However, the Delegation wanted to make it clear that it was not actively promoting copyright relinquishment.

591. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, preferred the original text proposed by the Chair to remain for reasons explained by the Delegation of the United States of America.

592. The Secretariat made a proposal on behalf of the Chair. Perhaps the concern of the Delegation of the United States of America and other delegations could be addressed by adding the phrase, "without promoting copyright relinquishment" at the end of the paragraph after a comma.

593. The Chair noted that the Secretariat's proposal was acceptable to the Delegation of the United States of America. The revised paragraph was adopted, given that there were no objections from the floor. He noted the request by the Representative of Communia to participate in the discussion, however this was declined as the Committee was trying to reach agreement on the conclusions and the discussion was restricted to the Member States. The Chair invited the Committee to return to the two draft conclusions on flexibilities, which would be discussed together.

594. The Secretariat (Irfan Baloch) repeated the paragraph on document CDIP/10/10:

"The Committee discussed Further Steps in the Work Program on Flexibilities in the IP System (CDIP/10/10). The Secretariat took note of the Member States' guidance on the agreed areas of work for further implementation."

595. The Secretariat stated that the agreed areas of work were those it had described earlier. They would also be mentioned in the report of the session. It then proceeded to read out the draft conclusion to the discussion on document CDIP/10/11 which had been circulated. This was as follows:

"The Committee considered Future Work on Patent-Related Flexibilities in the Multilateral Legal Framework (CDIP/10/11). As agreed by the Committee, the Secretariat would prepare for the next session of the Committee a document addressing, in a neutral and balanced manner, the following flexibilities:



- (i) the flexibility to apply or not criminal sanctions in patent enforcement (TRIPS Article 61); and
- (ii) measures related to security which might result in a limitation of patent rights (so-called security exception) (TRIPS Article 73).

The Member States will be invited to submit comments to the Secretariat on future patent-related flexibilities that would form the basis of future work. The compilation of any comments received will be made available for consideration by the Committee at its next session.”

596. The Delegation of Belgium, speaking on behalf of Group B, thanked the Chair for the balanced language. For the record, the Group wanted to clarify that the document to be prepared by the Secretariat would be a factual study. It would not contain any recommendations.

597. The Delegation of Brazil, speaking on behalf of the DAG, reiterated it was important to refer to the fact that document CDIP/9/11 would remain on the table and continue to form the basis for discussions on the work program on flexibilities. The Group noted that this was not reflected in the proposed text. It would also like a sentence to be included to the effect that some delegations were of the view that a comprehensive work program should be delivered with regard to the four flexibilities described in document CDIP/10/11.

598. The Delegation of the United States of America requested a few minutes to consult with its colleagues.

599. The Chair accepted the request. Following the consultations, he informed the Committee that the results indicated that a lot more time was required to finalize the paragraphs on flexibilities. The Committee would return to these later. He then invited the Committee to move on to the draft paragraph on the Scenarios and Possible Options Concerning recommendations 1(c), 1(f) and 2(a) of the Scoping Study on Copyright and Related Rights and the Public Domain (CDIP/9/INF/2 Rev.).

600. The Secretariat (Irfan Baloch) read out the draft conclusion to that discussion as follows:

“The Committee discussed Scenarios and Possible Options Concerning recommendations 1(c), 1(f) and 2(a) of the Scoping Study on Copyright and Related Rights and the Public Domain (CDIP/9/INF/2 Rev.), and took note of the modifications introduced by the Secretariat in this document as requested by the Committee at its ninth session.”

601. The Chair declared the paragraph as adopted, given that there were no observations from the floor. He then turned to the Study on Copyright to Promote Access to Information and Creative Content (CDIP/9/INF/3).

602. The Secretariat read out the draft conclusion to the discussion on this document as follows:

“The Committee discussed the Study on Copyright to Promote Access to Information and Creative Content (CDIP/9/INF/3). Delegates expressed a variety of views on the document and the Secretariat took note. Taking into account the guidance given by the Member States, the Secretariat would prepare an assessment of the feasibility for WIPO, within its mandate, to engage in new activities that could potentially assist Member States to achieve their development goals for submission to the next session of the Committee.”

603. The Delegation of Belgium requested that the paragraph be simplified. As the Committee was concerned with development and IP, the phrase, “that could potentially assist Member States to achieve their development goals” could be removed as this was obvious. The last sentence would then read as follows, “Taking into account the guidance given by the Member

States, the Secretariat would prepare an assessment of the feasibility for WIPO, within its mandate, to engage in new activities for submission to the next session of the Committee.”

604. The Delegation of Egypt would like the words “and the recommendations of the study” to be added after the words “guidance given by the Member States”. Referring to the suggestion by the Delegation of Belgium to simplify the paragraph, it proposed deleting the words “within its mandate” as it was obvious that WIPO was aware of this and would not go beyond it.

605. The Delegation of Switzerland did not recall that all the recommendations in the study were adopted. It noted that the Chair’s text was correct, in that it only referred to the guidelines given by the Member States.

606. The Delegation of Brazil noted that there was a typographical error in the text that was circulated as the title referred to document CDIP/9/INF/5 instead of document CDIP/9/INF/3. The Delegation would like to understand the reason for the proposal by the Delegation of Belgium to delete the phrase, “that could potentially assist Member States to achieve their development goals”.

607. The Delegation of Belgium stated that most, if not all, of the new activities proposed within the framework of the Committee could potentially assist Member States to achieve their development goals. Thus, there was no need to mention this.

608. The Chair proposed that the original text be kept as there did not seem to be an agreement on the amendments suggested by the delegations. The text was adopted, given that there were no objections from the floor. The Chair turned to the draft paragraph on the Study on Misappropriation of Signs (CDIP/9/INF/5).

609. The Secretariat (Mr. Baloch) read out the draft conclusion to this discussion as follows:

“The Committee discussed the Study on Misappropriation of Signs (CDIP/9/INF/5) and expressed support for the work undertaken. The Committee requested the Secretariat to transmit the document to the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT).”

610. The Delegation of Belgium, speaking on behalf of Group B, stated that it had some procedural issues with the sentence, “The Committee requested the Secretariat to transmit the document to the SCT”. It suggested that the sentence be amended to read as follows, “The Committee took note of the study and the comments made thereof”. The paragraph would then read:

“The Committee discussed the Study on Misappropriation of Signs (CDIP/9/INF/5) and expressed support for the work undertaken. The Committee took note of the study and the comments made thereof.”

611. The Secretariat stated that the sentence had been included at the suggestion of two delegations. The proposal was not contested by other delegations. It also drew the Committee’s attention to paragraph 2 on page 5 of the project document (CDIP/4/3 Rev.) where it was stated, “The findings of the study could form the basis for further consideration and deliberation, as to whether concrete action needs to be undertaken in that area. This component of the project would be coordinated with the SCT”. The Secretariat could include the language from the project document if the Committee wished to do so.

612. The Delegation of Belgium stated that this would be a better option.

613. The Delegation of Brazil stated that as long as there was a clear reference to the idea that the information would be transmitted to the SCT, it could be flexible and accept the proposal by

the Secretariat. It recalled it was one of the delegations that had suggested that the findings of the report be considered in the SCT.

614. The Chair enquired as to whether the Delegation of Brazil could accept the proposal by the Secretariat.

615. The Delegation of Brazil requested for more time to consider if everything was captured in the proposal. It would like to understand the implications of the use of the term “coordinated”. The Delegation’s preferred option was to keep to the original language proposed by the Chair.

616. The Delegation of Belgium stated that it had also made a language suggestion. However, it could go along with the Secretariat’s proposal.

617. The Chair agreed to give the Delegation of Brazil more time to study the proposal.

618. The Secretariat understood the concerns of the Delegation of Brazil and suggested that the sentence could be replaced with the following, “The Committee took note of project document CDIP/4/3 Rev., page 5, paragraph (2), which states that: “The findings of the study could form the basis for further consideration and deliberation, as to whether concrete action needs to be undertaken in that area. This component of the project would be coordinated with the SCT”.

619. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, supported the initial proposal by the Delegation of Belgium on behalf of Group B. They were reluctant to accept the language just proposed by the Secretariat.

620. The Chair stated that the Committee would return to the Study on Misappropriation of Signs later. He moved on to the draft paragraph on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development.

621. The Secretariat (Mr. Baloch) noted that the draft conclusion to the discussion on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development had been circulated. It proceeded to read out the draft conclusion as follows:

“The Committee also discussed the External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/8/INF/1), and a number of related documents, namely:

- (i) Management Response to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/9/14);
- (ii) Report of the *ad hoc* Working Group of an External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/9/15); and
- (iii) Joint Proposal by the Development Agenda Group and the Africa Group on WIPO’s Technical Assistance in the Area of Cooperation for Development (CDIP/9/16).

The Committee agreed as follows:

(a) Based upon the discussions at CDIP/10, the Secretariat should prepare a document for the next session identifying those recommendations that are immediately implementable and/or are in the process of implementation, and report on the progress thereon.

(b) During CDIP/11, one full day would be devoted to discussing:

- (i) the above document;
  - (ii) sharing of best practices from national and other entities involved in technical assistance which may *inter alia* contribute to the improvement of WIPO's technical assistance; and
  - (iii) possible identification of further recommendations for implementation based upon *inter alia* the constructive and substantive discussions held during this session.
- (c) Based upon discussions amongst regional coordinators and interested delegations on the modalities of the presentation of best practices referred to above, the Secretariat will invite interested entities to take part in this exercise.
- (d) The approach contained in (b) above will continue subject to its results and further agreement by the Committee.”

622. The Delegation of Egypt, speaking on behalf of the African Group, proposed that paragraphs (a), (b), (c) and (d) of the draft text be replaced with the following two paragraphs:

“(a) The committee discussed the Secretariat's implementation of some recommendations such as, but not limited to, the manual, the guidelines, IP national policies and strategies, training and capacity-building, Program and Budget-related recommendations, and human resources, experts and Consultants related recommendations. The Committee requested the Secretariat to present further Progress Reports on the implementation of recommendations for CDIP 11.

(b) During CDIP/11, one full day will be devoted to discussing the existing three documents, i.e., CDIP/8/NF/1, CDIP/9/14, CDIP/9/16, and the Secretariat's Progress Reports with a view of identifying further recommendations for implementation.”

623. The Delegation of Bolivia had proposals very similar to those suggested by the Delegation of Egypt. It recalled although there was an oral proposal for presentations to be made in order to share best practices, no agreement had been reached on this. A request was made for the proposal to be submitted in writing, including details on the related recommendations. The other one concerned paragraph (a). The Secretariat had previously provided information on the recommendations that were immediately implementable. The Delegation recalled that some delegations had requested the Secretariat to provide Progress Reports on the implementation of recommendations included in its joint proposal with the DAG and the African Group. It recalled that during the discussion, the Secretariat was ready to provide information on the recommendations in the joint proposal that were already being implemented. Thus, the Delegation supported the language proposed by the Delegation of Egypt with some minor amendments which could be shared later.

624. The Delegation of Brazil, speaking on behalf of the DAG, supported the proposal by the Delegations of Egypt on behalf of the African Group and the comments by the Delegation of Bolivia on the paragraph referring to the implementation of recommendations. This included the presentation of a Progress Report on the implementation of recommendations in the next session, including *inter alia* the details discussed in this session, and for discussions to continue on documents CDIP/8/NF/1, CDIP/9/14 and CDIP/9/16 in the next session.

625. The Delegation of Belgium, speaking on behalf of Group B, preferred the Chair's text as it was very balanced. However, as an alternative, the Group proposed the following could be included in paragraph (a), “Member States requested that the Secretariat prepare a document for the next session of the Committee outlining those recommendations that it believes would be immediately implementable, according to the Management Response”. In paragraph (b), the Group had tried to be constructive by suggesting the idea of discussing and sharing best

practices as a way forward. It found the language in paragraph (b) to be very balanced. Thus, the Group did not see the need for modifications to be made at this stage.

626. The Delegation of Bolivia stated that the paragraphs were not balanced. There was a need to recognize that the Committee had not reached any decision or agreement on the joint proposal. However, the draft included the implementation of a proposal that was put forward during the discussions. This was an imbalance in the sense that a joint proposal submitted in writing was not being implemented while an oral proposal by another group was being implemented. The Delegation was concerned by the language and could not go with the proposal by Group B.

