

Committee on Development and Intellectual Property (CDIP)

Fifth Session

Geneva, April 26 to 30, 2010

REPORT

adopted by the Committee

1. The fifth session of the CDIP was held from April 26 to 30, 2010.
2. The following States were represented: Afghanistan, Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Ethiopia, Fiji, France, Germany, Ghana, Greece, Guinea, Holy See, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Jordan, Kazakhstan, Kenya, Kyrgyzstan, Latvia, Luxembourg, Madagascar, Malaysia, Mauritius, Mexico, Monaco, Morocco, Myanmar, Namibia, Nepal, Netherlands, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Senegal, Serbia, Sierra Leone, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Yemen, Zambia and Zimbabwe (107). Palestine participated as an observer.
3. The following intergovernmental organizations (IGOs) took part as observers: African, Caribbean and Pacific Group of States (ACP Group), African Regional

Intellectual Property Organization (ARIPO), Commission of the European Communities (CEC), Eurasian Patent Organization (EAPO), European Patent Office (EPO), Food and Agriculture Organization of the United Nations (FAO), *Organisation Internationale de la Francophonie (OIF)*, Patent Office of the Cooperation Council for the Arab States of the Gulf (GCC Patent Office), South Centre and Organization of Eastern Caribbean States (OECS), United Nations Conference on Trade and Development (UNCTAD), the World Health Organization (WHO), the World Trade Organization (WTO) (13).

4. Representatives of the following international non-governmental organizations (NGOs) took part as observers: 3D - Trade - Human Rights - Equitable Economy (3D), Association for the Promotion of Intellectual Property in Africa (APPIA), Association IQSensato, Centre for International Environmental Law (CIEL), Chamber of Commerce of the United States of America (CCUSA), Civil Society Coalition (CSC), Creative Commons International (CCI), CropLife International, Electronic Frontier Foundation (EFF), Electronic Information for Libraries (eIFL), European Digital Rights (EDRI), European Information and Communications Technology Industry Association (EICTA), Friedrich Ebert Stiftung (FES), *Fundação Getulio Vargas (FGV)*, Ibero-Latin-American Federation of Performers (FILAIE), International Center for Trade and Sustainable Development (ICTSD), International Chamber of Commerce (ICC), 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 the Phonographic Industry (IFPI), International Organization of Performing Artists (GIART), Ingénieurs du Monde (IdM), International Publishers Association (IPA), International Trademark Association (INTA), International Video Federation (IVF), Knowledge Ecology International (KEI), Library Copyright Alliance (LCA), Médecins Sans Frontières (MSF) and Third World Network (TWN). (30).
5. Ambassador Md. Abdul Hannan, Permanent Representative of Bangladesh Chaired the session.

Agenda Item 1: Opening of the Meeting

6. The Director General welcomed the delegations and observed that the first day of the Committee coincided with the tenth anniversary of World Intellectual Property Day and the fortieth anniversary of the entry into force of the Convention establishing WIPO. The origins of the Organization, he added, dated back to the nineteenth century despite the fact that the WIPO Convention, which was central in the Organization becoming a specialized agency of the United Nations, entered into force only forty years ago. Referring to his commitment to report annually to the Committee on the implementation of the Development Agenda, the Director General expressed hope that his report would enable a continuing dialogue between the Members States and the Secretariat, so as to assess whether the activities undertaken corresponded to what was expected out of the Development Agenda. In implementing the Development Agenda, the Director General emphasized speed, consistency, mainstreaming, outreach and result-based management as the main guiding priorities for the Secretariat. Firstly, he explained, that it was very important to maintain a good pace for the implementation of the Development Agenda and to ensure the sustainability of its achievements at the same time. Secondly, consistency between the methodology for implementing the Development Agenda and the recommendations as agreed by the Member States was another important priority for the Secretariat. Thirdly, the Secretariat constantly endeavored to mainstream development and the Development Agenda in all areas of the Organization. Fourthly, as required by the

Development Agenda, WIPO had been enhancing its cooperation with other intergovernmental organizations; and finally, the Director General underlined the high importance of a robust result-based management framework to support the monitoring and evaluation of development activities. The Director General stated that a lot of work had already been done in the course of 2009 as fourteen projects were underway with an approved budget of approximately 16 million Swiss francs including 4.4 million for personnel costs. There were other examples in which the whole Organization endeavored to support the aims and objectives of the Development Agenda and, as one of the examples, he mentioned the establishment of the Office of the Chief Economist to support empirically based policymaking. The Director General further mentioned the establishment of the Global Challenges Division to deal with the main themes that at any given time preoccupied the international community, their interface with the intellectual property system and how the system could positively address those themes. Another example, the Director General pointed out, was the creation of a new Section to deal with innovation and technology transfer with the principal objective of incentivizing innovation and providing a framework for the diffusion of the social benefits of innovation. Finally, he referred to the Development Sector, which placed a great deal of importance on national strategies for intellectual property and innovation and added that an increasing number of countries were working with WIPO in developing their national intellectual property strategies. The Director General emphasized the member-state driven nature of the Organization and the importance that the Secretariat attached to the Development Agenda, which was brought forward by the Member States. In that connection, he referred to Item 10 of the draft agenda on future work of the Committee and said that he looked forward to further guidance from the Member States as to how to take the implementation of the Development Agenda forward.

Agenda Item 2: Election of Officers

7. Following a proposal made by the Delegation of Kyrgyzstan, speaking of behalf of the Group of Central Asian, Caucus and Eastern European countries, supported by the Delegations of Switzerland speaking on behalf of the Group B, El Salvador, speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC) and Angola, speaking on behalf of the African Group respectively, Ambassador Md. Abdul Hannan, Permanent Representative of Bangladesh was unanimously elected as the Chair of the Committee. The Delegation of Angola also proposed the name of Mr. Abderraouf Bdioui of Tunisia as one of the Vice-Chair. In the absence of nominations for the two positions of Vice-Chair, it was decided that the matter of the election of the Vice-Chairs would be revisited by the Committee at a later stage during that week.

8. In his opening remarks, the Chair welcomed the delegates and stated that it was a great honor for him to Chair the Committee, an assignment that he was set to discharge with all the serenity required. The Chair assured the Committee that he would spare no effort to steer its work to a successful conclusion with all the impartiality and equity required of him. He expressed confidence that he could count on the Committee members for their spirit of openness, mutual understanding and trust and stated that a spirit of openness would be helpful in making the meeting fruitful and constructive. The Chair expressed his appreciation for the constructive role played by the outgoing Chair Mr. Abderraouf Bdioui of Tunisia and the Vice-Chair. He thanked the Asian Group for putting forward his candidature for the Chairmanship of CDIP, the Delegation of Kyrgyzstan for formally proposing Bangladesh for the Chair and all other regional groups and delegations for his election. He further thanked the Director General for his encouragement and advice, and also Mr. Geoffrey Onyeama, Mr. Irfan Baloch and other members of the Secretariat for their support, which was very helpful for him in

preparing to assume the Chairmanship. The Chair looked forward to the cooperation and understanding by all delegations in order to have a productive session. Emphasizing the need to produce tangible results, he urged delegations to strive for agreements that would prove to be within reach and expressed the view that concrete outcomes would give a positive signal of progress and opportunities for more agreements in the future. The Chair said that his objective was to be open, transparent and inclusive in his efforts to take forward the work of the Committee.

9. Recognizing the difficult task and heavy workload and in view of the many important issues on the agenda, the Chair emphasized the importance of effective time management so that all the agenda items could be addressed adequately and timely. In that regard, the Chair proposed a rough timetable for the week and encouraged delegations to give comments, feedback and guidance to the Secretariat on the progress of implementation of the Development Agenda recommendations in their general statements. He further urged delegations to be as brief and focused as possible in order to finish the general statements on the first day and expressed his intention to move to the agenda item regarding the proposed monitoring mechanism on the second day. The Chair expected the Committee to look into other agenda items concerning the projects on the third day and to revisit the issue of monitoring mechanism on the fourth day. On the last day, he suggested that the Committee address the Report on WIPO's Contribution to the United Nations' Millennium Development Goals (MDGs), the report on flexibilities and future work. Furthermore, the Chair encouraged delegations to utilize the discussion on future work to indicate to the Secretariat how they would like the next Committee meetings to be structured. Thereafter, he hoped to wrap up in the afternoon of the last day with an agreement on his summary and the adoption of some decisions. In order to be transparent, the Chair proposed to conduct the work of the Committee in plenary format as far as possible. He stated that consultations would be carried out in a manner which would keep all delegations fully informed. Stating that the suggested approach might not be as easy to implement as it sounded, the Chair was confident that it was achievable and proposed to proceed with the work of the Committee accordingly. He further expressed his trust in the collective ability of delegations to forge creative consensus and urged all to exercise sincere effort with open minds and a spirit of accommodation in order to progress on all the issues.

Agenda Item 3: Adoption of the Agenda

10. The Chair invited the delegations to adopt the agenda contained in document CDIP/5/1 prov.3 dated March 11, 2010. In the absence of any observations, he declared the agenda as adopted.

Agenda Item 4: Accreditation of Observers

11. The Secretariat, introducing the document CDIP/5/8, recalled that the Rules of Procedure of the CDIP, contained in document CDIP/1/2.rev, provided for an *ad hoc* accreditation of NGOs. The Secretariat informed that a request had been received from an NGO, namely Friedrich – Ebert – Stiftung (FES), from Germany, for *ad hoc* accreditation.
12. With no objections from the floor, the Chair declared the said NGO as accredited and invited their representatives to join the meeting.

Agenda Item 5: Adoption of the Draft Report of the Fourth Session of the CDIP

13. The Secretariat, introducing the document CDIP/4/14, informed that the draft report for the fourth session of the CDIP was issued in December 2009 and was made available to Member States for comments. Prior to that session of the Committee, comments from the Delegations of the United States of America and Algeria pertaining to their own interventions had been received, via e-mail, on April 2 and 13, respectively.
14. The Delegation of Algeria, while congratulating the Chair, clarified that the amendments to the draft report provided by that Delegation were made on behalf of the Arab Group and requested that it be reflected accordingly.
15. The Delegation of Angola pointed out that Angola should be included in paragraph 2 of the draft report.
16. The Delegation of Bangladesh pointed out that Bangladesh should also be among the countries mentioned in paragraph 2 of the draft report.
17. The Delegation of Barbados, while congratulating the Chair, said that it had found in a number of places the name of Ambassador Trevor Clarke misspelled and requested that necessary corrections be made.
18. The Delegation of Chile, while congratulating the Chair, referred to the mention of "ATC Technology Corporation" in paragraph 73 of the report and said that it should be corrected to read "APEC" Intellectual Property Rights Experts' Group (APEC-IPEG).
19. The Delegation of Djibouti congratulated the Chair and suggested that in future, the reports of the Committee be classified into chapters, for example, in accordance with how the agenda items were discussed.
20. The Delegation of El Salvador, while congratulating the Chair, concurred with the comment made by the Delegation of Djibouti that the report to be presented in a chronological order, paragraph by paragraph, and said that such reporting format would also be easier to follow and more reader-friendly for officials from capitals.
21. The Secretariat commented that the report could be structured either in a chronological order or as per the agenda items and that it would be guided by the Committee on this matter. Regarding the suggested corrections in the draft report, the Secretariat apologized for the typographical mistakes and assured that the necessary corrections would be made in the report.
22. The Delegation of Spain congratulated the Chair and pointed out to the Secretariat that the Spanish version of the draft report was available only on April 19, 2010, whilst the versions in all other languages had already been posted on the website for some time.