627. The Delegation of Switzerland referred to the Delegation of Belgium on behalf of Group B's comments and believed that the text reflected the discussions that took place. Certain suggestions were made but no agreement was reached on the identification of recommendations for implementation. There was an understanding that the Secretariat would prepare a document on the recommendations that could be immediately implemented for discussion at the next session as well as a Progress Report on recommendations that were already being implemented. The Delegation also believed there was a willingness to exchange experiences and best practices at the national level in order to enhance the discussions. This was reflected in paragraph (b). Delegations needed to work together towards a common vision. After listening to the intervention by the Delegation of Egypt, the Delegation had the impression that the Committee was going back to the beginning of the discussion and there was no flexibility in working towards a common approach. It was in favor of maintaining the text proposed by the Chair.

628. The Delegation of South Africa recalled there was no agreement on the Secretariat identifying recommendations that were immediately implementable. It had explained that there was a coincidence in the sense that it was already undertaking certain activities which were also recommended in the Deere-Roca Report. Hence, some delegations had stated that they would appreciate the presentation of a report on what the Secretariat was already implementing for discussion in the next session. There was no agreement on recommendations that were immediately implementable. Therefore, the Delegation supported the proposal by the Delegation of Egypt on behalf of the African Group. Referring to paragraph (b), the Delegation stated that the whole paragraph was problematic because a statement was merely read out by Group B and supported by the Delegation of Cyprus on behalf of the EU and its Member States. There was no agreement on it. The Delegation had demonstrated flexibility by stating that it could support such an event provided there was clarity on what it was. There was no clarity and there were different versions of what the one day could entail. It recalled that the Delegation of the United States of America had mentioned a list of recommendations which were related to the proposed event. These included, for instance, recommendations B7, B8, B9 and B10. However, when the Delegation examined those recommendations they did not correspond to best practices. It stated that the proposal was merely a response to something that was discussed in the informal consultations. The Delegation was not in a position to support something that was never discussed or agreed to.

629. The Delegation of Egypt highlighted two fundamental challenges with the text proposed by the Chair. The first concerned the request for the Secretariat to identify those recommendations that were immediately implementable. It believed that the text was supported by the Delegation of Switzerland. It recalled that in the last session of the Committee, the Secretariat has already identified those recommendations. The language did not add any value as the Secretariat had already done so. Furthermore, the Committee would be wasting the time and resources of the Secretariat by requesting for the exercise to be repeated once again. The Delegation reiterated that those recommendations were identified in the last session and reflected in the Summary by the Chair for that session. In addition, the Delegation believed that all Member States could agree that it was their responsibility to identify recommendations and to request the Secretariat to implement them. It would be awkward for the Secretariat to identify recommendations

without any guidance from the Member States. The Delegation stressed that the ultimate decision should rest with the Member States as was the norm. In paragraph (b), the Delegation believed it was fair to state that the paragraph contained the proposal submitted by the Delegation of Belgium on behalf of Group B on the third day of the session. The proposal was not discussed at length. As such, the Delegation suggested that this could be dealt with under Agenda Item 8 on Future Work.

630. The Delegation of Switzerland was concerned by the discussions as it seemed that the Committee had not agreed on anything. It would be a shame if it could not come to an agreement, especially since the Delegation had the impression that a consensus could be reached. It recalled that in the last session, the Committee had requested the Secretariat to identify the recommendations which it believed could be immediately implemented, however it had not made a decision. Referring to the document to be prepared by the Secretariat for the next session, the Delegation understood that the Secretariat would examine the proposals in-depth and perhaps included some additional points. The Committee would receive a follow-up document which would enhance the discussions on the current one. The Delegation stressed that the Committee should work towards a compromise to avoid the risk of repeating the discussions in the next session.

631. The Delegation of the United Kingdom clarified that Group B was not asking the Secretariat to go back on this. It stated that the purpose of the revised text suggested by Group B was to identify the recommendations that were implementable in the Management Response and those where there was common agreement. Thus, the Group was trying to move forward on this.

632. The Delegation of Algeria did not really want to enter into the discussions as it was obvious that further consultations were required. However, it wanted to react to the remark that it was a shame that the Committee could not agree to discuss best practices. The Delegation underlined that it was a shame that the Committee had not identified recommendations for implementation, and the fact that a proposal made during the session had not been fully supported.

633. The Delegation of Belgium, speaking on behalf of Group B, joined the Delegations of the United Kingdom and Switzerland and pointed out that Group B was trying to move the discussion forward. The Group recalled that the discussion had begun with an academic view on WIPO technical assistance. The Committee then listened to the Secretariat in terms of what was implementable. This was followed by interesting discussions on technical assistance based on proposals by other regional groups. It was normal for the Group to engage and contribute to the debate. It also stated that it was also completely in line with the Deere-Roca Report for its members to further engage in the discussions as technical partners. The Group referred to the comment by the Delegation of Egypt that the proposal was made on the third day of the session and mentioned that it had made a statement which had included the proposal. The Group stated that some Member States may contact the Secretariat with regard to presentations on best practices. It noted that the Committee had a very enriching discussion and that this was a way forward. The Committee could continue discussing the issue for a long time or keep it short and state that no agreement was reached.

634. The Delegation of South Africa supported the statement by the Delegation of Algeria. The Committee could have identified the recommendations for implementation if it wanted to move quickly on this item. It had always said the discussions should begin with the Chair's summary of the last session. Member States were invited to provide their comments on the three documents. The Delegation stated that Group B chose not to do so and the Committee was being told that it would be a shame not to organize a one-day event which was not thought through. Some delegations had requested for clarifications. The Delegation noted that the members of Group B were not sure of the overall objective and modalities for the proposed event. The Delegation was flexible but the details required were not provided. It proposed the

use of the language adopted in the summary for the last session, and Member States could again be invited to provide their comments on the recommendations. This would enable the Committee to identify recommendations going forward. There was no need for it to continue to engage on a decision that was never taken. The Delegation did not wish to discuss this issue any further. It stated that it was not good to say that there was no agreement simply because Group B had a proposal and some delegations required further details. The Delegation highlighted that the joint proposal by the DAG, the African Group and the Delegation of Brazil was not discussed thus was disappointed. However, it wanted to move forward. The Delegation stated that it was not constructive to say that there was no agreement if the Committee did not agree to the proposal by Group B. The Delegation encouraged the delegations to be constructive.

635. The Delegation of Brazil, speaking on behalf of the DAG, joined other delegations, such as Algeria and Egypt in stating that progress was not achieved on the joint proposal by the DAG, the African Group and the Delegation of Bolivia. The Group emphasized that the Committee was unable to adopt a single component of that proposal, which was very disappointing because many of the suggestions concerned transparency measures which were not difficult to implement. In this regard, it believed that the proposal for the Secretariat to prepare a report on the measures that it had already taken would help to focus the discussions in the next session. However, there was a need for the document to go further than the Management Response. For instance, the manual that was produced by the Secretariat was not mentioned in the Management Response. Furthermore, this merely clustered the recommendations. It would be helpful if the document included information on progress achieved in implementation. The Group stressed that the information provided should be more detailed and complete compared to what was provided in the Management Response. Referring to the proposal by Group B, the Group highlighted that it had discussed this with the other groups in the last few days. It had also mentioned that it did not, in principle, have any problems with the idea. However, as mentioned by the Delegation of South Africa, more details were required for a discussion. There was more to learn on the proposal and the Group needed to reflect before engaging on it. However, the Group had always maintained that it was open in terms of how the Committee could move forward. It appreciated Group B's engagement in putting forward the proposal. However, the Committee did not have all the elements that were required to undertake the actions proposed in paragraph (b) of the draft summary which already stated that one full day would be devoted to discuss the documents and to share best practices. The Committee still needed to move further on this. The Group also felt it was necessary for Member States to fully engage in analyzing the elements of the joint proposal. The discussion had not been productive as none of the recommendations were adopted although many were not difficult to implement. It looked forward to returning to the document and for recommendations to be implemented. The discussion could also be informed by the report from the Secretariat. The Group looked forward to receiving information on progress achieved in the implementation of recommendations by the Secretariat through its activities thus far.

636. The Chair suggested the Committee conclude on this item. There had been a lot of discussion and it should try to agree on an outline for further action so as not to lose what had been gained. Hence, the Chair proposed that paragraph (a) be amended to read as follows, "Based upon the discussions at CDIP/10, the Secretariat should prepare a document for the next session of the Committee identifying those recommendations that are in the process of implementation, and report on the progress thereon". Referring to paragraph (b), it could be stated that the Committee would continue its discussion on technical assistance at its next session based on the three documents. It could also be mentioned that it took note of the proposal to devote a whole day at its next session to discussions on best practices and the proponents were invited to submit a detailed proposal in writing. The Chair explained he wanted to capture the positive elements of the discussion. There were oral presentations concerning some of the recommendations already being implemented by the Secretariat. These would be included in the document to be prepared by the Secretariat and would be a step forward from the Management Response. There was also a verbal proposal by a group to

discuss best practices. Some delegations had given their support in principle but many had also requested for a more detailed submission in order for the details to be clearly set out. The Chair had tried to include all these elements in his revised outline.

637. The Delegation of Belgium, speaking on behalf of Group B, made some preliminary comments on the proposed outline without precluding further comments later. The Group wanted to make sure that if a full day discussion were to take place in the next session the discussion would include the three documents outlined by the Chair and consider the presentations that would also form the basis of the discussions. It believed that the overall discussion would be conclusive and interesting as it would be based on the three documents outlined by the Chair and the presentations that would be made.

638. The Delegation of Brazil, speaking on behalf of the DAG, made some preliminary remarks on the proposal and reserved the right to make further comments at a later stage. The Group wanted to make sure that the documents referred to in the Chair's proposal were the Deere-Roca Report, the Management Response and the joint proposal. This coincided with the first part of the statement by the Delegation of Belgium on behalf of Group B. However, it sought clarification on the second part of the statement on presentations to be made.

639. The Delegation of Algeria also made some preliminary remarks on the Chair's proposal and reserved the right to make further comments at a later stage. It referred to the proposal for the entire Committee to invite the proponents of the one-day initiative to submit a detailed proposal. The Delegation did not think that this should be included in the summary. The Committee was not obliged to invite the proponents to spell out their proposals; the proponents could do so if they so wished.

640. The Chair clarified that the invitation to submit proposals would be extended to all Members States.

641. The Delegation of Algeria had understood that the Chair was only inviting those who had presented the idea of sharing best practices to expand their proposal.

642. The Chair reiterated that the invitation would be extended to all Member States. In this regard, he proposed using the language included in the summary for the last session.

643. The Delegation of Belgium, speaking on behalf of Group B, stated that it would like to see and consider the language proposed by the Chair before making further comments. The Group noted that the discussion was balanced and forward-looking. It understood that the Chair only mentioned three documents. As far as the Group was concerned, they would like the discussion on best practices for national and other entities involved in technical assistance to also be taken on board as far as possible. However, at this stage, it would like to consider the proposal by the Chair in writing before making any further statements.

644. The Delegation of South Africa also requested for the Chair's proposal to be written and distributed. Its interpretation of the proposal was different from the Delegation of Belgium.

645. The Chair stated that the Secretariat was in the process of doing so. The text was subsequently distributed to the delegations.

646. The Chair noted that the delegations had reviewed the written text of his proposal. He believed that the proposal was the best way forward and was keen to hear the views of the delegations.

647. The Delegation of Belgium, speaking on behalf of Group B, thanked the Chair for his proposed language. The Group suggested two amendments to the draft text; it proposed that the term "discussions" in the fourth line of the last paragraph be replaced with the phrase, "presentations on bilateral technical assistance with a view to identify best practices and lessons



learned”. Separately, the Group also suggested adding the following phrase in the last sentence as follows, “the Committee agreed that documents i, ii and iii and any proposal discussed at this session would be discussed at its next session”.

648. The Delegation of South Africa referred to the amendments proposed by Group B. It did not have a problem with the suggestion to discuss proposals discussed or submitted at this session. However, the Delegation noted that the first amendment proposed by Group B went into the modalities of the one-day event. In this regard, it would like the conclusion to simply state that the one-day event was on sharing best practices without going into matters that were not clarified.

649. The Delegation of Brazil, speaking on behalf of the DAG, made some preliminary comments on the Chair’s proposal. The Group noted that the first paragraph referred to document CDIP/8/NF/1. However, it was also necessary to include a reference to this document in the last paragraph which only referred to the documents mentioned in subparagraphs i, ii and iii. It then referred to subparagraph (a) which stated that “Based upon the discussions at CDIP 10, the Secretariat should prepare a document for the next session of Committee identifying those recommendations that are in the process of implementation, and report on the progress thereon”. The Group wanted the sentence to be more specific and suggested that the words “of the joint proposal (CDIP/9/16)” should be inserted after the word “recommendations”.

650. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, supported the amendments proposed by the Delegation of South Africa. The EU and its Member States could agree to the amendment suggested by the Delegation of Belgium in the last sentence. They could also agree to the amendment proposed by the Delegation of South Africa in the second sentence of paragraph (b), “sharing best practices on bilateral technical assistance”. The sentence would read as follows, “The Committee took note of the proposal made by some delegations to have a whole day at its next session devoted to sharing best practices on bilateral technical assistance on this issue”. They however did not support the amendment proposed by the Delegation of Brazil.

651. The Delegation of Switzerland could not accept the proposal by the Delegation of Brazil to refer to the joint proposal (CDIP/9/16) in subparagraph (a). The sentence should not change.

652. The Delegation of Belgium, speaking on behalf of Group B, would also like the text of paragraph (a) to omit the amendment proposed by the Delegation of Brazil which referred to the recommendations of the joint proposal.

653. The Delegation of Algeria supported the proposal by the Delegation of Brazil. It recalled that some delegations had posed questions to the Secretariat based on the joint proposal by the DAG, the African Group and the Delegation of Bolivia. This should be mentioned to reflect what had taken place. With regard to the idea of sharing best practices, the Delegation could not consider this as a proposal as it had not been submitted in writing. It could not support something that had not been submitted in writing. A statement was made and the Delegation was unable to identify the details of the idea. Therefore, the Delegation supported the proposal by the Delegation of South Africa to simply state that the one-day event was on sharing best practices in technical assistance.

654. The Delegation of Ecuador supported the proposal by the Delegation of Brazil.

655. The Delegation of South Africa noted that the Delegation of Cyprus had supported its proposal. In this context, it clarified its suggestion to avoid any confusion. The Delegation noted that the proposed amendment by the Delegation of Belgium was too lengthy. It prejudged the output as it went into the modalities. It recalled that the suggestion was made in a statement and referred to the sharing of best practices in technical assistance. Thus, the

Delegation wanted to shorten the sentence and just refer to the best practices in technical assistance without going into the modalities which were still unknown.

656. The Delegation of Hungary refrained from taking the floor as it did not want to prolong the discussions. It requested the delegations to be constructive, and to try bringing the discussions to an end. Referring to the proposal by the Delegation of Brazil and the explanation by the Delegation of Algeria, the Delegation recalled that some proponents of the joint proposal had asked questions about the recommendations that were in the process of implementation. However, the Committee later agreed that the document to be prepared by the Secretariat as a future step would not be limited to that proposal. It believed it would be good for the Secretariat to report on progress in the implementation of recommendations as a result of its initiatives. With regard to paragraph (b), the Delegation believed there was a middle ground between the two proposals in the sense that a whole day could be devoted to discussions on the broader issue, and also include presentations on best practices.

657. The Delegation of Monaco expressed confusion with the discussion. It recalled that when the Committee was discussing a different paragraph, some delegations had mentioned the need to go into further details concerning the views expressed in order to properly reflect what had been said. However, in this instance, it appeared that details should not be included with regard to the proposal by Group B. The Delegation found the contradictory approaches difficult to understand. It supported Group B's suggestion including further details on the sharing of best practices in technical assistance.

658. The Delegation of the United Kingdom did not see the need for the addition suggested by the Delegation of Brazil, as paragraph (a) stated that the document was based on the discussions of CDIP 10. It noted that the joint proposal was mentioned in the first part of the draft conclusion, so was already included in the draft.

659. The Delegation of Peru supported the proposal made by the Delegation of Brazil to refer to the joint proposal in paragraph (a) as it was important and should be included.

660. The Chair suggested a compromise to help the Committee to reach a consensus on this item. Paragraph (a) would remain as drafted. The second sentence in paragraph (b) would be amended to read as follows, "The Committee took note of the proposal made by some delegations to have a whole day at its next session devoted to discussions on best practices on technical assistance". The last sentence would be amended to read as follows, "The Committee agreed that document CDIP/8/INF/1, and related documents i, ii and iii listed above, and any new proposal would be discussed at its next session".

661. The Delegation of Algeria could be flexible on paragraph (a). Referring to amendments to paragraph (b), it was still worried by the fact that it had decided to note and discuss an idea that was presented at this session. It stated that it may not be prepared to do the same in the next session; however the Delegation could show flexibility to discuss new proposals in the next session if they were submitted well before it. In this context, the Delegation proposed that the words "presented well in advance" be inserted in the sentence after the word "proposal". The sentence would read as follows, "The Committee agreed that document CDIP/8/INF/1, and related documents i, ii and iii listed above, and any new proposal presented well in advance would be discussed at its next session". It explained that the proposals must be submitted well before in order for it to prepare its response.

662. The Chair believed it was clear that contributions should be submitted well in advance. However, some language could be found to accommodate the concerns of the Delegation of Algeria.

663. The Delegation of Belgium, speaking on behalf of Group B, referred to the suggestion by the Delegation of Algeria, stating that if a proposal was tabled the day before the session this

could also be considered to be well in advance of the session. The Group noted that Member States were invited to submit proposals. It stated that the language proposed by the Chair was fine and there was no need for further amendments.

664. The Delegation of South Africa explained that the Delegation of Algeria was trying to say that when the Members were invited to submit proposals, a date was normally included. In this case, it highlighted the Delegation of Algeria was not even asking for a date and delegations were simply required to submit their proposals in advance. For example, the proposal by Group B was orally submitted during the session. The delegations did not know much about it but were gracious enough to accommodate it. As such, the Delegation would like the suggestion by the Delegation of Algeria to be included. It also requested the Chair to repeat the whole draft to make sure that all the amendments were included as proposed.

665. The Chair understood the concerns of the Delegation of Algeria. The Committee could not undertake a substantive discussion of a proposal without giving the delegations an opportunity to examine it in-depth. This should be understood by all delegations. The Chair enquired whether the Delegation of Algeria would still insist on its proposed amendment or if it was already covered in the preceding sentence.

666. The Delegation of Algeria maintained its position on this issue, noting that it was stated in the Chair's summary for the last session that proposals which were submitted well before would be discussed. Therefore, it highlighted that Group B had made its proposal during the session even though it was clearly stipulated that proposals should be submitted well in advance. The Delegation believed it was clear that any submitted during the session would not be considered. It could not discuss a proposal submitted during the session which it had not seen before.

667. The Chair called on the Delegations of Belgium and the United States of America. He referred to Rule 21 of the Rules of Procedure. He did not wish the Committee to dwell on each and every aspect of a decision as the session could still be going on at 2 a.m..

668. The Delegation of Belgium, speaking on behalf of Group B, reiterated it wanted to enrich the debate on technical assistance. The Group had made a proposal and found it difficult to understand why it was argued that there were some procedural rules which could hinder further discussions. It would like to contribute to the debate and wished to take the discussion further. It agreed with the language proposed by the Chair.

669. The Delegation of the United States of America fully supported the statement made by the Delegation of Belgium on behalf of Group B. The Delegation also requested the Delegation of Algeria to clarify what it meant by "well in advance". It knew there were two proposals submitted on the IP and Development Conference (CDIP/10/16 and CDIP/10/17) just last week, one was submitted on Thursday and the other on Friday or Saturday. Thus, it failed to understand what the Delegation of Algeria meant by "well in advance". The Delegation stated that Group B had made its proposal orally as per Rule 21 of the Rules of Procedure and would be following it up in writing.

670. The Delegation of South Africa reiterated that what the Delegation of Algeria was trying to say was that there should be a deadline for submitting proposals so that the delegations could become familiarized with the proposal. That was why the Delegation had stated that it was normal to include a cutoff date for submissions when Member States were invited to contribute proposals. It did not see anything wrong in reflecting this in the decision.

671. The Delegation of Algeria referred to the question raised by the Delegation of the United States of America and stated that a proposal should not be submitted on the very day it was to be discussed.

672. The Delegation of Belgium, speaking on behalf of Group B, stated that it was important to move forward on development concerns. The Group reiterated that the language proposed by

the Chair was good. It put forward a question to the Delegation of Algeria. The Group enquired as to whether the Committee should refuse to discuss a good proposal that was put forward on the day to enhance the discussion on technical assistance if a deadline was set, bearing in mind that the objective of the Committee was to further development.

673. The Chair noted that the Delegation of Algeria wanted to avoid receiving a contribution on the very day it was to be discussed. It had qualified and clarified its position. The Chair enquired as to whether the Delegation of Algeria would still like this to be included in the summary.

674. The Delegation of Algeria referred to the point raised by the Delegation of Belgium that a proposal could be tabled on the day and the Committee would not be in a position to discuss it. It stated that if the draft mentioned that any new proposal would be discussed at the next session, the Delegation would be committing to proposals that it did not know anything about. It was certain that no delegation would be happy to do so. However, it recalled that the Chair had mentioned that this was already covered in the preceding sentence. Thus, the Delegation suggested that the words "well in advance" could be removed from that sentence and added to the last sentence to avoid any repetition.

675. The Delegation of Morocco made a proposal that the third sentence in paragraph (b) could be moved to the end of the paragraph and could read, "The Committee recalled its earlier invitation to Member States to provide their contributions and proposals in writing for discussion well in advance of the next session". The sentence would cover the whole paragraph.

676. The Chair noted that two proposals had been put forward.

677. The Delegation of Brazil recognized that according to the Rules of Procedure, a proposal could be made even on the day of the discussion. However, the Delegation highlighted that it always helped if it was made available before the session in order for its capital authorities to examine and provide an opinion on it. It stated that this was required for it to receive guidance on the proposal. When proposals were made during the course of the discussion, no matter how good they may be, it was sometimes not in a position to make a final decision because its authorities had not been able to comment on it. It was good for proposals to be submitted in writing prior to the session as it helped the deciding-making process. As such, the Delegation generally preferred proposals to be submitted in writing in advance.

678. The Delegation of Belgium suggested that the paragraph could refer to Rule 21 of the Rules of Procedure as a solution.

679. The Delegation of South Africa stated that there was no need to invoke the Rules of Procedure in this instance as the Committee also needed some flexibility. The Delegation suggested that it could either include the words "well in advance" or introduce a deadline. It stated that this did not mean proposals could not be submitted during the session. It could still be done but in most instances, the Committee would not be able to decide on the proposal.

680. The Chair made one last attempt to help reach consensus on this issue. He proposed that the third sentence of paragraph (b) be replaced with the following, "The Committee agreed that document CDIP/8/INF/1, and related documents i, ii and iii listed above, and any new proposal would be discussed at its next session. In this connection, the Committee recalled its earlier invitation to Member States to provide their contributions in writing for discussion well in advance of the next session".

681. The Delegation of Algeria accepted the language proposed by the Chair.

682. The Chair declared the draft conclusion to be adopted, given that there were no objections from the floor.

683. The Secretariat invited the Committee to consider the draft conclusion to the discussion on document CDIP/10/13 on Developing Tools for Access to Patent Information - Phase II. It read the following conclusion, "The Committee addressed the project proposal for Developing Tools for Access to Patent Information – Phase II (CDIP/10/13), and approved the project."

684. The Chair thanked the Secretariat. The conclusion was adopted given that there were no observations from the floor. He turned to the draft paragraph on the MDGs noting the revised draft had been circulated. The draft reflected the observations and comments made by various delegations.

685. The Secretariat (Mr. Baloch) read out the revised draft conclusion to the discussion on the MDGs as follows:

"The Committee discussed the study Assessing WIPO's Contribution to the Achievement of United Nations Millennium Development Goals (MDGs) (CDIP/10/9). Delegations supported the continuation of work by WIPO in achieving the MDGs, and an effective mechanism for reporting on that contribution to the Member States on a regular basis. The Secretariat will submit to the next session of the CDIP a document analyzing the following:

- (i) That WIPO should take the necessary steps to join the MDG Gap Task Force, and engage with the Inter-Agency Expert Group on MDG indicators (IAEG);
- (ii) The feasibility of integration of MDGs-related needs/outcomes into the WIPO program-planning phase, and development of specific indicators for MDGs; and,
- (iii) The need by WIPO to refine the reporting of its work and contribution to the MDGs on the dedicated webpage by providing more credible and concrete results drawn from the performance data in the relevant PPRs and the MDG-specific indicators. The information on the webpage should be regularly updated to reflect the evolving nature of the Organization's work related to the MDGs."

686. The Chair stated that the conclusion was approved, given there were no observations from the floor. He then invited the Committee to consider the draft summary on the Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda recommendations (CDIP/10/12).