23. The Chair thanked the delegations for their suggestions and comments and sought the floor's approval that the report be adopted with the suggested corrections. The Chair then indicated that the report was adopted with the said amendments.

Agenda Item 6: General Statements and Consideration of the Director General's Report on the Implementation of the Development Agenda

24. The Chair invited the Director General to address the Committee.
25. The Director General referred to the document CDIP/5/2 and indicated that he would not go through that document in detail but would like to make a number of remarks on some of the challenges faced in the process of implementing the Development Agenda. Recalling the time when the Development Agenda recommendations were adopted by the Member States, the Director General said that the main challenge then was to "operationalize" the recommendations and that it was not evident how some of them could be implemented. He pointed out that in 2009, the Secretariat had suggested to adopt the project methodology. Although the projects were not the complete implementation of the Development Agenda, they provided an important mechanism for giving some momentum to implementation and concrete content to the recommendations so as to get the implementation underway. The Director General expressed his pleasure on the response of the Member States on the proposed project methodology and believed that the projects provided a means of monitoring the implementation of the recommendations in a concrete, measurable and useful manner. On the other hand, he recognized that the Development Agenda was not about the projects only as many Member States pointed out on several occasions. Another issue which the Member States had raised many times was "mainstreaming" and the Director General, while saying that the Secretariat was always open to the views from the Member States on what it meant for the Organization, stated that it meant several things for WIPO. Firstly, that each and every unit within WIPO had development in mind when developing and implementing their programs and activities. The Director General added that development was a dimension that needed to be taken into account by the whole Organization and it was not a subject which should be confined to one particular operational unit of WIPO. That approach was adopted and implemented by the Organization in the course of the previous year. In the course of the strategic realignment process within the Organization, WIPO had developed a measuring mechanism so that the Member States could clearly see where the expenditure was directed and which developing country was the beneficiary through a very transparent budget mechanism. The Director General went on to say that having each and every unit of the Organization addressing the development dimension in the course of implementing their programs and activities required a high degree of coordination amongst the various units of the Secretariat and efforts were made to ensure that the Development Sector coordinated effectively with every other sector of the Organization. Regarding the extent to which development was mainstreamed in the various committees of the Organization, the Director General stated that it was preeminently and ultimately for the Member States to decide and underscored that the primary role of the Secretariat was to facilitate the work of the committees. As the normative agenda of the Organization was proposed and driven by the Member States, it was the view of the Director General that the extent to which development was mainstreamed in that regard was a question for the Member States. He went on to say that the Secretariat was always open to the views and instructions of the Member States and expressed his desire to explore ways to improve the Secretariat's performance in the implementation of the Development Agenda.

26. The Chair thanked the Director General for his initial remarks on the report and opened the floor for general statements and comments.
27. The Delegation of Angola, speaking on behalf of the African Group, congratulated the Chair and Vice-Chairs on their election and thanked the Secretariat for the comprehensive reports and studies. The Delegation also thanked the Director General for his report on the state of play of the implementation of the Development Agenda over the past year and for the report on WIPO's contribution to the UN MDGs as requested by the Member States. The Delegation informed that the African Group would make some comments on the said report when that item would be discussed. The Delegation further welcomed the efforts made by the former Chair and Vice-Chairs for their hard work and efforts in order to bridge the gap between the two proposals on the coordination mechanism, i.e. the first proposal by Algeria, Brazil and Pakistan and co-sponsored by Egypt, India, Mozambique and Yemen, and the second proposal put forward by the Group B. In that regard, the Delegation believed that an agreement on that important issue was within reach during the current session of CDIP. The African Group supported the joint proposal presented by Algeria, Brazil and Pakistan and believed the proposal was a good basis for discussion so as to come up with a comprehensive mechanism which would address the concerns of all the Member States. The Delegation also thanked the Secretariat for the document on patent-related flexibilities and said that the African Group would deliver comments under the relevant agenda item. However, the Delegation stated that the paper should have included the implementation of flexibilities under the TRIPS Agreement, particularly in the area of public health as well as the flexibilities in areas other than patents. The Delegation also emphasized the need to pay special attention to the issues of technology transfer, information and communication technologies (ICT) and access to knowledge. It further stated that the African Group had co-sponsored the comments made by the group of like-minded developing countries on the thematic project proposed in the document CDIP/4/7, especially as it pertained to the need for WIPO's effective engagement and cooperation with other UN agencies on technology transfer issues. The Delegation welcomed the new thematic project on IP and Socio-Economic Development and believed that the project document was a good basis for further discussion and improvements. Finally, the Delegation suggested adding the items related to the progress report on the implementation of the ongoing projects and, also the implementation of the 19 Recommendations on the agenda of the following CDIP session.
28. The Delegation of Slovenia, on behalf of the Group of the Central European and Baltic States, congratulated the Chair for his election and thanked the Secretariat for preparing the valuable documents related to the three new projects and two new reports. Commending the Director General for his report on the implementation of the Development Agenda, the Delegation informed of the Group's commitment to the ongoing work in the framework of CDIP and its continuing support. Regarding the allocation of the start-up funds for the approved projects, the Delegation pointed out that the budget outlays were already foreseen in the adopted WIPO budget. It added that a revision of the budget was obviously needed as well as the assessment of the availability of funds for new projects and if possible, special funding by the donors or a combination of the two. The Delegation was also in favor of the various proposals relating to the setting up of a coordination mechanism with not only monitoring but also evaluation and reporting functions to be part of it. In that regard, the Delegation felt that the established WIPO structures could be used rather than establishing new ones that would entail additional financial requirements and believed that all WIPO committees should be on equal footing.

29. The Delegation of El Salvador, speaking on behalf of the Latin American and Caribbean Group (GRULAC), congratulated the Chair and assured him of the support of the Group in carrying out his work. The Delegation also expressed the Group's appreciation to the former Chair, Mr. Mohammed Abderraouf Bdioui from Tunisia, for the good work he had done and to the Director General for his report on the implementation of the Development Agenda. GRULAC believed that the report by the Director General reflected his personal commitment to the Development Agenda and the progress achieved in implementing the recommendations. GRULAC was also pleased to note the Project on Enhancement of WIPO's Results-Based Management (RBM) Framework which would enable better assessment and evaluation of the Organization's development activities. Similarly, the Group was happy to see initiatives taken on various programs including the program to produce economic studies, statistics and analysis and also the program on IP and global challenges. The Group believed and hoped that such new programs would enable better and more effective contribution by WIPO in tackling a series of global development-related problems such as climate change, food security and public health. GRULAC believed that such initiatives, along with others such as the creation of new programs for the coordination of Development Agenda implementation, global IP infrastructure, technology transfer and innovation, and the strengthening of the program on small and medium-sized enterprises, would boost the efforts already made by the Organization to implement the recommendations of the Development Agenda. For GRULAC, coordination among the relevant bodies of WIPO, particularly in relation to supervision, monitoring, evaluating and submitting reports on the implementation of the Development Agenda, was very important and the Group concurred with the views of the Director General of WIPO in that regard. In the view of GRULAC, one of the fundamental challenges with respect to the implementation of the Development Agenda was the need to integrate it fully into the regular program of WIPO's activities, and in that connection, GRULAC, at the fourth session of CDIP, welcomed the proposal by Algeria, Brazil, Pakistan, India and also the proposal submitted by Group B, which all dealt with the mechanism for coordination, monitoring, evaluation of the implementation of the Development Agenda. GRULAC hoped that an agreement could be reached on the coordination mechanism in the course of the current session that would be effective and would properly undertake its function to keep the Member States updated on the state of play in implementing the Development Agenda. GRULAC believed that the Committee's work was heading in the right direction and appreciated the commitment and seriousness of the regional groups in contributing to the discussions and projects on implementing the proposals made. That said, it was the view of GRULAC that it was necessary to speed up the work of the Committee in order to achieve the overall implementation of the Development Agenda. Finally, addressing the Director General, GRULAC reiterated its request that the regular budget funds of WIPO be provided to guarantee the implementation and development of the new project proposals and others that might be put forward by the Member States.
30. The Delegation of Switzerland, on behalf of Group B, congratulated the Chair for his election and expressed confidence in this leadership for achieving fruitful results in the current session of CDIP. Group B also commended the Secretariat for the preparatory work for the current session and appreciated, in particular, the quality of the reports and the other working documents submitted to the CDIP for consideration as well as the two briefing sessions. Group B paid particular attention to the Director General's report on the implementation of the Development Agenda and the report on WIPO's contribution to the UN MDGs. In that connection, the Group thanked the Director General for his report providing the highlights of the implementation of the Development Agenda recommendations in 2009, which gave a precise picture of the efforts undertaken so far to mainstream the Development Agenda into the relevant programs and activities of WIPO including in the relevant committees and projects underway. Group B was

impressed with the report on the work done so far to strengthen and improve the development-related activities in WIPO. While recognizing the cross-cutting nature of the Development Agenda, Group B said that the main challenge was to maximize the use of the means available to WIPO to support the IP-related activities, including by prioritizing the implementation of projects and by avoiding the duplication of work and studies under consideration by different WIPO bodies. Taking into account the productive discussions during the last CDIP session, Group B was of the view that a positive outcome on the establishment of a proper and effective mechanism was close and it remained completely committed to having such an effective mechanism which would contribute to the achievement of tangible results in the implementation of the Development Agenda recommendations. The annual report from the Director General to the CDIP on the implementation of the Development Agenda recommendations and the ongoing implementation of the thematic project on WIPO's Results-Based Management Framework adopted at the fourth session of the CDIP, were important elements for enabling the CDIP to fulfill that part of its mandate. In that connection, Group B underlined the key role that could be played by the Internal Audit and Oversight Division. While ready to discuss new thematic projects during the current session, Group B also looked forward to considering reports and updates prepared by the Secretariat on the implementation of previously approved projects and activities with a view to taking stock of the achievement made thus far and to make any necessary adjustments. That exercise, in the view of Group B, was a core responsibility that the General Assembly had given to the CDIP and thus sufficient time had to be allocated to all of those issues during the current session and the next ones.

31. The Delegation of Thailand, speaking on behalf of the Asian Group, congratulated the Chair on his election and expressed trust in his able stewardship. The Asian Group also thanked the Director General for his report on the implementation of the Development Agenda and for his briefing and looked forward to such reports presented annually and regularly to facilitate the review of the Development Agenda implementation. In that regard, the Asian Group felt that a progress report on the implementation of specific recommendations would continue to be of much importance as the Committee proceeded to implement the Development Agenda. The Asian Group was pleased with the progress being made and was encouraged by the efforts to mainstream the Development Agenda into WIPO's regular programs and activities including in relevant committees. In that regard, the Group reiterated that mainstreaming the development dimensions also involved norm-setting and that it looked forward to progress on that aspect of WIPO's work. The Group also expressed appreciation for the report on WIPO's contribution to the MDGs and, as the MDGs Review Summit was to take place later that year, the Group felt that it was timely for WIPO to review the linkages between its work and the MDGs. While supporting WIPO to play an active and meaningful role in the UN system, the Asian Group stated that an effective implementation of the Development Agenda was central to WIPO's contribution to the MDGs and likewise, the targets established under the MDGs would also help to guide WIPO's development work. The Group emphasized an effective time management to allow adequate time for discussions on all agenda items and was supportive of the thematic approach as it helped streamline the implementation methodology and avoided duplication without preempting any additional activities under the same theme in the future. While appreciating the Secretariat's tireless and continuous efforts in drawing up useful projects for the Committee's consideration and stating that better structured information on activities implemented was desirable, the Asian Group believed it was useful to reiterate that thematic projects were not automatically development-orientated. An important issue that needed to be finalized urgently was the establishment of the mandated coordination mechanism for monitoring, assessing and reporting of the implementation of the Development Agenda. An early operationalization of a member-driven institutional mechanism to oversee the mainstreaming of the Development Agenda was a crucial requirement

for an enduring and meaningful implementation of the recommendations. While the results-based management project would enable the Secretariat to monitor, evaluate and report on projects implementation, the Asian Group felt that it was equally important for the Member States to have a mechanism to monitor and evaluate the implementation of the Development Agenda recommendations and mainstream the development dimension into WIPO programs. The Delegation further stated that the Group attached great importance to that matter and was optimistic that Member States would find common grounds on that issue. With regard to project proposals, the Asian Group was pleased to see a growing and active interest among the Member States in taking the initiative to develop project proposals. The Group felt that such momentum should be sustained and in the process the technical expertise of the Secretariat would be of critical importance. The Group was particularly happy to note that two project proposals submitted by the Republic of Korea were at a mature stage of consideration and expressed hope that the current session would lead to the adoption of those projects.