687. The Secretariat (Mr. Baloch) noted that the draft conclusion had been circulated. It stressed that an attempt had been made to capture the proposals from the floor. The Secretariat proceeded to read out the draft conclusion as follows:

"Further under Agenda Item 6, under the document CDIP/10/12, the Committee discussed the Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda recommendations. Different views were expressed referring to the term "relevant bodies", due to the differences in interpretation of the decision by the Assembly establishing the Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities. Some delegations suggested that the decision should be referred back to the General Assembly for further clarification, while other delegations suggested that the WIPO Bodies themselves should determine whether they are "relevant bodies" for the purpose of the Coordination Mechanisms. The Committee appreciated the information received from the various committees on the contribution to the implementation of the DA recommendations, but some delegations expressed concerns at not having received information from the CWS and the P&B Committee. Views also differed as to the structure and content of the reports presented to the Committee on this subject."

688. The Delegation of Belgium, speaking on behalf of Group B, suggested some amendments to the text proposed by the Chair. The Group proposed the word "suggested" be replaced with the word "stated" in the third sentence after the words "other delegations". It would also like the phrase, "and that the matter should not be referred back to the General Assembly", to be added at the end of the same sentence after the words "for the purpose of the Coordination Mechanisms". Finally, the Group referred to the fourth sentence and proposed that the phrase, "while other delegations expressed the view that these two Committees were not "relevant bodies" and could not fall under the scope of the Coordination Mechanism", be included after the reference to the P&B Committee

689. The Delegation of South Africa proposed some amendments to the Chair's text. It referred to the second sentence and suggested that the reference to the "Assembly" be replaced with a reference to the "2010 General Assembly". The Delegation explained that the amendment reflected the suggestion made by some delegations earlier. The Delegation then referred to the fourth sentence and proposed the word "committees" be replaced with "WIPO bodies". It also proposed that the words "having received information" be replaced with "received reports" in the same sentence.

690. The Chair noted the suggestions by the Delegations of Belgium and South Africa. He stated that the text would be revised accordingly and submitted to the Committee for its consideration. The Chair then invited the Committee to turn to the revised draft conclusion to the discussions on the Study on Misappropriation of Signs.

691. The Secretariat (Mr. Baloch) recalled the proposal by Group B to replace the language in the second sentence concerning the transmission of the document to the SCT with the language contained in the project document. It informed the Committee that the Delegation of Brazil also agreed with this. It proceeded to read the revised draft conclusion as follows:

"The Committee discussed the Study on Misappropriation of Signs (CDIP/9/INF/5) and expressed support for the work undertaken. It took note of project document CDIP/4/3 Rev., page 5, paragraph (2), which states that: "The findings of the study could form the basis for further consideration and deliberation, as to whether concrete action needs to be undertaken in that area. This component of the project would be coordinated with the SCT."

692. The Delegation of South Africa stated that it did not have a copy of the written text of the revised draft.

693. The Secretariat (Mr. Baloch) stated that it did not have a written copy and repeated the draft conclusion which it had just read out.

694. The Chair stated that the written text would be circulated soon. The conclusion was adopted given there were no objections from the floor. He then invited the Committee to return to the work program on flexibilities. He understood there were still some issues that needed to be ironed out and gave the delegations 10 minutes to hold consultations in this regard.

695. The Chair resumed the discussions on the work program on flexibilities. He understood that the consultations had led to a revised draft. The Chair read out the draft he had received from the Delegation of Brazil as follows:

"The Committee considered Future Work on Patent-Related Flexibilities in the Multilateral Legal Framework (CDIP/10/11). The Committee was not able to complete its discussion on this document, which will be continued at its next session, without prejudice to consideration of future work on patent-related flexibilities."

696. The conclusion was adopted given there were no objections from the floor. The Chair turned to the draft paragraph on the Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development (CDIP/6/12 Rev.).

697. The Secretariat read out the draft conclusion to the discussion on document CDIP/6/12 Rev. as follows:

“The Committee discussed a Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development (CDIP/6/12 Rev.). Different views were expressed on the proposal.”

698. The Delegation of Brazil, speaking on behalf of the DAG, proposed that the phrase, “but agreed to retain the proposal on the Agenda for its next session” be included in the paragraph.

699. The Delegation of Belgium, speaking on behalf of Group B, did not recall that there was an agreement to retain the document in the Agenda.

700. The Delegation of South Africa supported the amendment proposed by the Delegation of Brazil. The Delegation would like the issue to be resolved by the General Assembly. However, as it was late, the Delegation was flexible and could go along with the language proposed by the Chair with the amendment suggested by the Delegation of Brazil.

701. The Delegation of Switzerland did not recall a decision to retain the document in the Agenda. It stated that different views were expressed in the discussions. There was also no decision to go back to the General Assembly. As such, it stated that the text proposed by the Chair should be kept without any modifications.

702. The Delegation of Pakistan noted that the item had been on the Agenda for sometime. The Delegation had heard some delegations saying that the Committee had not agreed to retain it in the Agenda for the next session. However, the Delegation stressed that the Committee had also not agreed to remove the item from the Agenda for the next session.

703. The Delegation of Egypt supported the proposal by the Delegation of Brazil to retain the document for the next session.

704. The Delegation of Canada supported the proposal by the Delegation of Belgium. The document should not be on the Agenda.

705. The Delegation of Belgium, speaking on behalf of Group B, reiterated that it did not agree with the proposal by the Delegation of Brazil.

706. The Delegation of Brazil thanked the Delegation of Pakistan for its contribution. The Delegation requested the Delegation of Pakistan to restate its proposal, and urged the Committee to consider the proposal.

707. The Delegation of Pakistan clarified that it had not suggested a text. It had mentioned that there was no agreement to either retain or remove the document. As such, the Delegation suggested that the language used in the last two sessions could be considered and perhaps the Secretariat could assist.

708. The Delegation of the United Kingdom stated that the text drafted by the Secretariat was succinct and it should be used.

709. The Secretariat (Mr. Baloch) read out paragraph 18 of the Summary by the Chair for the eighth session of the Committee as follows:

“With respect to document CDIP/6/12 Rev., on a Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development, the Committee decided that the issue should remain on the Agenda for discussion at its next session, and that informal consultations should continue during the intersessional period. The Committee decided that sufficient time should be allocated during its next session including to discussion of preparations for the International Conference on IP and Development.”

710. The Delegation of Canada highlighted that the main difference between the two texts was that the Committee had agreed in the eighth session to keep the issue on the Agenda. However, it had not done so in this session.

711. The Delegation of Belgium, speaking on behalf of Group B, reiterated its preference for the text proposed by the Chair.

712. The Delegation of Brazil, speaking behalf of the DAG, recalled that Member States had provided their views in the plenary discussion. A preliminary summary had been read out for the consideration of the Member States. The Group had consulted and this was its suggestion. Thus, it was following the procedures that had been established for the session. The Group would like the summary to reflect the point that the item would remain on the Agenda for the next session. The Group noted that other delegations had pointed out that other aspects were also discussed, for instance, the idea of going back to the General Assembly for clarification. That would also entail clarification on the second pillar of the Committee’s mandate. However, the Group was not discussing that, it merely wanted the text to reflect the fact that the delegations had exchanged views on this Agenda Item. They could not reach an agreement and the discussion would continue in the next session. It did not have any problem with that. Although it had been on the Agenda for several sessions, the Group had no problem continuing the discussion in the next session as this item was important.

713. The Delegation of South Africa proposed the inclusion of the language used in paragraph 11(m) of the last session as follows:

“The Committee addressed a Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development (CDIP/6/12 Rev.) and could not reach an agreement, but agreed to retain the Proposal on the Agenda for its next session.”

714. The Delegation stated that if the document were to be removed from the Agenda, it would only be re-submitted by the delegations concerned. Thus, it was logical for it to remain on the table for discussion.

715. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, supported the statement made by the Delegation of Canada and reiterated that it would not be factually correct to indicate that the Committee agreed to include this as an item for the next session. It stated that the draft proposed by the Chair was factually correct and could be kept. Alternatively, it could also be indicated that there was no agreement to keep the document in the Agenda for the next session.

716. The Delegation of Brazil reflected on the comments made by the Delegation of Pakistan. It also did not recall that there had been an agreement to remove this item from the Agenda for the next session. The Delegation recalled that the discussion was adjourned after an exchange of views, which was why it was insisting on retaining this item in the Agenda for the next session.

717. The Delegation of Switzerland reacted to the statement by the Delegation of Brazil. It stated that there had not been a decision to retain the document on the Agenda as there had not been a proposal for it to be retained. It understood from the Delegation of South Africa that there was a possibility that the proposal would be re-submitted. As such, the Delegation stated that the conclusion should be factual and if delegations would like to resubmit the proposal, they



could do so in accordance with the Rules of Procedure. However, it believed that would only lead to another redundant discussion and the Committee would not be able to use the time to work on other issues.

718. The Delegation of South Africa stated that the Agenda Item was very important. The Delegation referred to the comments made by the Delegation of Switzerland and clarified that it did not state that the proposal would be removed and re-submitted. It insisted the document should be retained for the next session and would continue to do so even if it meant that the session would go on till 3 a.m.. The Delegation believed there should be way to break the deadlock. The Delegation thought that some of the conclusions which were agreed on had watered down the discussions on the respective items. It was trying to be constructive. It recognized that there was no agreement. However, the Delegation had difficulty in understanding why certain delegations were expected to be flexible on decisions that were taken while others were not. It believed that many of the decisions on the conclusions were one-sided, thus it urged the delegations to be constructive and to move forward on the basis on the agreed language in the Chair's summary for the last session. The Delegation stated that the language could be used and it would not take anything away from the members of Group B.

719. The Delegation of Belgium, speaking on behalf of Group B, referred to the comments made by the Delegation of South Africa and stated that it was unfair to say that the decisions were one-sided. The Group was being constructive and believed that the Committee had made a lot of progress as many conclusions had been finalized. It referred to the statement by the Delegation of Switzerland and noted it was already past 9 p.m.. Thus, it was up to the delegations to decide whether it would be wise to continue discussing this item until early morning.

720. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, supported the statement made by the Delegation of Switzerland. The EU and its Member States highlighted that they had explicitly mentioned in the discussion on this Agenda Item that they did not wish to continue the discussion at the next session. As such, they reiterated that it was factually incorrect to state that there was agreement for it to remain as an Agenda Item.

721. The Chair enquired as to whether the Delegation of South Africa had a suggestion to break the deadlock.

722. The Delegation of South Africa sought guidance from the Secretariat in this regard. It attached significant importance to the issue which must be resolved. The Delegation emphasized that it had been very flexible on other issues.

723. The Delegation of Hungary suggested that the Committee could continue with other items and return to this item at a later stage.

724. The Delegation of the United Kingdom reiterated that the text proposed by the Chair was accurate. It noted that the ongoing discussion was not a summary of what had been discussed on this item.

725. The Chair invited the Committee to consider another Agenda Item while the Secretariat looked into how the deadlock could be broken.

726. The Secretariat (Mr. Baloch) referred to the draft conclusion to the discussion on document CDIP/10/10 on Further Steps in the Work Program on Flexibilities in the IP System. It recalled that the draft had not been finalized as the Delegation of Brazil had wanted to discuss it together with the paragraph on CDIP/10/11. The Committee had decided on CDIP 10/11. The Secretariat repeated the draft conclusion to the discussion on CDIP/10/10 as follows:

“The Committee discussed Further Steps in the Work Program on Flexibilities in the Intellectual Property System (CDIP/10/10). The Secretariat took note of the Member States’ guidance on the agreed areas of work for further implementation.”

727. The Delegation of Brazil stated that its doubts had been resolved following the discussion on CDIP/10/11. The Delegation did not have any further comments on the draft paragraph on CDIP/10/10.

728. The Chair stated that the conclusion was adopted given that there were no objections from the floor. The Chair turned to the draft paragraph on the Conference on IP and Development. He recalled the informal consultations that had occurred during the previous evening on this item. There was common ground on the modalities of the conference. It was agreed that the conference would be entitled “International Conference on Intellectual Property and Development”. It was also agreed that it should take place in the second half of 2013, in Geneva, and the Secretariat was instructed to identify possible dates based on the calendar of meetings in WIPO. The Chair requested the Secretariat to brief the Committee on the dates.

729. The Secretariat (Mrs. Longcroft) stated that on the issue of the proposed date for the International Conference on IP and Development currently requested for the second half of 2013, the Secretariat was aware that with the normal schedule of meetings, this would open a period from September until the end of December 2013. After inquiries with the senior management of WIPO, it found that it was unable to give a confirmed date in terms of the availability of the room as well as the availability of Member States, since the schedule for permanent committees for 2013 was still being discussed. The Secretariat did not yet have a confirmed date on which that schedule would be finalized.

730. The Delegation of South Africa requested for clarification as its mission had received a schedule of committee meetings for next year and the dates were mentioned.

731. The Secretariat explained that it understood from the Office of the DG that the list of proposed dates was sent to the missions for consultation and had not yet been confirmed.

732. The Delegation of South Africa mentioned that the list which was sent did not state it was intended for consultation. A note was attached and it stated that the list was on meetings and dates for 2013. It stated that the list had been sent to its capital as the schedule of meetings for next year.

733. The Secretariat (Mr. Baloch) stated that the DACD would try to find out more about the dates. The Division was informed that the schedule of meetings had been circulated. Some countries had submitted comments on this and there was a possibility that dates could be reconsidered. When the schedule was finalized the Secretariat would try to identify appropriate dates. It would keep the Chair informed on this matter.

734. The Chair noted that it would be difficult to identify a date at this stage.

735. The Delegation of Brazil understood that the schedule which was circulated the previous week to delegations in Geneva was a tentative one and there was a possibility that the dates could be revised. However, at a certain stage, it would be possible to identify available dates. It assumed that its understanding was correct and that dates would be available. It stressed that it was important for the Committee to know of the available dates well in advance in order to organize the conference. The Delegation stated that once the Committee decided on the exact date, the conference would be accorded the same degree of priority as committee meetings and other events already scheduled. The Delegation highlighted this because it would not be acceptable for the dates to be changed at short notice as it would not be feasible for the Committee to work on the conference. The dates should not be changed once they were finalized.

736. The Chair understood dates would be available in the second half of 2013, which was confirmed by the Secretariat. He stated that there was agreement on the broad parameters of the conference following the informal consultations yesterday evening. As such, he proposed that the Secretariat be requested to prepare a concept paper based on the broad parameters identified as possible areas of agreement in the discussions last night. The Chair also suggested that the Member States could reconvene in an informal setting in two to three weeks to try and further define the modalities of the conference. He hoped that the dates for the conference would be known by then, and requested delegations to provide written contributions or comments in preparation for the informal consultations to be held in two to three weeks.

737. The Delegation of Algeria understood the Committee had agreed that the conference would be held in the second half of 2013, in Geneva. The title had also been agreed. However, other issues such as the themes, participation, duration and expected outcomes would be discussed and finalized in the informal consultations. The Delegation would like to know if its understanding was correct.

738. The Chair explained that there were other areas of agreement based on the discussions last night, that were based on written submissions on the Conference on IP and Development. On the duration, he stated that some delegations were of the view that two days was enough while others felt three days would be required to allow for serious discussions to take place. Thus, it was agreed that the duration of the conference would be two to three days. The Chair stated this would be indicated in the concept paper to be prepared by the Secretariat. On the format, the Chair noted that there was a general agreement that there would be plenary sessions and smaller sessions. However, there were differing views on whether side-events were necessary. On the outcome, he recalled that there was a general agreement that all presentations and articles discussed in the conference would be made available on a dedicated web site. The proceedings would also be webcast. However, there was a difference in terms of whether there should be a report on the conference. On participation, the Chair stated that there was general agreement that the conference would be open to government officials, business, academia and civil society. These were the broad parameters that were agreed.

739. The Delegation of Belgium, speaking on behalf of Group B, referred to the side-events, stating that as long as there were normal side-events which did not overlap, the Group did not have any problems with them.

740. The Chair noted that there was now an agreement on side-events on the condition that they did not overlap.

741. The Delegation of South Africa supported the Chair's proposal requesting the Secretariat to prepare a concept paper based on the inputs that were provided. In this regard, clarified that the DAG and the African Group had already submitted their proposals. The Delegation noted that other delegations were invited to do so and stressed these should be submitted within a certain period of time as decisions had to be taken soon. It could agree with the Chair's proposed conclusions.

742. The Delegation of Cyprus requested for the meeting to be briefly suspended as it needed to consult with its group members on this issue.

743. The Chair agreed to this provided that it did not take too long.

744. The Delegation of Brazil made a similar request.

745. The Chair agreed to the request.

746. The Delegation of Switzerland requested the Chair to repeat what he had mentioned with respect to the format for the conference.

747. The Chair stated that based on the discussions last night there was an agreement that there would be plenary sessions as well as smaller sessions. There were differences on whether side-events were required. However, he noted that the Delegation of Belgium had just provided a clarification on Group B's concept of the side-events.

748. The Delegation of Switzerland stated that it may comment on these aspects after the consultations.

749. The Chair resumed the discussions on the Conference on IP and Development. He requested the Secretariat to read out the draft paragraph. The text would be circulated.

750. The Secretariat read out the draft conclusion which reflected the broad parameters of agreement mentioned by the Chair. This was as follows:

"The Committee discussed two documents concerning the conference on development and IP (CDIP/10/16 and CDIP/10/17). The Committee agreed on the title for the conference as follows: "International Conference on Intellectual Property and Development", and agreed that the venue of the Conference would be Geneva, Switzerland. The Committee further agreed that the conference would be held over two or three days in the second half of 2013. The Committee agreed to reconvene in informal sessions within two to three weeks of this session to further refine the concept and organization for the conference. The Secretariat would prepare a concept paper based on the broad parameters of agreement identified by the Committee. Delegations were requested to provide written comments before the informal sessions commenced."

751. The Delegation of Belgium, speaking on behalf of Group B, noted that the written text would be circulated in the room. The Group believed it would be better to give Member States more time to submit comments. It also stated that if broad language was to be included on concepts, the Committee should try to clarify these as much as possible without time spent on what could be discussed further at the level of the regional coordinators.

752. The Chair requested the Delegation of Belgium to clarify the last point of its statement.

753. The Delegation of Belgium referred to the informal consultations which took place the previous night. Therefore, it recalled that in the discussion on the concept or format, agreement was reached on at least one element. Thus, perhaps the agreed elements on the format could be specified. The elements that were not discussed the previous day could be taken up at a later date.

754. The Chair enquired as to whether the Delegation of Belgium was referring to the inclusion of the said elements in the concept paper.

755. The Delegation of Belgium confirmed that the Chair's understanding was correct.

756. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, aligned itself with the statement made by the Delegation of Belgium on behalf of Group B. The EU and its Member States sought clarification on the reference to "informal sessions of the Committee" as this was something new. They would also like to see the written text of the draft conclusion before agreeing to it.

757. The Chair clarified that the phrase which was cited by the Delegation of Cyprus should read as follows, "The Committee agreed to hold an informal session within two to three weeks".

758. The Delegation of South Africa reiterated that proposals that had been made should be included as a basis for the concept paper to be prepared by the Secretariat. It understood the parameters of the informal consultations yesterday and the contributions to be submitted by interested delegations would also be taken on board. The Delegation referred to the proposed

informal consultations and stated that these should be open-ended. Participation should not be restricted to the regional coordinators.

759. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, proposed an amendment to the text proposed by the Chair. The EU and its Member States suggested that the words, "To reconvene in informal sessions", be replaced with the phrase, "The Committee agreed to hold informal consultations".

760. The Delegation of Switzerland would like the sentence, "Delegations presented their preliminary view on the proposal and alternative idea on the organization of the meeting", to be included after the reference to CDIP/10/16 and CDIP/10/17. It explained that this was because Group B had also put forward their ideas on the organization of the conference and it was fair that these should be reflected.

761. The Delegation of Brazil listened to the comments made by other delegations and suggested that the words "informal sessions" be replaced with the words "open-ended informal consultations". On the concept paper, it agreed that it should be based on documents CDIP/10/16 and CDIP/10/17, submissions by Member States and what was agreed that night. The Delegation referred to the proposal by the Delegation of Switzerland and suggested it be simplified by including the words "and an exchange of views took place" after the reference to CDIP/10/16 and CDIP/10/17.

762. The Delegation of Switzerland clarified that its suggestion was aimed at capturing the fact that an alternative proposal was also put forward on the organization of the conference. It was important for this to be considered in preparing the concept paper.

763. The Delegation of Pakistan understood the concern expressed by the Delegation of Switzerland and it should be taken care of. However, there was a need to be careful with the language as the words "an alternative idea" could imply that there was an alternative idea to holding an IP conference.

764. The Delegation of Switzerland reiterated that it was referring to an alternative idea on the organization of the conference. It was not putting into question the idea of it. The Delegation suggested the term "organization" could be replaced with the term "modality" if preferred.

765. The Delegation of Brazil referred to the proposal by the Delegation of Switzerland and suggested that words like "additional", "other" or "other contributions on the modalities" could be included instead of the word "alternative". The use of the word "alternative" could imply there were competing ideas or divergent views. That was why the Delegation had suggested including the phrase, "and an exchange of views took place".

766. The Chair enquired as to whether the Delegation of Switzerland could agree to the use of the words "contributions" or "inputs" instead of "alternative ideas".

767. The Delegation of Switzerland understood the point made by the Delegation of Brazil. However, it was a fact that views diverged on some points concerning the organization of the conference.

768. The Chair reiterated that the broad parameters of agreement were based on the discussions last night. Those were based on two submissions, i.e., documents CDIP/10/16 and CDIP/10/17, and the contribution by Group B. The Chair believed that these aspects were captured in the draft text.

769. The Delegation of South Africa agreed with view expressed by the Delegation of Brazil on the use of the word "alternative". Perhaps it could be mentioned that other delegations made proposals or contributions without any qualifications such as "alternative" and so on.

770. The Delegation of Switzerland could agree to the use of the word "other" instead of the word "alternative". It suggested that the Secretariat could read out the full sentence.

771. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, expressed support for the amended text proposed by the Delegation of Switzerland. Although, the EU and its Member States could agree to the proposal by the Delegation of Brazil to include the words "open-ended informal consultations", they would prefer the words "reconvene" to be replaced with "convene" or "hold" before those words. They would also prefer the words "two to three weeks" to be replaced with "three to four weeks" in the same sentence. They also suggested that the words "and proposals" be included in the last sentence after "written comments". The EU and its Member States could potentially agree to the summary on the condition that there would be no preparatory process leading up to the conference.

772. The Delegation of Brazil referred to the suggestions put forward by the Delegation of Cyprus on behalf of the EU and its Member States. It did not have a problem in replacing the word "reconvene" with "hold". However, the Delegation requested for clarification on the requirement that there would not be a preparatory process for the conference.

773. The Chair requested the delegations to refrain from getting into the details of the modalities as these could be discussed in the informal consultations. There was a need to focus on the proposed conclusions. The Chair had proposed that the informal consultations should take place in two to three weeks. He noted that some delegations felt that it was too soon and there was a counterproposal by the Delegation of Cyprus for these to take place in three to four weeks. A decision was required in this regard. The Chair enquired as to whether the Committee could agree to the proposal by the Delegation of Cyprus. The proposal was adopted given that there were no objections from the floor. He requested the Secretariat to read out the revised draft based on the comments and suggestions from the floor.

774. The Secretariat (Mrs. Longcroft) read out the revised draft as follows:

"The Committee discussed two documents concerning the conference on development and IP (CDIP/10/16 and CDIP/10/17). Delegations presented their preliminary views on the proposals. Some delegations presented other ideas on the modalities of organization of the conference. The Committee agreed on the title for the conference as follows: "International Conference on Intellectual Property and Development", and agreed that the venue of the Conference would be Geneva, Switzerland. The Committee further agreed that the Conference would be held over two or three days in the second half of 2013. The Committee agreed to hold an open-ended informal consultation within three to four weeks of this session to further refine the concept and organization for the Conference. The Secretariat would prepare a concept paper based on the broad parameters of agreement identified by the Committee. Delegations were requested to provide written comments and proposals before the informal session commenced."

775. The Delegation of Egypt, speaking on behalf of the African Group, sought clarification on the content of the concept paper to be prepared by the Secretariat and the invitation for other contributions by Member States, since the Group had already submitted its contribution. The contribution should serve as a basis for the concept paper. The Group did not expect to provide a new contribution that would be materially different from what it had submitted. Thus, it requested for this aspect to be clarified and whether there was a need for it to be mentioned in the conclusion.

776. The Delegation of Belgium, speaking on behalf of Group B, stated that the language was good. The Group suggested a minor modification to the last sentence, it proposed the word "session" be replaced with "consultation".