32. The Delegation of Egypt, speaking on behalf of the newly founded Development Agenda Group (DAG), stated that the Group was an open and inclusive group consisting of WIPO Member States who were like-minded in their support for development-oriented perspective on intellectual property issues and the mainstreaming of the Development Agenda across all areas of WIPO's work. The Delegation stated that the Group's membership consisted of, in alphabetical order, Algeria, Brazil, Cuba, Djibouti, Ecuador, Egypt, Guatemala, India, Indonesia, Islamic Republic of Iran, Malaysia, Pakistan, the Philippines, South Africa, Sri Lanka, Sudan, Uruguay and Yemen. The Delegation also congratulated the Chair on his election and expressed the Group's confidence in his leadership. For the Development Agenda Group, the adoption of the Development Agenda at the WIPO General Assembly in 2007 was a milestone in achieving the historic aspiration of developing countries for a paradigm shift in the international perspective on IP, i.e. a shift from viewing IP as an end in itself to viewing it as a means to serving the larger public goals of social, cultural and economic development. While the inception of the Development Agenda marked a watershed in rebalancing of the global perspective on IP, the Delegation believed that the mainstreaming and implementation of the adopted recommendations remained a considerable challenge. The Delegation said that a successful implementation of the Development Agenda required, in the Development Agenda Group's view, sustained multi-tasked approach to the range of activities in WIPO, proactive leadership, continuous commitment, cooperation, engagement and oversight by the Members States and enduring pro-development cultural transformation within the WIPO Secretariat to be a Member State driven organization and engagement with other intergovernmental and civil society organizations. Recognizing the importance of the Development Agenda and the historic opportunity it represented not only for all developing countries but also for countries that were still to benefit fully from the IP systems and acknowledging the challenges to its meaningful implementation, the Delegation expressed the Development Agenda Group's commitment to actively contribute to the mainstreaming of the development dimension in all areas of WIPO's work. In that connection, the Delegation stated the Development Agenda Group had developed a set of guiding principles for its vision and for the work on implementing and mainstreaming the Development Agenda, covering the six clusters of the Development Agenda. The Delegation indicated that the Group's membership was open to all WIPO Member States that were willing to subscribe to all of its guiding principles, based on a highly successful methodology adopted by the developing world in coordinating their positions in intergovernmental fora and particularly, within the UN system. The Delegation added that coordination of positions among Member States and within regional groups could be complemented by a cross regional coordination of work promoting developing countries' interests and coordinating their positions. The Delegation of Egypt also explained that the Group's aim was to build coalition among pro-development groups and Member

States across regions with different levels of development. It further elaborated that the Group was a representation of the determination to accommodate the unique and specific interests and development needs of WIPO Member States on all IP matters. Appreciating the need to take into account the various interests and priorities of all WIPO Member States, the Delegation said that the Development Agenda Group believed that only through direct engagement and broad based dialogue with others' view points and interests, could consensus be reached, leading to growing trust and confidence among Member States and a shared stake in a stronger dynamic and more effective WIPO. In that regard, the Development Agenda Group would aim at building bridges across and between the interests of all WIPO Member States so as to reach consensus for the benefit of all countries. It also stated that consensus was ultimately about commitment and that was what it would take to make an effective implementation and mainstreaming of the Development Agenda. On behalf of the Development Agenda Group, the Delegation thanked the Director General for his report on the implementation progress, particularly the highlights of the implementation of the Development Agenda during 2009. In that regard, the Delegation quoted paragraph 25 of the said report, "*Specific proposals from Member States that could contribute to Development Agenda implementation may also be of immense value to the process in order to enhance the member driven nature of the implementation phase and ensure that activities and projects respond to the real concerns behind the recommendations*" and believed that that was the core for an effective implementation and mainstreaming for the Development Agenda in WIPO's work. The Delegation assured that the Group stood for inclusiveness and openness which were the hallmarks of multilateral diplomacy. The Delegation stated that its approach in WIPO was guided by a firm belief that views and interests of all Member States must be properly reflected in how the work was pursued and in the outcome of efforts. As the work related to the creation of the mind, clearly, justice, man kind's most noble ideal must be at the centre of what was pursued.

33. The Delegation of South Africa congratulated the Chair for his election and expressed its desire to have fruitful discussions and positive outcomes during the session. The Delegation supported the statement made by Angola on behalf of the Africa Group as well as the statement made by the Delegation of Egypt on behalf of the Development Agenda Group. The Delegation held the view that the Development Agenda was an important element, which needed to be incorporated into the overall work of WIPO in order to respond to the hopes of the international community in bring about a balanced IP system. The Delegation stated that that was confirmed by a number of references to the Development Agenda in the international fora, including in the G-8 summit. Regarding the implementation of the Development Agenda, the Delegation expressed its appreciation for the efforts of the WIPO Director General and his staff and welcomed the report of the Director General regarding various aspects of implementation, particularly the projects with the potential to build capacity of developing countries to grow their IP assets and improve the welfare of their societies. The Delegation emphasized four issues in relation to the implementation of the Development Agenda. Firstly, it was of the view that a balancing act was required in the norm-setting processes, dictated by development objectives and the interests of developing countries taken into account as the core of the Development Agenda process. An effective coordination and monitoring mechanism was critical to find that balance and to ensure an effective implementation of Development Agenda recommendations. In practical terms, the Delegation stated that managing the negotiating procedures would afford an opportunity for a more robust debate to clarify objective, scope and content of proposed treaties. Such approach might imply that it would take longer before formulation could begin but it would reduce incidences of breakdown in the treaty making processes after many years of discussions. On the other hand, the Delegation remarked that such principles, to the benefit of all WIPO Member States, were likely to play an important role in increased transparency and good governance of WIPO treaty making as well as enhanced general accountability and

legitimacy. Secondly, the Delegation felt that the implementation of WIPO Development Agenda was a cross-cutting process in mainstreaming the development dimension in all WIPO work programs and activities. The mainstreaming issue permeated all the WIPO committees, particularly those related to norm-setting, to contribute toward bringing about a balanced global intellectual property system. In that regard, the Delegation pointed out that a consensus on the coordinating mechanism and monitoring as well as modalities for assessing and reporting was important and relevant for ensuring an effective implementation. Thirdly, regarding the coordinating and monitoring mechanism, the Delegation concurred with the statement made by the African Group and supported the submission of Algeria, Pakistan and Brazil. The Delegation was encouraged by the emerging positive spirit and political will on that subject and hoped that an agreement could be reached sooner with a view to ensuring the stability of the Development Agenda process, thus achieving the ultimate objective of maintaining development principles in all WIPO programs and activities. Fourthly, on capacity building, the Delegation said that one of the objectives of the Development Agenda was to ensure effective capacity building of developing countries such as South Africa to fully benefit from the IP system, based upon clearly identified needs of developing countries. The Delegation believed in capacity building activities that contributed to promoting economic growth and development through the IP system.

34. The Delegation of Nepal, on behalf of the LDC Group, congratulated the Chair and praised his dynamic leadership. The Delegation also thanked the Director General of WIPO and his colleagues for their hard work in preparing the current session and expressed appreciation to the Director General for his comprehensive report on the implementation of the Development Agenda. Referring to the acceptance speech made by the Director General in 2008, the Delegation pointed out the emphasis by the Director General on the need to address the question of how intellectual property can contribute to the reduction of the knowledge gap and to the greater participation on the part of developing and least developed countries in the benefit of innovation and the knowledge economy, the Group held the view that the Development Agenda was a key platform to achieve such goals and the implementation of the adopted recommendations was crucial for the countries to reap benefits from the Development Agenda proposals. The least developed countries (LDCs) were committed to work with all Member States to that end. In today's knowledge-based economy, some major developing countries had progressed and gained prosperity, contributed to by cumulative innovation, creativity and knowledge building, the Delegation added. For LDCs, such development pathway remained more as a possibility than a reality as LDCs were faced with acute shortages of capacity and technology and were in need of building basic IP infrastructure. The Delegation went on to say that such structural handicaps required integral partnership to enable LDCs to develop their knowledge industries and use IP as a tool for the economic and social development. In that connection, the Group believed that progress on the implementation of the Development Agenda through meaningful, focused and sustainable projects, would help in achieving such objectives. On behalf of the LDC Group, the Delegation acknowledged the assistance received from WIPO in areas such as policy and strategy formulation, promotion of innovation and creativity, and IP institution building. The Group was thankful to the Director General of WIPO for taking the initiative to organize the High Level Forum on IP for LDCs in July 2009, and as a result of such meetings and other similar events, IP was better understood by policymakers. LDCs were in need of separate and dedicated programs to address their IP needs together with increased resources to finance those programs. It was the view of the Delegation that projects under the Development Agenda should bring added benefits for the countries while contributing to the enrichment of WIPO's other development programs and activities. The Group also suggested that WIPO should increase the quality and quantity of its research and development activities and should come up with innovative initiatives and activities

for developing countries, in particular for LDCs. The challenge facing LDCs was to have a robust and sustainable development as well as to build IP capacity so as to maximize benefits from national innovation and creativity. The Group felt that the social, economic and cultural development of LDCs, particularly in the areas of energy, public health and agriculture, food security and environment, would gain much from such an approach. The Group recognized the importance of the Project on Capacity-Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identifying Development Challenges and thanked the Republic of Korea for its initial proposal on the same. It was the hope of the Delegation that such a proposal along with other similar proposals would receive positive consideration by the CDIP. Regarding the coordination mechanism, the Delegation said that LDCs considered it to be very important in ensuring effective implementation of the Development Agenda and its outcomes and urged all Member States to find a mutually acceptable solution in that regard. Finally, the Delegation of Nepal expressed its thanks and appreciation to the Director General and WIPO for cooperation with Nepal and for the assistance rendered in IP awareness and capacity building.