777. The Chair noted the suggestion by the Delegation of Belgium which would be taken into account. He then referred to the request by the Delegation of Egypt for clarification and stated that documents CDIP/10/16 and CDIP/10/17 had helped the Committee to identify the broad parameters of agreement. However, other delegations should also be given an opportunity to contribute ideas. The Chair explained that the concept paper would include the broad parameters of agreement already identified. These were on the title, duration, venue, format, participation and outcome of the conference. However, he noted that the Member States had yet to engage in substantive discussions on the themes and some may wish to make contributions in this regard. The concept paper and the forthcoming informal consultations would also be based on the contributions. The Chair believed the process was fair and reasonable as it was important for all Member States to embrace the conference.

778. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Chair for the clarification. It stated that the contributions should be submitted well before the informal consultations for the delegations to examine them. The Group noted that there had been an in-depth discussion of its contribution during the session and looked forward to doing the same regarding the contributions that would be made.

779. The Chair believed that the concern expressed by the Delegation of Egypt was captured in the conclusion as it was clearly stated that delegations were requested to provide written comments before the informal consultations.

780. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, referred to its previous intervention and clarified that it had not referred to the informal consultations mentioned in the paragraph. The Delegation had referred to the organization of other meetings such as regional meetings before the international conference. As it was agreed that the conference would be held next year, the EU and its Member States believed that there was no time for a long preparatory process that would also include such meetings. The conference should be a stand-alone event.

781. The Chair stressed that the Committee was not discussing these details which would be taken up in the informal consultations. There was a need to decide on the content of the draft conclusions. He declared the conclusion to be adopted with the last amendment proposed by the Delegation of Belgium on behalf of Group B, given that there were no objections from the floor. The Chair then invited the Committee to return to the draft paragraph on a Proposal for a CDIP New Agenda Item on IP and Development.

782. The Secretariat (Mr. Baloch) stated that the original text proposed by the Chair was contained in paragraph 10(k) of the draft summary which had been circulated. He read out the following text:

“The Committee discussed a Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development (CDIP/6/12 Rev.). Different views were expressed on the proposal.”

783. The Secretariat recalled that the Delegation of Brazil had wanted to add a sentence stating that the Committee decided to retain this document for its future session.

784. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, urged the delegations to accept the original text proposed by the Chair.

785. The Delegation of Egypt highlighted that the proposal was submitted by Member States. If concerned Members did not wish to withdraw it, the proposal was still valid and it should remain on the table.

786. The Delegation of Belgium, speaking on behalf of Group B, reiterated its preference for the original text proposed by the Chair.

787. The Delegation of South Africa sought the Secretariat's guidance on how to break the deadlock.

788. The Chair stated that the Secretariat had looked into the Rules of Procedure. He drew the Committee's attention to Rule 23 and the procedure involved voting. He was reluctant to put this matter to a vote.

789. The Delegation of Brazil, speaking on behalf of the DAG, recalled that the discussion on this Agenda Item earlier in the week was suspended because the Committee had been discussing it for a long time. It had moved on to the next item without reaching any conclusion on the discussion. Thus, there had been no decision to remove it from the Agenda. The Group believed its proposal should be implemented and hence wanted the discussion to continue in the next session. Many delegations had expressed their views but a decision was not taken. Thus, it did not see how it could be said that the discussion would not continue in the next session.

790. The Delegation of Hungary noted that it was late and everyone was tired. Without prejudice to what took place during the discussions, it suggested a compromise by going along with the language agreed in the last session and to continue the discussion in the next session, even though it believed that this would be pointless and the same situation would arise. If the delegations that had submitted the proposals would like to keep it on the table for discussion at the next session, the Delegation could go along with the proposal by the Delegation of Brazil to keep it on the Agenda. However, it stressed that the proponents of the proposal would need to come up with new ideas in the next session to convince other delegations the need to discuss it further.

791. The Chair thanked the Delegation of Hungary for its proposal and enquired as to whether the Committee could agree to it.

792. The Delegation of South Africa had earlier suggested that the Committee should move forward by using previously agreed language. The Delegation hoped that it could accept the proposal by the Delegation of Hungary.

793. The Delegation of Canada requested for the meeting to be suspended for two minutes for consultations.

794. The Chair agreed to the request.

795. The Chair resumed the discussions and enquired as to whether there were any objections to the proposal by the Delegation of Hungary.

796. Delegation of the United States of America stated that on a matter of principle, the suggestion by the Delegation of Brazil that the Committee agreed to retain the Agenda Item was factually incorrect. It had not agreed to that. The Delegation wondered if there was some other way to get around this as the proposal was inaccurate.

797. The Chair noted that the proposal by the Delegation of Hungary did not refer to proposal by Brazil.

798. The Delegation of Hungary clarified that it had referred to the Chair's summary for the last session. However, it agreed the use of the language in this instance was not factually correct. The Delegation suggested that perhaps it could be stated that there were no objections to retain the proposal on the table.

799. The Delegation of Switzerland understood that during the discussion the EU and its Member States had objected to keeping this item on the Agenda. As such, the suggestion was not factually correct. It suggested that if the Delegation of Brazil and other concerned



delegations wanted to keep this on the Agenda for the next session, they could resubmit their proposal for discussion in the next session. The text originally proposed by the Chair should be kept as it was factually correct. The Delegation believed this was the proper way to go about it.

800. The Delegation of Egypt reiterated that during the discussion many delegations had supported the proposal and perhaps some had also opposed it. However, there was no agreement to remove it from the Agenda. The Delegation stated it would be unfair for the item to be removed just because some opposed discussing it. It also noted that the Chair's summary for the last session contained the same language proposed by the DAG as it stated that the Committee "agreed to retain the Proposal on the Agenda for its next session".

801. The Delegation of Brazil suggested that it could be stated that the discussion on this Agenda Item was not exhausted and that it would be retained for discussion in the next session. The Delegation reiterated that the discussion had not been exhausted. Member States had exchanged views. The Committee had moved on to the next Agenda Item before concluding the discussion.

802. The Delegation of Australia reacted to the proposal by the Delegation of Brazil. It stated that there was a mechanism for resolving an impasse and it was called common sense. It noted that the issue had been raised at consecutive sessions and there had not been anything close to an agreement. The Delegation stated that in Australia, the expression "flogging a dead horse" was used and it basically meant that there was no point in whipping a dead horse because it was not going to go anywhere. However, it noted the need to find a compromise. It recognized that some delegations were interested in pursuing the discussion. From the Delegation's perspective, the summary of the meeting should reflect what was discussed. The Committee should not change the facts when it got to the summary. However, it was true that some had indicated that they intended to pursue the issue. As such, the Delegation suggested that the existing language be retained and the following sentence could be added at the end, "Some delegations indicated their intention to pursue this issue at future meetings of the Committee".

803. The Delegation of Pakistan could go along with the text proposed by the Chair with the inclusion of the following, "and the discussion was postponed to the next session", at the end of the paragraph. It stated that this would avoid the use of the word "agreed".

804. The Delegation of Belgium, speaking on behalf of Group B, stated that the suggestion by the Delegation of Australia was sensible and should be followed up.

805. The Delegation of the United States of America agreed with the suggestion by the Delegation of Australia, and thought it was the best formulation so far. It was an accurate representation of what was discussed and allowed members to bring forward the proposal at the next session.

806. The Delegation of South Africa supported the proposal by the Delegation of Pakistan as it reflected what had taken place in the discussion. It reiterated that no decisions had been taken. The Delegation recalled that during the discussion, the Chair had requested the Committee to move to the next item. As mentioned by the Delegation of Brazil, the discussion had not been exhausted. Thus, the Delegation stressed that it could not be said that the discussion had concluded, however it was fair to state that it would continue in the next session.

807. The Chair enquired as to whether there was a way to reconcile the proposals by the Delegations of Australia and Pakistan.

808. The Delegation of Pakistan suggested that the proposals be merged by including both sentences. The sentence proposed by it could be included after the suggestion by the Delegation of Australia.

809. The Delegation of China supported the earlier proposal by the Delegation of Pakistan. The Delegation stated that the proposal was a compromise and it took into account the need for the text to be factual. It stated that it was a fact that the discussion in the session had not concluded and there had not been a decision. Thus, the Committee should allow the discussion to continue in the next session.

810. The Delegation of Brazil supported the earlier suggestion by the Delegation of Pakistan as well as the proposed merging of the proposals by the Delegations of Pakistan and Australia.

811. The Secretariat (Mr. Baloch) proposed the following sentence, "The discussion on this Agenda Item was not concluded and some delegations indicated their intention to pursue this issue at the next session of the Committee".

812. The Delegation of Canada made a suggestion to merge the proposals by the Delegations of Australia and Pakistan. At the end of the text proposed by the Chair, the Delegation proposed including of the following sentences, "Some delegations expressed their intention to pursue discussions at the next session. Some others disagreed. The discussions were not conclusive".

813. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, expressed support for the amendment proposed by the Delegation of Canada.

814. The Delegation of Australia could accept the suggestion that was read out by the Secretariat for the proposal which was tabled by the Delegation of Canada.

815. The Delegation of Egypt supported the proposal that was read out. It suggested that the words, "or through high-level discussion" be included at the end of the sentence.

816. The Delegation of the Russian Federation could go along with the suggestion that was read out by the Secretariat or the proposal by the Delegation of Canada.

817. The Delegation of South Africa requested the Secretariat to repeat its suggestion. It also requested the Delegation of Pakistan to clarify its proposal to make sure nothing was lost in the merging of the two proposals.

818. The Secretariat (Mr. Baloch) read out the entire paragraph as follows:

"The Committee discussed a Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development (CDIP/6/12 Rev.). Different views were expressed on the proposal. The discussion on this Agenda Item was not concluded and some delegations indicated their intention to pursue this issue at the next session of the Committee".

819. The Delegation of Pakistan agreed with the Delegation of South Africa that there was a need to be clear on this important issue. It noted that the Committee had spent considerable time on the Chair's summary because it needed to be clear on what it was going to do. The Delegation had heard the Delegation of the United States saying that it could accept what the Delegation of Hungary had proposed but without the use of the word "agreed". Thus, its idea was to state that the discussions had not concluded and were postponed to the next session. The Delegation stressed that it did not state that there was agreement on the content and recognized that divergent views were expressed in the discussion.

820. The Delegation of Brazil stated that the phrase, "The discussion on this Agenda Item was not concluded" was factually correct and could be left out of the discussion. It reiterated that the Committee had discussed the item to a certain point when it was dropped as it had to move on to another Agenda Item. The Delegation concurred with the suggestion by the Delegation of Pakistan that the discussion was postponed to the next session because it had not concluded. It was not saying that the Committee agreed or disagreed. The Delegation understood that

different views were expressed and this was natural. The Delegation stated that it was factual to state that the discussion had not concluded. As a consequence, the discussion would continue in the next session.

821. The Delegation of South Africa stated that it had difficulty accepting the wording that was proposed by the Delegation of Australia because as mentioned by the Delegation of Brazil, if something was not concluded, it would be at some stage. Thus, the discussion had to be postponed. As such, the Delegation would like the decision to be precise without stating that "some delegations indicated their intention to pursue this issue at the next session of the Committee". Thus, it would like the last sentence to end after the words "not concluded". The Delegation stated this implied that the discussion would continue at the next session.

822. The Chair noted the proposal by the Delegation of South Africa.

823. The Delegation of Switzerland accepted the proposal made by the Delegation of South Africa.

824. The Secretariat believed the delegations had arrived at an understanding. As suggested by the Delegation of South Africa, the paragraph would stop after the word "concluded". It read out the paragraph as follows:

"The Committee discussed a Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development (CDIP/6/12 Rev.). Different views were expressed on the proposal. The discussion on this Agenda Item was not concluded".

825. The Secretariat stated that the paragraph would appear in the summary with an understanding that the document would be automatically included in the discussion on future work concerning the next session of the CDIP. It understood that the delegations agreed to the proposal.

826. The Delegation of Switzerland stated if all delegations were to agree to the proposal, it would not oppose it. However, it noted that it was strange for an item to automatically appear on the Agenda. It stated that this should not create a precedent for future.

827. The Chair enquired as to whether the Committee could approve the draft conclusion that was read by the Secretariat. The conclusion was adopted given that there were no objections from the floor.

## **AGENDA ITEM 8: FUTURE WORK**

828. The Chair opened discussions on future work and invited the Secretariat to present the items.

829. The Secretariat proposed a list of items that may be included in the work of the eleventh session of the Committee. This was as follows:

- Director General's Report on the implementation of the Development Agenda. This was presented annually to the Committee.
- Evaluation reports on one or two projects that would be completed by the next session.
- WIPO's Contribution to the Achievement of United Nations MDGs. As decided (paragraph 10(a) of the Summary by the Chair), the Secretariat would submit a document containing an analysis of three areas highlighted in the report by the external Consultant.