35. The Delegation of Spain, on behalf of the European Union (EU) and its 27 Member States, congratulated the Chair on his appointment and expressed its trust and confidence in his stewardship of the Committee's work. The Delegation said that the EU and its Member States conveyed their gratitude to the Secretariat for the documents prepared for the current session of the CDIP, particularly the three new draft projects contained in documents CDIP/5/5, 5/6 and 5/7 as well as the two new reports on WIPO's contribution to the UN MDGs and on patent-related flexibility in the multilateral legal framework and their legislative implementation at the national and regional levels. Similarly, the Delegation said it thanked the Director General, Dr. Francis Gurry, for his report on the implementation on the Development Agenda, which was a useful tool to help CDIP in the exercise of monitoring the implementation of the Development Agenda recommendations and suggested that it be considered as an element in the coordinating mechanism. The Delegation said that the EU and its 27 Member States noted with satisfaction the allocation of funds foreseen for the start-up cost for projects approved at the last session of CDIP and those that might eventually be approved during the current session, pending the approval by the Program and Budget Committee. Regarding the draft project on IP and transfer of technology, the Delegation said that the EU and its Member States recognized the efforts made by the Secretariat in preparing the project proposal based on the comments made by the Member States and indicated their readiness to engage in constructive debate to improve the final project document. The Delegation also welcomed the various proposals for the establishment of the coordinating mechanisms and monitoring, assessing and reporting modalities, while affirming their full support to the proposal made by Group B. In their view, the coordination mechanism to be established should, wherever practically possible, use existing governance structures and not imply additional financial obligations for WIPO. The Delegation pointed out that the various WIPO committees stood on an equal footing and that none had superiority over the others in developing the said mechanism. In that connection, the Delegation welcomed the proposal by the Director General that the report of the implementation of the Development Agenda be prepared on a periodic basis and be considered as one of the elements under any foreseen mechanism.
36. The Delegation of India joined others in congratulating the Chair for his election and assured him of its cooperation and support in taking forward the work of CDIP. The Delegation aligned itself with the statement made by the Delegation of Thailand on behalf of the Asian Group and by Egypt on behalf of the Development Agenda Group. It also thanked the Director General and the Secretariat, especially the Development Agenda Coordination Division, for their hard work and sincere efforts for preparation of the current session. The Delegation expressed its

appreciation for the two new reports submitted by the Secretariat, i.e. one on the implementation of the Development Agenda and another on WIPO's contribution to the MDGs. The Delegation also welcomed the two new documents submitted for discussion by the Secretariat, namely the Project on Intellectual Property and Socio-Economic Development and the Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels. The Delegation continued to say that the report on WIPO's contribution to the MDGs was both timely and topical in view of the high level review of MDGs in New York later that year. It was also relevant to the Development Agenda and the discussions in the CDIP since it served to remind the objectives of IP and innovation and of WIPO itself to facilitate a better quality of life for people in all countries by fostering socio-economic growth and development. The Delegation thanked the Director General for taking the initiative in presenting a useful overview of the Development Agenda implementation and looked forward to periodical annual reports as stated in the report. While the bird's eye view of Development Agenda implementation as provided by the Secretariat was necessary and useful, the Delegation hoped that it would not be a substitute for a more detailed view of the status of implementation of various projects and their recommendations as had been the practice in previous CDIP sessions. The Delegation further pointed out that although the Agenda Item 9 of the current session was for the review of progress on recommendations under implementation, there were only two documents for discussion. As indicated in the statement by the Asian Group, the Delegation hoped that the annual reports of the Director General became an element of the larger review process in future CDIP sessions and did not replace a more detailed review. It further requested that the detailed review be maintained as a standard agenda item in future CDIP sessions as in the past, because in the Delegation's view, effective review of the implementation would be a critical factor in ensuring successful implementation as the process became more complex and challenging with new projects and progress in implementation in the coming years. The establishment of an effective coordination mechanism for monitoring and assessing and reporting on the implementation of the Development Agenda as mandated by the General Assembly was of central importance to the Delegation. It believed that early operationalization of a member-driven institutional mechanism to ensure the mainstreaming of the Development Agenda was urgently needed and was a critical requirement for a meaningful integration of the development dimension in the Organization's work. The Delegation was encouraged by the progress made in the fourth CDIP session and hoped that the current session would be able to reach consensus on that issue. Finally, the Delegation welcomed the launch of the Development Agenda Group which was in some ways the formalization of the group of like-minded countries with whom India had worked closely in the recent past and which comprised countries from all the three developing country groupings and regions in WIPO that shared a common vision of a balanced and development friendly perspective of intellectual property. The Delegation looked forward to the Development Agenda Group playing a constructive role in facilitating dialogue between various regional groups in WIPO and in collectively working towards integration of development dimension in all areas of work in WIPO through an inclusive and participatory approach. The Delegation believed that such an approach would contribute to strengthening WIPO as a more dynamic, member-driven and effective UN specialized agency in which all Member States felt a shared sense of ownership and stake in its smooth and effective functioning.

37. The Delegation of the United States of America congratulated the Chair on his election and while associating itself with the statement made by the Delegation of Switzerland on behalf of Group B, wished to highlight some areas of particular significance to the United States of America. The Delegation observed that intellectual property had always been important for development, and WIPO had throughout most of its history played a central role in helping countries use the intellectual property system to their advantage. The 45 recommendations that

made up what was called the Development Agenda had served to refocus attention on the critical role of intellectual property as a tool for development and deepened WIPO's commitment to this key aspect of the Organization's work. The Delegation further observed that the Committee had come a long way since the General Assembly approved its creation in October 2007, which was an accomplishment of which all Member States could be proud. From its first meeting in March 2008, the Committee had moved from broad general concepts to a tailored and rigorous work plan which had produced concrete outcomes with more on the way. The Delegation referred to the report of the Director General on the implementation of the Development Agenda contained in document CDIP/5/2 and noted that after a little more than two years fourteen Development Agenda projects were under implementation. It further noted that the Secretariat had created many new programs in response to the recommendations, including one devoted to economic studies that would focus on the empirical analysis of intellectual property and development for use by policy makers. The Delegation welcomed the emphasis on fact-based analysis. The Delegation also expressed its confidence that the fifth session of the CDIP would continue the constructive discussions that had characterized the Committee's work till then. The Delegation wished to make brief mention of two particular issues of special importance to it. On the coordination mechanism, the Delegation expressed its pleasure that following the previous session of the Committee, progress has been made on clarifying how the CDIP could coordinate its work with other WIPO committees and bodies. It encouraged Member States to continue discussions in that session in the same constructive spirit. On intellectual property and technology transfer, the Delegation appreciated the comments that had been made by Egypt and the group of like-minded developing countries. The Delegation stated its belief that a well designed intellectual property system was an essential tool for economic development and the transfer of technology and it therefore hoped that the Committee would give its approval to the original project CDIP/4/7 with any needed modification. The Delegation noted that its government continued to have great interest in the ways in which UN specialized agencies such as WIPO could contribute to global economic development and to the promotion of innovation and creativity. The Delegation stated that it would actively participate in discussions in the Committee to that end, both that week and in the future.

38. The Delegation of Tunisia congratulated the Chair on his election and assured him of its support. The Delegation also extended its best wishes to the Director General of the Organization and to all delegations on the occasion of the tenth Intellectual Property Day and the fortieth anniversary of the Organization and wished the Organization and its members a successful, healthy and prosperous future. The Delegation thanked the Secretariat for the documents provided in all the languages and expressed its satisfaction with the quality of those documents. The Delegation was grateful for the tireless efforts of the Secretariat to simplify the discussions in that way and to implement the recommendations. While supporting the statement made by the Delegation of Angola on behalf of the African Group, the Delegation welcomed the considerable progress made until then in the practical implementation of several recommendations and hoped that the Committee could maintain that progress and indeed increase it. It commended the Committee for giving consideration to carrying out the other two tasks it had been entrusted with, i.e. coordination with other competent bodies of WIPO in order to monitor, evaluate and consider the implementation of the recommendations. The Delegation wished to remind all that the main task of the Committee was and should remain the implementation of the 45 recommendations. The other two tasks that the Delegation had mentioned were important compliments to that and their purpose should be to ensure the best possible implementation of the recommendations. Deliberations on coordination between the Committee and other WIPO bodies were welcome and should lead to practical and pragmatic results. It should be both useful and effective in so far as it made use of existing mechanisms. The Delegation observed that the recommendations contained in the Development

Agenda were a virtually inexhaustible source of projects and activities and at the same time they constituted an excellent opportunity to integrate the development dimension into WIPO's activities. It was therefore essential that the Committee took a pragmatic and realistic approach to use those inexhaustible programs of activities. The Delegation added that the Committee should do so while dealing with equally important issues relating to discussions of substantive issues. All those questions were so important that it was essential that they were fully grasped by all parties involved and at the very least the parties involved should be aware of them. The Delegation reiterated the need to continue with awareness building activities and the dissemination of information already undertaken by WIPO. In that connection, it wished to thank the International Bureau for providing very valuable support. It informed that in December of the previous year in Tunisia, a regional workshop for the Development Agenda was held for the benefit of all Arab countries, where participants were able to learn more about the Development Agenda and of the opportunities to use intellectual property for socio-economic development. The Delegation recommended that WIPO kept attaching importance to the Development Agenda and urged the Organization to continue to engage in similar awareness building activities, not only in the Arab region but also in other regions. The Delegation observed that in order to do that and to ensure that the WIPO's Development Agenda Coordination Division was able to continue the remarkable work that it had been doing till then, the Division's human and financial resources should be expanded. The Delegation thanked the Director General for the 2009 report on the implementation of adopted recommendations, and noted that it was precise and concise as well as well structured and gave a very clear and complete picture of what was being done to implement the various recommendations. The Delegation further stated that it agreed with many of the ideas and principles included in the report such as, firstly, the need to consider the Development Agenda as a worldwide partnership in which all countries should be involved and from which all should benefit, bearing in mind their objectives, specific needs and priorities. Secondly, the need for Member States, the Secretariat and other parties to be fully committed to the implementation of the Development Agenda. Thirdly the decisive role played by Member States including those participating in other committees in the implementation of the various recommendations. And last but not least the importance for WIPO of continuing its efforts in order to establish partnerships with other institutions, which had skills and knowledge complementary to its own, particularly those of intergovernmental organizations. The Delegation further observed that such partnerships would ensure that the development of such points of view of various organizations were included in the activities and projects undertaken by WIPO. It hoped that annual reports on those kinds of activities would be submitted to the Committee. The Delegation also hoped that the work of the Committee would be successful and achieve results which would be in line with the expectations.

39. The Delegation of Guatemala congratulated the Chair and expressed its confidence that under his leadership the Committee's deliberations would be very successful. The Delegation endorsed the statement of El Salvador made on behalf of GRULAC, and the introductory statement made by the Delegation of Egypt as the coordinator of the Development Agenda Group. The Delegation stated that as a member of the Development Agenda Group, it supported the principles and objectives as set forth in the document provided for the creation of that Group. It explained that that document and the initial statement made by the Delegation of Egypt went into exhaustive details on the common viewpoint with respect to the implementation of the Development Agenda and wished to highlight points which the Delegation believed to be of crucial interest. It noted that the Development Agenda Group was an alliance or a coalition of developing countries and their common stance was to work on the effective integration and a permanent presence of the Development Agenda in WIPO's work. The purpose was to ensure that its member countries' viewpoints were included in the Development Agenda. The Delegation advocated that the objective, which all the Member States of WIPO had

fully agreed upon, with respect to the Development Agenda being and continuing to be a constant part of WIPO, must be observed. The Delegation, referring to the statement made by the Delegation of Egypt, observed that the Development Agenda Group had a very varied membership and all its members shared a common viewpoint, and had different levels of development. The Delegation wished to underline that it was important that the Development Agenda be looked at while bearing in mind the different levels of development, varying needs and requirements and priorities in terms of government policy. The Delegation wished to highlight that the Development Agenda was adopted and endorsed by all the Member States of the organization and therefore was an initiative of global interest and importance. The Development Agenda was cross-cutting and broad in scope and it included all dimensions of work being done by WIPO. It added that because of its relevance, the Development Agenda could not and should not be particular to one particular body within the Organization. It further stated that on the contrary, the development dimension needed to be assimilated into all the Organization's bodies and cover all the activities undertaken by the Organization. The Delegation observed that due to the collective responsibility that all had assumed under the heading the Development Agenda, it believed that there should be greater coherence between the Development Agenda Group's viewpoints and the viewpoints of other regional groups. The Delegation therefore trusted that the possibility of working together and mutually supporting each other to ensure effective implementation of the Development Agenda would come to fruition. The Delegation wished to express its thanks and appreciation for the Director General's personal commitment to the implementation of the Development Agenda. It expressed its confidence that WIPO as a UN specialized agency was the ideal Organization to incorporate the Development Agenda, both in letter and in spirit, into all of its work on intellectual property. It believed that the report submitted by the Director General on the MDGs was very relevant and provided information on the valuable contribution that WIPO had made and would continue to make to the achievement of those goals. The Delegation concluded by reiterating its commitment to working hard and constructively to ensure full and effective implementation of the Development Agenda.

40. The Delegation of Uruguay congratulated the Chair on his election and thanked the outgoing Chair Mr. Bdioui for the considerable amount of work that he had put in as Chair, as well as for his effective leadership of the fourth session of the Committee. The Delegation also thanked the Secretariat for providing all the documents. Indicating its support for the statements made by the Delegation of El Salvador on behalf GRULAC and by Egypt on behalf of the Development Agenda Group of which it was a member, the Delegation stated that it recognized the importance of the WIPO Development Agenda and hoped to continue with its commitment for the inclusion of the Development Agenda in all aspects of work of the Organization, respecting the interests of all Member States. It noted that the primary goal of WIPO in accordance with article 3 of its Convention was to promote and protect intellectual property world wide through cooperation between States. The first article of the agreement between the UN and WIPO emphasized that WIPO was there to take appropriate measures to promote *inter alia* creative and innovative intellectual activity and to promote the transfer of technology relating to intellectual property to developing countries and to speed up the social and cultural development at national and international level. The Delegation believed in the need for a balanced intellectual property system which would stimulate and encourage creativity and innovation for the benefit of economic and social development in all countries. It observed that it would not be possible to do so simply by building awareness of the importance of intellectual property and that it needed also to build capacity in national intellectual property offices. At the same time, the Delegation believed that WIPO should work with its Member States in order to provide advice on national intellectual property strategies appropriate to the countries' development level and in accordance with government policy. The Delegation explained that that was not a utopian idea particularly if one considered

that developed nations used the intellectual property system in that way, seeking a balance between right holders and the interests of the public in general and using the flexibilities which were found in the existing international agreements. They did that in order to promote innovation, creativity, cultural development and to meet specific needs in case of emergencies. The Delegation further opined that including the development aspect would ensure that IP provisions were in step with national policy, for example, including those on the protection of health, biodiversity and ensuring access to knowledge which would be for the benefit of all parties involved in the use of the IP system. The Delegation further explained that that was why it attached fundamental importance to the work of the Committee and reiterated its commitment to cooperate with the Committee actively in the course of this meeting and others. The Delegation added that in that way the Committee would make headway in its activities and ensure that it complied with the mandate given to it by the WIPO Assemblies. The Delegation, referring to the report of the Director General about the implementation of the Development Agenda, termed it extremely useful and expressed its appreciation for the commitment of the Director General and for his efforts to ensure that the delegations were kept informed about the progress that had been made on implementing projects. The Delegation however felt that it would be useful to have more detailed information on the progress that had been made thus far, for example in relation to the projects under Recommendations 2, 5, 8, 9 and 10. The Delegation also wished to have more specific information and on measures being taken to mobilize resources for development, the amounts expected in the medium term and the awareness building activities to encourage donors to donate. On Recommendation 5, the Delegation wanted to see speeding up of the process for providing the database on technical assistance. It believed that technical assistance was a critical instrument when it came to countries seeking to achieve the MDGs and therefore the database should contain all the documents, reports, and presentations covered by each technical assistance activity to ensure transparency and to make clear the link between technical assistance and the Development Agenda. On Recommendation 8, the Delegation wanted to know as to what was to be provided by the technical information support centers. It wanted to know whether the information would be only on patents or other information would also be included later. On Recommendation 10, the Delegation wanted to know about the countries where the pilot projects for an intellectual property academy were being set up, what issues were being covered by that project and how the trainers were being trained and provided. The Delegation wanted more information about the methodology being used, which did not appear in the Director General's report. In addition, the Delegation wished to know about the progress on the national and regional centers foreseen in the project DA_10_04. The Delegation reiterated its hope that the implementation of those projects would continue with all the elements which were provided for in the recommendations being implemented and believed that they should cover all the activities set forth in the projects as defined. It further stated that each project was related to specific WIPO programs and therefore it would be good to know their link in terms of budget and allocation of resources. In the end, the Delegation wanted to see an agenda item on each CDIP sessions dealing with the report on project implementation.

41. The Delegation of Algeria congratulated the Ambassador of Bangladesh on his election as Chair of the Committee and wished him success. The Delegation also thanked the Director General for the high interest he attached to the Development Agenda and for his excellent report on the implementation of the Development Agenda. It also thanked the Secretariat for having made available the necessary working documents. Expressing support for the statements made by the Delegations of Angola and Egypt, the Delegation noted that ever since the start of the Development Agenda in 2007, a number of projects had been embarked upon and the expectations of developing countries were very high. From the Delegation's standpoint, the implementation of the 45 recommendations did not only mean that projects would be completed but it also meant a change in culture,

adaptation of working methods in WIPO, including embracing the development dimension in all of its activities. The Delegation, quoting from article 1 of the agreement between the United Nations and WIPO, stated that WIPO, as a specialized agency of the UN, had the responsibility to promote intellectual activity and facilitate transfer of technology to developing countries related to industrial property in order to speed up their socio, economic, and cultural development. WIPO had an important role to play when it came to pursuing the development objectives of the MDGs and especially those that were linked to hunger, improvement of health and the protection of the environment. The Development Agenda was a very ambitious undertaking and should make it possible for a number of nations to enjoy fundamental human rights, that is to say the right to development, the Delegation added. It further observed that the successful implementation of the Development Agenda would hinge on the setting up of the coordination mechanism, monitoring and the reporting on its implementation and in that regard there were two proposals submitted at the last session of the CDIP; one by Algeria, Brazil, Pakistan, with the addition of India, Egypt, Mozambique and Yemen and another proposal submitted by Group B. The preliminary discussions and informal consultations had made it possible to see that the viewpoints converge when it came to the functioning of the mechanism in question and during the present session it was observed by delegations that the Committee would be able to surmount the various obstacles and arrive at an agreement that would be acceptable to all. The Delegation wished to commend the Director General for his report contained in document CDIP/5/2 providing a bird's eye view of the implementation of the Development Agenda and shared the idea contained in paragraph 25 of the report. As regards paragraph 7 of the report pertaining to national intellectual property strategies, the Delegation thought that such strategies should speak about national strategies for intellectual property for the development and innovation and not just innovation. The Delegation further felt that it was desirable that the report provided indications regarding the nature and content of the strategy including some alternatives and flexibilities. Referring to paragraph 9, the Delegation requested that a revised version of the roster of consultants should be made available to all of the Member States. On Paragraph 19 (a), concerning the donors' conference 2009, the Delegation expressed its satisfaction and wished to have information on the amounts pledged by donors. On Annex 1, Recommendation 40 of the report, noted that the work program for that recommendation was yet to be drawn-up, and as stated by the Secretariat, in practice the implementation of the recommendation was underway. The Delegation, while expressing its pleasure at the hard work of the Secretariat, requested for more details on what had been done in the implementation of that Recommendation. The Delegation endorsed the suggestion by some delegations for the reintroduction into next sessions of CDIP, the focus on the monitoring of all the recommendations, including the 19 recommendations, and the state of play for the projects under implementation. It recalled that the the Development Agenda Group spanned various regions and was open to all of those in favor of an intellectual property system which also could serve to bring development forward and its purpose was to facilitate the search for a consensus in the various area of negotiations in WIPO.

42. The Delegation of Nigeria while congratulating the Chair on his election, expressed its support to the position of the African Group as presented by the Delegation of Angola. It further commended the Secretariat for the excellent work done and for providing important documentation to guide the delegations. It noted that a number of project documents on principles and thematic issues of the Development Agenda had been proposed by the Secretariat, some of which were already under implementation. The Delegation observed that it was important that systematic implementation of those projects continued and that all key objectives outlined in the 2010/2011 Program and Budget were achieved. It was also important that national implementation of the Development Agenda should start forthwith taking into consideration the priorities set by individual nations. The Delegation welcomed

the Director General's initiative on developing national intellectual property strategies and while expressing its high interest in that project, looked forward to further discussions on the modalities for the development of projects related to that subject. The Delegation noted that particular attention must be paid to the needs of the African region and LDCs which are located in that region and that their needs should be acknowledged and addressed during implementation. Key challenges such as access to medicine, knowledge, transfer of technology, environmental issues etc., should be addressed within the limits of WIPO resources and mandate. The Delegation referred to the report of the Director General and welcomed it positively and commended him for keeping to his determination to furnish the Committee with a comprehensive report on implementation annually. It called upon the Director General to further facilitate the implementation of projects at the national levels. The Delegation also called upon Member States to play their roles more constructively and to drive the Development Agenda in a positive direction and to quickly resolve the two outstanding items on the Development Agenda, which were the establishment of the coordination mechanism and the adoption of the project documents on the transfer of technology.

43. The Delegation of Italy, associating itself with the EU and Group B statements, congratulated the Chair on his election. The Delegation observed that the Development Agenda with its 45 recommendations formed an essential part of WIPO's strategy aimed at spreading IP through international cooperation and specific development projects. The fortieth anniversary of the entry into force of the Convention establishing WIPO provided the delegations with an opportunity to reiterate its commitment to WIPO and the Development Agenda. It explained that innovation was a crucial aspect to develop economies and to find a way out from the international economic crisis. The Organization was facing major challenges including development. Some projects had been accomplished but some others were still waiting for concrete steps ahead. The Delegation expressed its trust that a constructive dialogue among Member States would pave the way to further progress. On the Development Agenda, increasing efforts were needed including a better monitoring of development programs in order to avoid duplications increase efficiency, and improve evaluations of the outcome. The Delegation expressed its appreciation for the Director General's report which stressed the importance of implementing the new fourteen development projects in coordination with other divisions and programs and under Member States guidance for a results-based management. The Delegation also indicated that it had looked into, with particular interest, the agenda of the meeting on coordination and monitoring and reporting mechanisms. It also wished to see increased cooperation with other relevant international organizations such as WTO, WHO, WMO and UNEP, as well as an improved dialogue with the private sector, which was an essential part of a sustainable strategy to make intellectual property grow for the benefits of all countries in the world. The cooperation of WIPO with other stakeholders could help achieve the MDGs. The Delegation stated that governments had to play an active role and the WIPO Development Agenda should be combined with domestic policies on the basis of specific national plans to raise awareness on the importance of the intellectual property for economic growth and to stimulate the increase of the new and innovative products. The Delegation felt that the innovation fund established by the Italian government needed to be reproduced in other countries to promote innovation through public financing of projects mainly focused on the small and medium sized companies in the field of intellectual property.
44. The Delegation of Norway joined others in congratulating the Chair on his election and extended its appreciation to the Secretariat for the excellent preparatory work which had facilitated the Delegation to focus on the outstanding issues and to undertake assessment and discussions. The Delegation informed that it had read

with special interest the report from the Director General on the implementation of the Development Agenda. Documents CDIP/5/2 and CDIP/5/3, gave them a useful overview of how WIPO contributed to the achievement of the MDGs. It believed that those documents were very good reminders and provided a very useful description of the very broad developmental framework that WIPO Development Agenda was a part of. The overall goal of economic and social development was being addressed in many different fora and WIPO's role was well explained in those documents. The Delegation was very pleased to note the increased efforts by WIPO in strengthening cooperation with other intergovernmental organizations. WIPO's expertise as a specialized agency was dealing with intellectual property including the development component of intellectual property and therefore it was important to find the best collaborative approach for an effective use of resources. The Delegation also noted that it had listened with appreciation the Director General's reporting that morning on how the Administration was working consistently to secure effective mainstreaming of development issues within WIPO's regular activities. The Delegation reaffirmed its strong commitment to the Development Agenda, WIPO's important role and looked forward to that week's discussion, not least to finding common ground to establish an effective mechanism for assessing, and reporting on the Committee's work while taking into account established WIPO structures. In conclusion, the Delegation expressed its association with the statement made by the Delegation of Switzerland on behalf of Group B and looked forward to continued progress on the important tasks of the Committee.