- External Review of WIPO Technical Assistance in the Area of Cooperation for Development. As decided (paragraph 10(i) of the Summary by the Chair), the Secretariat would submit a document on the recommendations under implementation.
- Using Copyright to Promote Access to Information and Creative Content. The Secretariat would arrange for a feasibility assessment taking into account the guidance given by the Member States in the discussion on document CDIP/9/INF/3.
- Future Work on Patent-Related Flexibilities in the Multilateral Legal Framework. As decided (paragraph 10(c) of the Summary by the Chair, the discussion on document CDIP/10/11 would continue in the next session, without prejudice to the consideration of future work on patent-related flexibilities.
- Conference on IP and Development. An update may be provided to the Committee.
- Proposal for a CDIP New Agenda Item on Intellectual Property (IP) and Development.

830. The Delegation of Cyprus, speaking on behalf of the EU and its Member States, valued the constructive discussions on technical assistance and encouraged the continuation of the high quality debate in the CDIP. The EU and its Member States believed the Committee would benefit from a review and discussion of best practices and lessons learned within the wider area of technical IP assistance, as proposed in the Deere-Roca Report. They looked forward to making presentations on technical assistance activities during the next session of the CDIP. They also looked forward to discussing the TORs for the second inter-regional meeting on South-South Cooperation in an extended format of regional coordinators to allow for more transparency in the process. The EU and its Member States made some recommendations to improve the overall effectiveness of the Committee. First, more attention should be given to prioritizing the work of the Committee by concentrating on those areas where there was consensus to move ahead and to leave aside the items that could not be agreed on or were duplicative of the work of other substantive committees, thus, considerably shortening the overall list of topics and documents. Second, the prioritization of work should be reflected in the Agenda of meetings. The EU and its Member States appreciated the efforts made by the Secretariat in presenting a more detailed Agenda. However, they were still of the view that the Agenda should be more structured to provide clear guidance to delegations, in particular, avoiding listing too many documents under a single item. Topics of discussion should appear more explicitly in the Agenda and documents clustered accordingly. The thematic Agenda should come with a time schedule with specific Agenda Items for each morning and afternoon session. The EU and its Member States also requested for the full Agenda, including the work program, to be made available at least two months prior to a meeting to allow for adequate preparation. They understood that the work program for this meeting proved difficult to agree to but hoped that this could be avoided in the future. For this purpose, the discussion of future work should take place early in the week. Sufficient time should be allotted to effectively prepare for the next session of the Committee without leaving it to intercessional consultations to solve pending issues. Third, while they appreciated the challenges of managing documentation, they emphasized that for delegations to make the most efficient use of the resources allocated to each session, the Secretariat should strive to ensure the timely availability and translation of documents in compliance with the Rules of Procedure. It would be particularly helpful if the documents were made available at least two months prior to the meeting to allow for adequate preparation. Furthermore, the EU and its Member States were of the opinion that the Committee should consider a possible limitation of the number and length of documents produced. Fourth, they thanked the Chair for measures taken during the session to improve the time efficiency of the Committee's work and looked forward to continuing and further improving the good practices at future sessions. General statements should only be read out by groups, other opening statements could be handed to the Secretariat, the meetings should start and finish more punctually, and coffee breaks must continue to be avoided. Each

paragraph in the Chair's summary should be read out and adopted at the end of each Agenda Item to allow for an early adoption of the summary at the end of the week. The EU and its Member States trusted the Chair's guidance in managing time efficiently and facilitating progress in the work of the Committee in its future sessions.

831. The Delegation of Egypt, speaking on behalf of the Africa Group, made several comments on future work. First, the Group requested the Secretariat to start work on the implementation of the General Assembly decision in 2010, to conduct an independent review of the implementation of DA recommendations. In this regard, it requested the Secretariat to present the TORs for the review in the next session. Second, the Group referred to its proposal in the last session of the Committee to include an Agenda Item on WIPO's contribution to the post-MDGs Development Agenda. It believed this was an important issue. Information had been presented on some of the work that WIPO was doing and the Group would like the discussion to continue. Last but not least, it requested the full array of documents on flexibilities to be available in the next session in order for progress to continue on that important issue. It recognized that the Committee was not listing all the documents that would be included for the next session. However, the Group understood that documents related to flexibilities would be used in that session.

832. The Delegation of Brazil, speaking on behalf of the DAG, highlighted the comment by the Delegation of Egypt on the importance of the external review of the implementation of the DA recommendations. The General Assembly decided on this in 2010. The Group would like the decision of the General Assembly to be included under future work.

833. The Delegation of Peru, speaking on behalf of GRULAC, reiterated that it was important for the Secretariat to compile all the activities that were organized since 2007. Member States needed to know what had taken place in order to set priorities for the future. The Group believed the external review which was already planned for the end of next year would be useful in identifying priority areas. It requested the Secretariat to prepare a compilation of activities and the TORs for the external review for the next session of the Committee.

834. The Chair requested the Secretariat to read out the items proposed for discussion in the next session.

835. The Secretariat (Mr. Baloch) had noted down three items. First, draft TORs for the external review. It read the relevant paragraph of the General Assembly decision on Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities as follows, "To request the CDIP to undertake an independent review of the implementation of the DA recommendations at the end of the 2012/13 biennium. Upon consideration of that review, the CDIP may decide on a possible further review. The TORs and the selection of independent IP and development experts will be agreed by the CDIP". As work on the review should commence towards the end of 2013, the Secretariat suggested that the TORs could be prepared for the November 2013 session of the CDIP. Upon approval by the Committee, work could be undertaken in accordance with the TORs. However, the decision was in the hands of the Committee. Second, work on the post-MDGs Development Agenda. Third, the proposal by GRULAC on a compilation of activities related to the implementation of the various DA recommendations.

836. The Delegation of Belgium, speaking on behalf of Group B, asked the Secretariat whether its work would be manageable if these proposals were accepted. The Group also did not know whether the work of the Committee in the next session would be overloaded with proposals. It stated that although it may not put forward any concrete proposals, this did not mean that it would accept the proposals by other delegations.

837. The Delegation of Switzerland stated it was not ready, at that stage, to accept the three additional proposals put forward. It had heard how difficult it was to decide on proposals that

were not submitted in advance. As such, the Delegation requested the delegations concerned to make their proposals in the next session in order for the Committee to properly discuss them. The Committee would then decide whether it was appropriate to include them in the Agenda. Concerning the TORs for the independent review, it stated that in the discussion on the Coordination Mechanism, it was decided that the TORs would be discussed in the last session of the CDIP in 2013. Thus, in view of the decision that was taken and the long negotiations to arrive at a compromise, the Delegation stated that the discussion should begin in the last session of the CDIP in 2013.

838. The Delegation of Egypt, speaking on behalf of the African Group, pointed out that the Group's proposals were included in its opening statement on Monday. On the TORs for the external review, it highlighted that the General Assembly did not indicate the session in which the draft TORs would be discussed. It merely stated that the independent review would be conducted at the end of the 2012/13 biennium. Thus, it was logical for preparatory work to begin in April 2013, in order for the decision to be implemented in the second half of 2013.

839. The Delegation of Brazil, speaking on behalf of the DAG, reiterated that the independent review on the implementation of DA recommendations was included in the decision by the General Assembly in 2010. Thus, it should be implemented as it was decided by the General Assembly. The Group had also mentioned the need for this activity to be undertaken in one of its interventions during the discussions in the session. It had stated the same decision that established the Coordination Mechanism also required an independent review on the implementation of the DA recommendation to be undertaken at the end of this biennium. This was also mentioned by the Secretariat. As such, the Group stressed that the proposal was not made at the last minute and it reflected the Group's commitment to implement decisions.

840. The Delegation of Peru, speaking on behalf of GRULAC, stated that the same was mentioned in its opening statement on Monday. It was clearly stated in the General Assembly decision that an independent review of the implementation of the DA recommendations would be undertaken at the end of the 2012/13 biennium. However, this did not mean that the Committee would start discussing the TORs by the end of next year. The Group agreed that it needed to discuss the TORs in May in order for work to begin on the review by the end of next year. It also referred to the question put forward by the Delegation of Belgium to the Secretariat on whether it would be able to manage the workload. It was interested to hear the Secretariat's response.

841. The Chair invited the Secretariat to respond to the comments from the delegations.

842. The Secretariat (Mr. Baloch) referred to the question put forward by the Delegations of Belgium and Peru on the workload and the Secretariat's ability to deliver. It stated that it could not really comment on this. It had consistently stated in every session of the CDIP that it tried to do its best, however this was sometimes a challenge. For example, when documents were delayed and could not be translated in time. In that context, the Secretariat requested the delegations to try and prioritize work. On the draft TORs, the Secretariat stated that it would need some guidance from the Member States. Thus, if the Committee agreed and subject to the availability of time, an initial discussion could take place in the next session to give guidance to the Secretariat on the elaboration of the TORs which could then be submitted to the twelfth session of the Committee. With regard to the proposal by the Delegation of Peru on the status of implementation of the various DA recommendations, the Secretariat pointed out that the information was partly contained in the annex to the Director General's Report. It would need to clearly understand the additional information that may be required by GRULAC. Hence, the workload would depend on what GRULAC had in mind in terms of the information to be provided by the Secretariat. Referring to the proposal on the post-MDGs Development Agenda, the Secretariat stated it was up to the delegations to discuss and decide on this. It would take action based on the outcome of those discussions. The Secretariat remained entirely in the hands of the Committee.

843. The Delegation of Belgium, speaking on behalf of Group B, took note of the need to set priorities as documents could be delayed and so on. On the three proposals that were put forward by certain delegations, the Group noted that these had not been discussed earlier in the session and there was no agreement to discuss them at this stage. As such, it would be hard for the proposals to be included in the Agenda for the next session.

844. The Delegation of Brazil referred to the intervention by the Delegation of Belgium on behalf of Group B. It reiterated that the decision of the General Assembly required the independent review to be undertaken at the end of the 2012/13 biennium. The CDIP would hold two sessions before then. The Delegation stressed on the need for work to begin well in advance in order for the review to be properly undertaken. As mentioned by the Delegation of Peru on behalf of GRULAC, the process would benefit if discussions began in the next session. The Delegation noted that the Committee had to agree on the TORs as well as the selection of independent IP and development experts. It wondered if the process for defining the TORs and the selection of experts would be compromised if the discussion was postponed to almost the end of the biennium. Although there were many other items on the Agenda, the Delegation believed it would be better for the Committee to start the discussion in the next session rather than postpone it.

845. The Delegation of Pakistan highlighted that this concerned a mandate by the General Assembly, to which the Committee had to adhere. The decision stated that the independent review had to take place towards the end of 2013. However, the discussions had to start earlier. The Delegation believed that if the discussions were to begin in November, the Committee would not be able to undertake the independent review by the end of 2013. Thus, it was better to start discussing the TORs, as mentioned by the Secretariat, and perhaps some other issues in the next session in order for the Committee to move forward.

846. The Delegation of Egypt, speaking on behalf of the African Group, agreed that priorities should be set. Therefore, the Group had prioritized the two issues mentioned in its proposals for the next session. It was deeply concerned that they were not being agreed to. The proposal on the post-MDGs Development Agenda was put forward in the last session, thus it was not raised for the first time. The Secretariat had also reported work was being done in this area. The Group did not believe that the presentation by the Secretariat would take up a lot of the Committee's time. Referring to the independent review, it stated that the Committee could begin with an initial discussion, as mentioned by the Secretariat. The discussions should be started, otherwise the Committee may not be able to fulfill an important requirement of the decision by the General Assembly.

847. The Delegation of Australia addressed the proposal to include, under future work, the discussion on the period beyond 2015 in relation to the as yet unrealized MDGs. It believed it would be better for that discussion to be held after the Committee had the benefit of the Secretariat's analysis. It had requested the Secretariat to undertake an analysis in accordance with a decision that was taken earlier. The Secretariat's analysis would guide the Committee's discussions on the period beyond 2015. The Committee would also have a clearer view of the broader UN's approach to that period. The Delegation also pointed out that in terms of the MDGs there was no end to the realization of those ambitions. It involved a transition from one point to another and it would be sensible to move the discussion in that phased way. At this stage, it was not supporting the inclusion of a post-MDGs discussion because it was really about a post-2015 response to those ambitions, and the Committee should be guided by the Secretariat's analysis as well as the UN's broader response to that period beyond 2015.