45. The Delegation of Peru congratulated the Chair on his election and expressed its satisfaction on the way the Chair had been conducting the work of the Committee. The Delegation explained that for Peru and for all developing countries the success of the work undertaken by the Committee was very important especially when it came to the implementation of the Development Agenda recommendations. It noted that a sign of that importance was the fact that Peru was one of the first to bring that agenda forward through the Group of Friends of Development. The Delegation wanted to bring about a paradigm shift in WIPO so that it could be fully ready to help the Member States reach their development objectives. The Delegation mentioned that after taking part in four sessions of the Committee and after reading the report of the Director General that it saw in CDIP/5/2, the Delegation could note that quite a lot of headway had been made. The Delegation therefore wished to take the opportunity to thank the Director General Mr. Francis Gurry for his strong commitment to the implementation of the recommendations of the Development Agenda and also the Secretariat for its tireless and praiseworthy efforts. The Delegation however wanted to point out that there was a long way to go especially to consolidate the Development Agenda and all the various activities of the Organization. It opined that to make that a reality, it was essential to have a coordination mechanism to provide for monitoring and follow up the implementation of the agenda. The Delegation hoped that the Committee would be able to reach an agreement that week as expressed by the Delegation of El Salvador on behalf of GRULAC. The Delegation observed that it was important to see that all the recommendations were implemented to attain all objectives in the short to medium term. The Delegation urged all the members to contribute in a constructive way by bringing forward proposals on an individual or a regional basis to make it possible for the Committee to comply with its mandate in a short term. The Delegation expressed its commendation for all those who had taken initiatives and believed in the main guidelines and wanted to make sure that the various recommendations put forward were properly implemented. It further noted that the work of the Committee was very far reaching and the time it had available was very limited. The Delegation stated that it was strongly committed to the implementation of the agenda and was ready to contribute in a very forthright and constructive way. It urged all not to forget that the achievements they would be able to reach would confirm that the intellectual property system was a very important vehicle for

cultural, economic, political and social development and therefore delegations needed to demonstrate flexibility and forthrightness.

46. The Delegation of Cuba congratulated the Chair and assured him of its support in achieving positive and effective results to the Committee's work. It endorsed the statement made by the Delegation of Egypt and the setting-up of the Development Agenda Group. The Delegation also expressed its full support for the statement made by the Delegation of El Salvador on behalf of GRULAC. The Delegation fully supported the document of the Development Agenda Group which it said was aimed at making it possible to effectively implement the WIPO Development Agenda adopted in 2007. Furthermore, as a country, which was part of the Friends of Development Group, Cuba was highly committed to that Agenda and recognized that it now found itself in a phase which required very strong unity and strategic contribution to make sure that the Agenda was operational and would generate benefits. The Delegation saw that the Development Agenda dimension would be in all areas of the Organization's work and mentioned that its aim was to ensure that intellectual property rights owners were protected and were aware of what protection meant. It therefore believed it very important to review all the elements of the current system because all of the elements should not only protect intellectual property rights, but also promote innovation and knowledge. It expressed the importance of extending the benefits to those countries in need of progress so that they provided for a higher standard of living for their populations. The positive results seen from the system for developed countries should also show that those elements could generate development for the under-privileged. This Organization, as a specialized agency of the United Nations for some thirty-six years now, had a very important mandate which went beyond the protection of rights, especially at a time when the entire international community was committed to reaching the MDGs agreed upon by Heads of State. The Delegation conveyed its warm thanks to the Secretariat for the preparation of the documents for the fifth session of the CDIP and for the organization of consultations held earlier in that day. The Delegation also thanked the Director General for his report on the implementation of the Agenda contained in document CDIP/5/2 and praised the fact that he was present during that session. It considered it a very clear sign of the Director General's strong commitment to the themes that were being discussed. It was the Delegation's hope that it would be a sign of WIPO's commitment of not only putting together projects, but also in discussions and in preparation of programs and projects which would make it possible for the Development Agenda to reach its full potential in all aspects of WIPO. On its final point, the Delegation considered the coordination mechanism for evaluation assessment of the Development Agenda which was fully debated during the fourth session of the CDIP in November 2009, as extremely important. The Delegation remained optimistic and reaffirmed its commitment to making sure that consensus would be reached on that item which it considered to be of key importance. The Delegation added that the Committee should push forward very hard if it wanted to make sure that a satisfactory result be reached.
47. The Delegation of Sri Lanka warmly congratulated the Chair on his election and thanked the outgoing Chair and Vice-Chairs for their able handling of the last session. The Delegation also thanked the Director General and the Secretariat for the preparatory work done for the meeting and especially for arranging briefings for the delegates before the formal session in order to foster an understanding among the various groups on the outstanding substantive issues due to be considered during the CDIP. The Delegation aligned itself with the statements delivered by the Delegation of Thailand on behalf of the Asian Group and Egypt on behalf of the Development Agenda Group. The Delegation said that with a view to constructively and effectively engaging with the Member States, it would like to urge the Secretariat and other stakeholders to reach the ultimate objective of consensus-building. The Delegation of Sri Lanka fully supported the inception of

the Development Agenda Group which had been officially launched that day and noted that the Group could not have chosen a better time considering that it was the World Intellectual Property Day and WIPO Convention's fortieth anniversary. The Delegation felt encouraged by the constructive approach taken by the members of the Group to forge consensus on the issues before the CDIP. It believed that the positive approach augured well in attaining the objective of the Development Agenda with the participation of all WIPO Member States. The Delegation stated that the adoption of the Development Agenda recommendations was a progressive step towards WIPO's contribution to the overall development objectives of the developing countries. Since the adoption of the Development Agenda in 2007, the Delegation had witnessed an increased awareness among delegates of the developing countries on the linkages of intellectual property rights and development. The Delegation had been advocating, in WIPO and other related fora, flexibility in the enforcement policies of the intellectual property rights based on the levels of development of the Member States. While appreciating the significant change in some of the committees in WIPO over the years, the Delegation believed that the Organization could play an enhanced role in its development efforts given its available expertise and resources. The Delegation took note of the reports on the implementation and WIPO's contribution to the UN MDGs and thanked the Secretariat for attempting to relate the work of the Organization to the overall development objectives of developing countries. The Delegation wished, however, to state that the implementation of the Development Agenda recommendations required a sustained and multi-faceted approach to the range of activities in WIPO. The Organization's work needed to foster a development-oriented IP culture and to provide balanced advice on appropriate national-related strategies, based on already available flexibilities, exceptions and limitations. With regard to technical assistance and capacity building, the Delegation was of the view that WIPO should support the development of national scientific and technological infrastructure in developing countries and should promote innovation since that variety of technical assistance would enhance economic growth. It would also develop the infrastructure of the Member States to derive maximum benefits from the transfer of technology and thereby grant access to knowledge. The Delegation believed that to bring upon an effective coordination mechanism to monitor, assess and evaluate the implementation the Development Agenda recommendations was one of the outstanding and important agenda items in the CDIP. The Delegation believed that mainstreaming the development dimensions to all the committees in WIPO would enhance the Organization's role in development priorities of the countries. The Delegation was of the view that the development challenges and their relevance to WIPO needed to be continuously monitored in order to improve the efficiency of the development-related work of the Organization. The Delegation reiterated its support to the proposal made by the Delegations of Algeria, Pakistan and Brazil at the fourth session of the CDIP and looked forward to a decision in that regard at that meeting. The Delegation of Sri Lanka stated that it would express its views under the other agenda items and assured the Chair of its cooperation for a successful CDIP session and openness for a constructive dialogue with all Member States.

48. The Delegation of the Philippines congratulated the Chair on his election and thanked the outgoing Chair for his vision and leadership. The Delegation remained optimistic that with the Chair at the helm, the Committee would be able to enhance the mainstreaming of the Development Agenda in all WIPO activities. It also commended the initiatives taken by the WIPO Secretariat under the stewardship of the Director General for the reports and documentation prepared for the session. The Delegation fully aligned itself with the statements made by the Delegation of Thailand on behalf of the Asian Group and the Delegation of Egypt on behalf of the newly formed Development Agenda Group. The Delegation firmly believed that intellectual property was a tool for sustainable development. Added to this belief was the importance the Delegation attached to the provision of adequate incentives to spur creativity and innovation, and that was why the Delegation thanked the

Director General for his report on the implementation of the Development Agenda. The Delegation recalled the emergence of certain protectionist tendencies in the field of intellectual property rights which had endangered the already limited policy space needed by developing countries. It was thus heartened by the adoption of the Development Agenda recommendations in 2007, which represented a unique opportunity for WIPO to realize the aspirations of its Member States, particularly the developing countries, to strike an equitable balance within intellectual property promotion and protection vis-à-vis the preservation of policy space and the public domain. The Delegation underscored that effective implementation of the WIPO Development Agenda in all the activities of the Organization was imperative, not only for developing countries, but also for all WIPO Member States, as those recommendations were mechanisms which would ensure fuller participation of all the Committee's members and the benefits which could be derived from intellectual property. The Delegation stated that it would like to highlight the need of establishing appropriate coordination mechanisms and modalities for monitoring, assessing and reporting on the implementation of the Development Agenda recommendations. The Delegation referred to the world leaders gathering in New York for the United Nations Summit on the MDGs in September 2010, to assess the progress made by Member States on their commitments. It mentioned that it had taken note of the Secretariat's report, citing the report of MDG 8 Gap Task Force which acknowledged the important role of intellectual property in a number of MDGs, particularly those for which science, innovation and technological development could be a key to enhancing the capacity of States in achieving their MDGs. The Delegation requested that the Secretariat provided further information on how the gaps and the recommendations in the MDG Task Force report were addressed or intended to be addressed by the Organization. It thanked the Secretariat for citing the report of the High Level Task Force on the Right to Development which undertook a review of the WIPO Development Agenda and considered the Development Agenda as a significant process in the context of MDG 8. The Delegation looked forward to receiving specific information from the Secretariat on how it addressed or intended to address the findings of the High Level Task Force, particularly on the assessment made by Professor Sakiko Fukuda-Parr. The Delegation stated that, in order for Member States, particularly developing countries, to make full use of the benefits that could be derived from intellectual property in pursuit of the socio-economic development, they must be able to make full use of the flexibilities consistent with their international commitments. While it acknowledged the efforts deployed by the Secretariat in the framework of actions for the implementation of Recommendation 14 of the WIPO Development Agenda, it noted that greater focus should be accorded to the flexibility suitable to addressing the specific needs of a country. The Delegation underscored the need of establishing and incorporating pro-development norms in the multilateral intellectual property system, particularly in the area of genetic resources, traditional knowledge and traditional cultural expressions, and the establishment of an internationally binding regime that would provide legal and remedial measures for misappropriation.

49. The Delegation of Kenya congratulated the Chair on his presiding over the Committee and supported the statement made by Angola on behalf of the African Group. The Delegation noted with appreciation the CDIP's work, and expressed its gratitude to the Director General for keeping his commitment to brief and report to the CDIP the progress relating to mainstreaming the Development Agenda into WIPO activities. The Delegation also appreciated the personal interest and initiative taken by the Director General on the Development Agenda issues. It took the opportunity to inform the Committee that as part of the Development Agenda project implementation, WIPO had extended technical assistance to Kenya and a pilot data exchange system had been configured and tested between the African Regional Intellectual Property Organization (ARIPO) and the Kenyan Industrial Property Institute (KIPI). The Delegation felt that the project went a long way to deploying ICT infrastructure and e-communication between users of the intellectual

property system in Kenya and ARIPO. On behalf of the users of the IPR system in Kenya, the Delegation conveyed their gratitude to this project that enhanced efficiency and which fulfilled a major communication gap in the IP administration system in Kenya. As a developing country, the Delegation informed that the uploading of Kenya's patent database under the Patentscope initiative was ongoing. The Delegation stated that the project would go a long way in mainstreaming access to IP data into research and development institutions in Kenya and emphasized the role of incorporating IP in the national development strategies. To that end, Kenya called upon WIPO to enhance its technical assistance to developing countries and LDCs, in particular in order to incorporate national IP policies and strategies in their development programs. Finally, the Delegation, borrowing from the PCT language, noted that it was time that the Development Agenda projects moved into the national implementation phase. The Delegation also emphasized that a result-based project was an essential component in a national implementation.

50. The Delegation of Iran (Islamic Republic of) congratulated the Chair and expressed its confidence that under his able leadership, the Committee would have constructive discussions on the important issues before it. The Delegation also expressed appreciation to the Director General and the Secretariat for their invaluable efforts and preparation of documents and reports for the meeting. The Delegation associated itself with the statements of Thailand and Egypt made on behalf of the Asian Group and the Development Agenda Group respectively. The fifth CDIP was marked with the newly launched Development Agenda Group whose members held a strong belief in bringing a balance into the international IP system. The Delegation expressed that it was fortunate that the Development Agenda Group's birth coincided with the World Intellectual Property Day and WIPO's fortiethth anniversary. The Delegation shared the principles stipulated in the Development Agenda Group paper and believed that IP would provide an enabling environment for innovation and development and facilitate the realization of the right to development. In that regard, it saw the establishment of the Development Agenda Group as an impetus to mainstreaming development in all of WIPO's works. Quoting from the report of the Director General that the "Implementation of the Development Agenda is a far-reaching endeavor that seeks to transform the way the Organization operates ensuring that development considerations form an integral part of all the work it undertakes", the Delegation observed that it looked forward to such a transformation and believed it was essential for WIPO, as a United Nations specialized agency, to be guided by the broad development goals of the United Nations. In that context, the Delegation welcomed the timely report on WIPO's contribution to the UN MDGs in which it was rightly emphasized that "at the heart of the WIPO Development Agenda the notion that intellectual property rights should not be perceived as an end in itself but as a means to promote economic, social and cultural development". The Delegation believed that there was a need for a comprehensive approach leading to the mainstreaming of development across different areas and bodies of WIPO. While the project-based methodology constituted the conceptual component in that system, there was a need for having other approaches based on which the results of studies and concluding recommendations of projects be regarded as a basis for the subsequent but practical steps. In other words, the Delegation stated, it was time for the CDIP to enter into its second phase - norm-setting and developing concrete solutions for the IP-related challenges, through setting-up relevant guidelines and instruments. CDIP projects should also help developing countries in formulating the international IP policies. In that context, CDIP projects should be strengthened in a way to address the needs and requirements of developing countries and to recommend action-oriented results rather than theoretical concepts. The Delegation supported the Director General's commitment to report to the CDIP on the implementation of the Development Agenda on an annual basis. The report presented to Member States gave a general overview of mainstreaming Development Agenda into WIPO's regular program of activities as

well as a brief summary of Development Agenda projects and an outlook for the future. The Delegation expressed its pleasure for the efforts of the Director General and the Secretariat towards mainstreaming the Development Agenda in WIPO's work. It also noted with satisfaction, that the Development Agenda Coordination Division was working closely with all programs in the Organization to ensure that the Development Agenda was being implemented and integrated in all parts of the WIPO system. The Delegation also supported the idea of integrating Development Agenda concerns into the expected results, performance indicators and the strategic approaches taken by the various programs. It looked forward to receiving a detailed description of the activities of the concerned Divisions in the next report. The Delegation noted the positive initiative in the shifting of the Organization's focus towards development as well as in enhancing the capacity of the Secretariat in providing technical assistance consistent with country plans and strategies. The Delegation requested the Secretariat to provide Member States with more concrete country-specific and detailed information under the prepared framework for technical assistance activities in the next report. Furthermore, it looked forward to having the report of the project on the enhancement of WIPO's Results-Based Management (RBM) Framework in upcoming CDIP meetings including an evaluation of development activities in WIPO. It also expected a detailed progress report on the implementation of the ongoing projects. The Delegation then made reference to the discussion on coordination mechanisms and monitoring, assessing and reporting modalities on the implementation of the Development Agenda which it believed reflected the importance and priority of the said mechanisms for the CDIP and to WIPO in general. The Delegation stated that the two proposals on the table had significant commonalities and expressed hope that with the constructive engagement of all Member States a consensus would be achieved in that session. The Delegation attached great importance to the establishment of such a mechanism for ensuring cooperation among WIPO committees on mainstreaming development in all WIPO's works, for avoiding duplication and also for providing the Member States with a clear vision of ongoing projects. Finally, the Delegation reiterated its commitment to constructively engage in discussions and spare no efforts in achieving productive results.

51. The Delegation of Colombia congratulated the Chair on his election and also thanked the Director General for his valuable report contained in document CDIP/5/2 on the implementation of the Development Agenda. The Delegation stated that on the mainstreaming of the Development Agenda across all programs, it supported what was said by the Delegation of El Salvador on behalf of GRULAC, and agreed that the work of the new program on statistics and economics studies for producing empirical studies on IP and development be used by decision makers. The Delegation pointed out that there were few sources of information at present linking up the economic components with intellectual property facilitating political decisions on the matter.
52. The Delegation of Ecuador congratulated the Chair on his appointment and expressed its commitment to work with him on the substantive work of the Committee. The Delegation also expressed its gratitude for the work done by the former Chair Mr. Mohamed Abderraouf Bdioui of Tunisia and the Director General, Mr. Francis Gurry, for his commitment to the Development Agenda, and the efforts made by the Secretariat in achieving a full and effective implementation of the Development Agenda. The Director General's Report on Implementation of the Development Agenda contained in document CDIP/5/2 was a manifestation of that commitment. The Delegation also thanked the Secretariat for drawing up the documents which had been tabled for discussion during the fifth session of the CDIP. The Delegation endorsed the statement by the Delegations of El Salvador and Egypt on behalf of GRULAC and the Development Agenda Group respectively, and expressed its commitment to the Development Agenda Group. The Delegation stated that it had taken an active part in the inception of the proposals

of the Development Agenda, first as a member of the Group of Friends of Development and now being part of the Development Agenda Group. It was convinced that the Development Agenda Group would bring an active contribution in the search for consensus taking into account the different positions of the States, as it represented an inter-regional group. The Delegation stated that while very important progress in the implementation of the Development Agenda had been demonstrated, the adoption of a coordination mechanism and monitoring and evaluation mechanisms and the presentation of a report on the implementation of all the recommendations was of vital importance. It was encouraged that the Committee was headed in the right direction, thanks to the proposals submitted by the Delegations of Brazil, Algeria, India, Egypt, Pakistan, Yemen, and Mozambique and by Group B, which would continue to be analyzed and debated during the CDIP meeting. The Delegation hoped that those positive and fruitful discussions during the course of the week would lead to specific decisions with regard to the implementation of the Development Agenda. The Delegation highlighted the content of document CDIP/5/4 regarding Patent-Related Flexibilities in the Multilateral Legal Framework and Their Legislative Implementation at the National and Regional Levels and welcomed more specifically the consensual work. In that regard, it thanked the Secretariat for drawing up the flexibility mechanisms provided by the various intellectual property systems, majority of which were not frequently in practice. It pointed out the need for maintaining the very important work of the Secretariat as an open-ended non-exhaustive reference which would continue to guide the countries and regions to strengthen the use of the intellectual property system as a very valuable tool for development. The work on the Development Agenda was continuous and the Delegation of Ecuador intended to move ahead with steps and explained that that was how the country had been able to achieve programs linked to the agenda with respect to technology transfer.

53. The Delegation of Bolivia (Plurinational State of) congratulated the Chair and Vice-Chairs on their election. It endorsed the statements by the Delegation of El Salvador on behalf of GRULAC and Egypt on behalf of the Development Agenda Group with which it had a great affinity and also for what it proposed. The Delegation considered the implementation of the Development Agenda as one of the most important tasks of WIPO. It considered that the project based methodology was just one way of making progress in achieving its objectives and different activities and different approaches within the IP system were needed for the fruitful implementation of that task. The Delegation pointed out that special attention should be given to the Cluster B on norms, flexibilities, public policy and public domain, without taking away the importance of the other clusters. Following the views expressed by Egypt on behalf of the Development Agenda Group, Bolivia felt that the Committee should continue to achieve the objective of public policy, promoting economic, social and cultural development. The Delegation welcomed the inclusion of the project on socio-economic development and hoped that it would respond to the true desires of developing countries and develop a common understanding of IP norms, not just that they have a positive impact, but also the pernicious impact on development. In that way countries would be able to carry out the necessary adjustments so that the Development Agenda would have the desired impact. The Delegation stated that it was also important for Bolivia that technical assistance rendered by WIPO took into account the different development levels, the costs and benefits of the system, and emphasized the flexibilities, the exceptions and limitations in a balanced manner and not simply promote the adoption of very high standards in detriment to other more relevant objectives for development. It considered the work of review and examination of the Development Agenda as highly important and therefore supported the proposals for mechanisms submitted by the Delegations of Brazil, Algeria, and Pakistan. It also welcomed the report of the Director General and thought it important to point out that it did not have to replace the review of the progress made on implementation of the recommendations by the States themselves. The

Delegation also emphasized the contribution of WIPO to the MDGs in the Development Agenda issue.