848. The Delegation of Switzerland reiterated that these items should not be on the Agenda for the next session because there was already a lot of work for that session. With regard to the TORs for the independent review, it could definitely agree to the submission of the document for the CDIP session in November. It believed that the Committee had enough work for the next session. The Delegation noted that the Committee had much to do in this session and there

was not enough time to discuss some items in detail. On the post-MDGs Development Agenda, it stated that the Delegation of Australia had clearly explained why it was premature to include this on the Agenda. It did not understand the Delegation of Egypt's request relating to its third proposal.

849. The Delegation of South Africa explained the reasons for the proposal by the African Group on the post-2015 Development Agenda. The Director General's Report for the last session had referred to this. However, the Member States did not have any information on WIPO's involvement. There was also a need for them to discuss the MDGs and the post-2015 DA. The Delegation pointed out that the UN General Assembly was in the process of developing modalities for that. Each specialized agency was responsible for developing its own modalities. The agencies should also participate in the process with the involvement of their Member States. They were aware that the Secretariat was engaged in the process but they were not part of it. In this regard, the Delegation pointed out they were not driving the process and that was the problem. On the independent review, the Delegation stated that the decision of the General Assembly was clear on this matter. It noted that the decision did not state that the TORs should be discussed in the November 2013 session. It attached a lot of importance to the review. The Secretariat should start work and provide at least the first draft of the TORs to the next session. The Delegation stated the Member States would not be able to contribute effectively and the processes may be delayed if a first draft was provided in November. The Delegation did not think that the TORs and the selection of independent IP and development experts could be finalized in one session. There was a need to start in advance. As such, it supported the proposal by the African Group.

850. The Delegation of Egypt requested the Delegation of Switzerland to clarify its request in order for it to respond.

851. The Delegation of Switzerland would like the Delegation of Egypt to explain its third proposal for the next session.

852. The Delegation of Egypt clarified that it had proposed two items on behalf of the African Group. These concerned the post-MDGs Development Agenda and the draft TORs for the independent review.

853. The Delegation of Australia responded to the intervention by the Delegation of South Africa. The Delegation found it quite persuasive that it was a relevant discussion. It proposed that the MDGs, including the current UN approach and the post-2015 period, be on the Agenda. It noted that they were being discussed. The Delegation believed that the goals themselves were being discussed on the Agenda. Thus, the Delegation questioned whether there should be a separate item on the post-2015 era. It stated the goals were worth discussing under the item that was already on the Agenda.

854. The Chair highlighted the need for the Committee to conclude on this matter. As a way forward, he suggested that it initiate discussions on the draft TORs for the independent review in the next session, as proposed by the Secretariat. This was because it had clearly stated that it needed guidance from Member States in order to act. They could continue to consult on the other issues on the table.

855. The Delegation of Switzerland enquired as to whether the Chair would be holding consultations on the other issues in the intersession.

856. The Chair stated that the issues were proposed by delegations for consideration. His only suggestion was for a decision to be made to initiate discussions on the draft TORs for the independent review. On the two other issues, he did not want to propose a specific approach. Informal consultations were held on Agenda Items for this session. They were not successful. Hence, the Chair did not want to take that route at this stage.



857. The Delegation of Canada referred to the General Assembly decision in 2010, and stated that it specifically mentioned that the Committee should start working on the TORs only at the end of the 2012/13 biennium. Thus, the Delegation did not understand the urgency of starting work on this issue at the next session. It noted that there was a lot on the Agenda for the next session. It was suggested that perhaps the TORs could be discussed in the November session.

858. The Delegation of Egypt, speaking on behalf of the African Group, stated that it could be flexible and accept the Chair's proposal. As some delegations had difficulty in including a discussion on the post-MDGs Development Agenda in the next session, the Group asked whether it would be possible for the Secretariat to organize an information meeting on this item. This should not exert pressure on the Committee's time.

859. The Chair stated that the Secretariat had just informed him that it should be possible to hold a side-event on the Agenda Item proposed by the Delegation of Egypt on behalf of the African Group.

860. The Delegation of Brazil reacted to the intervention by the Delegation of Canada. It reiterated that the General Assembly's decision required the independent review to be undertaken at the end of the 2012/13 biennium. Thus, the Delegation felt that the earlier the Committee started discussing the TORs, the better it would be for the process.

861. The Delegation of Algeria did not consider initiating discussions on the TORs for the independent review as future work. It suggested the Secretariat could invite Member States to submit ideas on the TORs. Language could be included to this effect. The language in the 2010 General Assembly decision could be incorporated.

862. The Delegation of South Africa supported the Delegation of Brazil's view. Referring to the decision on the Coordination Mechanism, it recalled that it was negotiated that the independent review would start at the end of 2012/13. The Delegation pointed out that the discussion on the TORs was different. For the review to begin at the end of 2012/13, they should be finalized and the independent IP and development experts identified by then. Hence, the process should begin beforehand. The Delegation reiterated that the discussion should start at the eleventh session of the Committee.

863. The Delegation of Switzerland reiterated that there was enough on the Agenda for the next session. It recalled that when the decision on the independent review was discussed, the idea was that the discussion would start during the CDIP at the end of next year because certain things had to be done so that the independent review was properly carried out. Enough time should be spent on these before starting the review. The Delegation reiterated that there was enough for the next session and this item should not be added.

864. The Delegation of South Africa believed that the General Assembly decision was clear. It also noted that the Secretariat usually took the initiative to follow-up on such recommendations in consultation with the Member States. The Delegation would like to know what the Secretariat had planned in terms of the decision by the General Assembly and whether it was waiting for the Member States to come up with proposals, as mentioned by the Delegation of Algeria.

865. The Secretariat (Mr. Baloch) had expected Member States to bring up the issue of the independent review. It suggested that the Committee could start the process. The TORs, identification of experts and so on should be ready towards the end of 2013, and the Committee should try to finalize these at its twelfth session. The Secretariat reiterated that it had expected the Member States to have this issue in mind, and it would be guided by them.

866. The Delegation of Egypt, speaking on behalf of the African Group, highlighted that several African countries were LDCs with small delegations in Geneva. However, the delegations were ready to work on these issues in the next session of the CDIP as they attached great importance to the issues, which could benefit them. Thus, the Group appealed to the

Delegation of Switzerland, the host country, to be open to the proposal for the discussion to start in the next session.

867. The Delegation of Switzerland stated that it was always very constructive and had been flexible on many points. However, it believed there were too much items for the next session and this was not constructive if the Committee would like them to be properly discussed. As a final compromise, the Delegation could accept an initial exchange of views among delegations in the next session without anything in writing. The Delegation stressed that there should not be a paper as it really wanted to focus on other issues. The TORs would be developed for the twelfth session of the Committee. The Delegation could not accept anything more at this stage, and the Committee had enough to do for the next session.

868. The Delegation of South Africa requested to know whether the Delegation of Switzerland could guarantee that the review would commence at the end of 2013, and requested some assurance as this concerned a mandate from the General Assembly. The Delegation noted that the Committee had been talking about the mandate since Monday and there seemed to a tendency to not want to abide with mandates from the General Assembly. Thus, it wanted to be assured that the mandate would be implemented at the end of 2013. It did not understand why work could not begin.

869. The Delegation of Brazil reacted to the intervention by the Delegation of Switzerland. The Delegation stated the Secretariat had pointed out that it required guidance from Member States on how to proceed. It believed that the discussions would benefit from having ideas put down on paper. It stated that all Member States were concerned with time management. The Delegation was aware that the workload for the next session was challenging and needed to be managed efficiently. In this regard, the Delegation believed that the discussions would be more time-consuming and complicated without a document containing some ideas. The Secretariat could also elaborate on the guidance required from Member States. Therefore, the Delegation suggested that the Secretariat could prepare a paper on the information that was required. It believed that it would help to promote efficiency by focusing the discussions on this item.

870. The Delegation of Switzerland reacted to the intervention by the Delegation of Brazil. It noted that this delegation had referred to efficiency. In this regard, the Delegation did not believe it was efficient to continue including the previous item on the Agenda. That item would again be on the Agenda for the next session and it could prevent discussions on the TORs. It reiterated there were many items on the Agenda for the next session. As mentioned, the Delegation could be flexible in terms of starting the discussion on the TORs. The Delegation believed that the Secretariat would need to know what Member States had in mind before preparing a document. Referring to the assurance sought by the Delegation of South Africa, the Delegation stressed that it would fully engage in order for the study to be launched by the end of 2013. However, this was a matter for discussion and views of other delegations would also be considered in reaching a compromise.

871. The Chair invited the Secretariat to respond to the proposal by the Delegation of Brazil.

872. The Secretariat (Mr. Baloch) found itself in a difficult situation in the sensitive discussion. It referred to its earlier suggestion for the Committee to undertake an initial discussion on this issue. The Secretariat had in mind what the Delegation of Switzerland has just mentioned. The Secretariat would need ideas and guidance from the Member States in order to draft a document. The General Assembly decision on the Coordination Mechanism included a paragraph which stated that there would be an external review. It would need to know what the Member States had in mind in terms of the shape, structure, scope, size and so on of the external review. Thus, rather than the Secretariat taking the lead in drafting something, they could guide it on the requirements. However, this was a delicate subject and it was difficult for the Secretariat to give an opinion.

873. The Chair enquired as to whether the Committee could agree to include the item on the Agenda to allow for initial discussions to take place with the purpose of providing guidance to the Secretariat on the elaboration of the proposed document. This was agreed given there were no objections from the floor.

### **CLOSING OF THE SESSION**

874. The Chair invited the Secretariat to make some concluding remarks.

875. The Secretariat (Mr. Onyeama) stated that the session was a challenge as always. However, the Secretariat observed that the ambience was welcoming and warm; it augured well for the future. The Secretariat thanked the Chair for the excellent way in which he had guided the Committee and looked forward to seeing him in the next session. It also thanked the colleagues and interpreters for their work. The Secretariat concluded by assuring the delegations that all their recommendations and instructions had been taken on board. The Secretariat would see to the preparation of documents for the next session.

876. The Chair thanked the delegations for their constructive and meaningful participation in the session. The Chair thanked the Deputy Director General for his continued support throughout the session. He also thanked the Secretariat and interpreters for their work, and hoped the Committee would continue to improve its working methodology in future sessions.

[Annex follows]

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II. ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES/  
INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

UNION EUROPÉENNE (UE)/EUROPEAN UNION (EU)

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ORGANISATION EURASIENNE DES BREVETS (OEAB)/EURASIAN PATENT  
ORGANIZATION (EAPO)

Khabibullo FAYAZOV, Vice-President, Moscow

UNION INTERNATIONALE POUR LA PROTECTION DES OBTENTIONS VÉGÉTALES  
(UPOV)/INTERNATIONAL UNION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS  
(UPOV)

Peter BUTTON, Vice-Secretary General, Geneva

CONSEIL INTERÉTATIQUE POUR LA PROTECTION DE LA PROPRIÉTÉ INDUSTRIELLE  
(CIPPI)/INTERSTATE COUNCIL ON THE PROTECTION OF INDUSTRIAL PROPERTY  
(ICPIP)

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(CCG)/PATENT OFFICE OF THE COOPERATION COUNCIL FOR THE ARAB STATES OF  
THE GULF (GCC PATENT OFFICE)

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UNION AFRICAINE (UA)/AFRICAN UNION (AU)

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ORGANISATION DES ÉTATS DES ANTILLES ORIENTALES (OEAO)/ORGANIZATION OF EASTERN CARIBBEAN STATES (OECS)

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ORGANISATION DE COOPÉRATION ISLAMIQUE (OCI)/ORGANIZATION OF ISLAMIC COOPERATION (OIC)

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Association de l'industrie de l'informatique et de la communication (CCIA)/Computer and Communications Industry Association (CCIA)

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Association européenne des étudiants en droit (ELSA International)/European Law Students' Association (ELSA International)

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Giulia NATALE (Ms.), Representative, Livorno, Italy

Viviane OPITZ (Ms.), Representative, Frankfurt, Germany

Tizian TANG, Representative, Malmö, Sweden

Association internationale pour le développement de la propriété intellectuelle (ADALPI)/International Association for the Development of Intellectual Property (ADALPI)

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Association latino-américaine des industries pharmaceutiques (ALIFAR)/Latin American Federation of Pharmaceutical Industries (ALIFAR)  
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Association littéraire et artistique internationale (ALAI)/International Literary and Artistic Association (ALAI)  
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Fédération ibéro-latino-américaine des artistes interprètes ou exécutants (FILAIE)/  
Ibero-Latin-American Federation of Performers (FILAIE)

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International Federation of Film Producers Associations (FIAPF)

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Knowledge Ecology International, Inc. (KEI)

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