54. The Delegation of China congratulated the Chair on his election and expressed its confidence that under his very illustrious conduct, the Committee would be able to achieve encouraging results. The Delegation also welcomed the efforts carried out by the Secretariat in ensuring the smooth progress of the meeting. The Development Agenda was debated for the first time in 2004 and the frank and inclusive discussions which followed enabled the Development Agenda to obtain substantive progress and to move into the specific implementation phase. As a developing country, China welcomed all the progress achieved and specifically welcomed the report of the Director General which submitted WIPO activities in the implementation of the Development Agenda in a detailed manner. It also thanked the Director General for his special attention and efforts in integrating development into all WIPO activities. The Delegation conveyed its gratitude to the staff of the Secretariat for all their efforts and for all the detailed documents prepared for the Committee which laid a very good basis for discussions. In particular, the Delegation expressed its satisfaction for the translation of the documents into six United Nations languages which enabled all the delegations to take an active part in the discussions. The Delegation believed that the issue of development was one of the most important challenges faced by developing countries as well as one of the vital topics which concerned the international community and the United Nations system. Intellectual property played a key role in the achievement of the MDGs, especially in the use of science, technology and innovation to strengthen the capacities of the countries to achieve the MDGs. The inclusion of the principles of the Development Agenda in WIPO's different activities bore witness to the specific efforts made by the Organization in achieving the objectives of the MDGs. The Delegation thanked WIPO for the regional seminar organized jointly by the Secretariat and China in the field of the Development Agenda held in Chengdu City, in December 2009. It welcomed the efforts made by all parties concerned in the process for the Development Agenda as well as the open spirit of cooperation and inclusion which had been demonstrated throughout the discussions. It expressed hope that during the course of the meeting all the stakeholders would continue to work with the spirit of cooperation so as to be able to achieve consensus as soon as possible as to the coordination mechanism and the follow-up evaluation, monitoring and reporting modalities, and in that way lay a solid basis for the implementation of the different recommendations within the Development Agenda framework. The Delegation expressed its commitment to discuss the issues with a constructive spirit.
55. The Delegation of Venezuela welcomed the Chair and wished him every success in presiding over the Committee. It thanked the outgoing Chair from Tunisia for his great efforts in achieving consensus during his presidency. The Delegation also thanked the Director General for his report and for the documents prepared by the Secretariat for the Committee. Referring to the statement made by the Delegation of Spain on behalf of the European Union (EU), the Delegation expressed its continued support for maintaining Spanish as an official language of WIPO. It also conveyed its support for the statement made by the Delegation of El Salvador on behalf of GRULAC and by Egypt on behalf of the Development Agenda Group. The Delegation stated that while due to a delay in its capital the name of its country did not appear amongst the sponsors of the document, it agreed with the principles contained in that documents and had been working closely with that Group. The idea behind the Development Agenda was a long-term program which addressed the interests of developing countries and hoped that it would not be obstructed by the developed countries. The Delegation was convinced that WIPO should be the medium, a multilateral space, as part and parcel of the United Nations, to move that program ahead. The Development Agenda, despite conviction of all the members, seemed to have slowed down for some time, requiring a process which

moved it ahead. This would not be possible without agreement of all the members of WIPO. The Delegation mentioned that the Development Agenda be considered in a horizontal manner, as a principle within WIPO, and not just as the preserve of one committee. It highlighted that the Development Agenda should be an effective instrument in order for intellectual property to be a vehicle in achieving development of the member countries, as nations committed to the MDGs. In that light, it proposed the continuation of the process of re-organizing WIPO to adapt it to different times and to the Development Agenda as a principle. The Delegation believed it essential that the Committee achieved the implementation of all the recommendations without any further delay. In that regard, the Delegation called for a change to have that commitment becomes a reality and to be integrated into all the work of the United Nations and its development programs. It viewed that it was important that they committed themselves to the idea that the Development Agenda could not be reduced as a specific need to have it carried out, but that it corresponded to the holistic vision of WIPO, which was a comment made earlier that day by the Director General during his intervention. The Delegation expressed its commitment to support WIPO in all the reforms and substantial changes in the Organization. The Delegation commented that no one had directly opposed to the needs and that all the countries and members agreed that they continue developing it. Therefore, the Delegation considered it necessary that the efforts of all the Members be put together in order to have a process which would comply with the commitment acquired by all. It argued that if there was no commitment, the Development Agenda process risked being slowed down by the different committees and stated that that paralysis was the most evident sign of the need to have a reform of the institutions. Finally, the Delegation hoped that that session of the Committee, under the Chair's wise guidance, would lead to making progress on substantive topics of priority.

56. The Delegation of Mexico joined others in congratulating the Chair on his appointment. It also thanked the outgoing Chair for all the efforts he had made to move ahead with the Development Agenda. The Delegation hoped that the Committee would reach all the objectives it had set for itself since the adoption of the Development Agenda and expressed support for WIPO to integrate the development issues in the work it should carry out to attain the set objectives and the new objectives set under the MDGs. The Delegation thanked the Director General for his report on the implementation of the Development Agenda and considered that that implementation was moving ahead very well. The Delegation further noted that much work still remained to be done and stressed upon the necessity of commitment of Member States of WIPO to continue with the work of including the Development Agenda throughout WIPO and its committees. The Delegation, as a representative of the GRULAC, wished to thank El Salvador for its very timely intervention. It hoped that the discussions during that week would be fruitful to guarantee that the implementation of the ongoing projects covered the specific needs of the Member States, as well as that they took into account all the different development needs. It further hoped that the ongoing discussion about the establishment of a coordinating mechanism and monitoring and assessing and reporting modalities would be focused, and adopt a mechanism which would be efficient and transparent and respect the mandates of all the committees of WIPO, as well as the budgetary limits. The Delegation welcomed all the transfer of technology issues and observed that Mexico had always underscored that such issues were very essential and the intellectual property system should evolve in a balanced manner to achieve economic development.
57. The Delegation of Indonesia congratulated the Chair on his election and expressed its confidence that the Committee would make great progress under his leadership. The Delegation also thanked the WIPO Secretariat for their dedication and hard work and expressed the view that the documentation provided for the meeting would be highly beneficial in moving the Development Agenda forward. The

Delegation associated itself with the statement made by the Delegation of Thailand on behalf of the Asian Group and with the statement by the Delegation of Egypt made on behalf of the newly launched Development Agenda Group. It fully supported the guiding principles of the Development Agenda Group and emphasized the importance of the WIPO Development Agenda adopted unanimously in 2007. The Delegation expressed its belief that the Development Agenda Group could play an historic role in overseeing and steering the implementation of a balanced and pro-developmental approach to intellectual property in the global arena. The Delegation thanked the Director General and the Secretariat for their informative report on the implementation of the Development Agenda contained in document CDIP/5/2 which provided details of the efforts made to implement the agenda in 2009. The Delegation wished to echo the observation of the Development Agenda Group on paragraph 25 of the report which stated that specific proposals from Member States that could contribute to the Development Agenda implementation might also be of immense value to the process in order to enhance the member driven nature of the implementation phase and ensure that activities and projects respond to the real concerns behind the recommendations. The Delegation observed that statement perfectly illustrated the key elements needed for the effective implementation and mainstreaming of the Development Agenda into the work of WIPO. Furthermore, the Delegation agreed with the points outlined in part 3 of the document entitled "Outlook for the future", and wished to underscore the importance of transforming the way in which the Organization operated. It read out paragraph 23 which stated that "the implementation of the Development Agenda was a far reaching endeavor that seeks to transform the way the Organization operates ensuring that Development considerations form an integral part of all the work it undertakes". In that context, the Delegation was of the view that more effective coordination mechanisms close monitoring and better assessment and reporting modalities were crucial to the future success of the Development Agenda implementation.

58. The Delegation of Brazil congratulated the Chair on his election, expressing confidence that under his leadership the Committee was in safe and experienced hands. The Delegation associated itself with the statement made by the Delegation of El Salvador on behalf of the GRULAC and endorsed the statement by Egypt on behalf of the recently created Development Agenda Group. It informed that Brazil was a member of that new coalition of countries following in the footsteps of its participation in the Group of the Friends of Development. Brazil had been stressing repeatedly in several WIPO bodies, including the General Assemblies and the CDIP, the importance of implementing fully the Development Agenda recommendations as a key element to strengthening the multilateral role of WIPO. It expressed its belief that it was in the best interest of Member States to preserve WIPO as a primary international organization in setting intellectual property rules, principles and procedures and with that in mind, Brazil had been presenting concrete proposals and initiatives in the main committees and bodies of WIPO. Initiatives outside WIPO would not have the necessary credentials or legitimacy nor would those initiatives enjoy the support of the most dynamic economies in today's world. It noted that the main goals of the Development Agenda was to extend the benefits of the intellectual property system to developing countries as well as to those communities not yet integrated into the economy of innovation. With a view to implementing the Development Agenda, changes would have to be made in the very way in which WIPO had traditionally operated. It noted that a first set of changes must promote a transformation in the Organization's culture with the aim of not only providing for greater transparency and accountability across WIPO, but also of allowing Member States to have a higher degree of control over the activities of the Organization. It hoped that the end result of that process of change would see WIPO complete the successful transition from being a technical treaty and administrative body servicing primarily intellectual property holders, to an effective agency of the United Nations that will be capable of helping all Member States pursue their development strategies.

A second set of changes must lead to a systemic approach to mainstreaming the recommendations of the Development Agenda into the work of all committees. The Delegation explained that it together with a group of developing countries had sponsored a proposal for a coordination mechanism of monitoring, assessing and reporting modalities which was one of the important matters for consideration during that session of the CDIP. The Delegation was of the view that agreement on the coordination mechanism and reporting modalities could be reached during that session by building on the discussions held in previous November. It observed that success in bridging existing gaps would be a good signal not only to the Committee, but also to achieving progress in deliberations across WIPO. It further observed that the Development Agenda constituted uncharted territory within WIPO and that the member countries must take a path-finding mindset as they were indeed confronted with the challenge of learning by doing, for which the Delegation opined that methodologies used for implementing and monitoring the agenda must remain flexible and subject to adjustment as the Committee made progress. It called upon the Member States to try to reach agreement on the coordination mechanism with an open mind and proposed to reassess it from a few years from then, as to what they eventually might agree upon at that session. The Delegation hoped that such an attitude might help the Committee members to strike a compromise at the ongoing session. The Delegation thanked Director General for his report on the implementation of the Development Agenda and pointed out that it fully shared his assessment contained in section 3 of the said report, which stated that the "implementation of the Development Agenda was a far-reaching endeavor that sought to transform the way the Organization operated ensuring that development considerations formed an integral part of all the work it undertook". Brazil also subscribed to the Director General's view of the Development Agenda as a global partnership, the success of which would be conditional on involving of the Secretariat, Member States, as well as on the support from a broad range of stakeholders. That was needed if all countries were to benefit from intellectual property systems according to their specific roles, needs and priorities. In that connection, it recalled that not only the developing countries stood to gain from the Development Agenda, countries that usually fell outside the category of developing ones might also benefit from the implementation of the Development Agenda. It pointed out that they should not forget, for example, that the number of patents granted each year remained concentrated in a very small number of nations. The Delegation commended the Secretariat for having outlined and presented for the consideration of the Committee, as mandated by member countries, concrete projects as one of the methods of implementing a specific recommendation of the agenda. The Delegation informed the Committee that it would make observations on the various projects as they were considered. The Delegation encouraged Member States, especially developing ones, to present new projects in connection with the implementation of the agenda. It recalled the centrality of the so-called golden rules agreed upon at the CDIP's third session and felt the results based management framework as a useful and valid technical tool to measure the impact and concrete results of approved projects. It however observed that the use of technical tools should not be mistaken for a proper and thorough assessment of the implementation of the agenda. It stated that only by setting in place a coordination mechanism for monitoring and assessing, the reporting modalities would put them in a position to make a comprehensive analysis of the progress in the rolling out of the agenda. Within the program of IP and global challenges, the Delegation considered that a debate of global food security must take centre of stage. It noted that food security was a priority of Brazil's foreign policy and one of the MDGs. Brazil was one of the largest food producing and exporting countries in the world, and had developed expertise in that area, and was willing to make concrete and substantive contributions within WIPO. The Delegation expressed its hope that it would be in a position to do so at the following session of the CDIP. Finally, the Delegation wished to recall that 9 out of the 19 Recommendations for immediate implementation belonged to Cluster A, relating to technical assistance and capacity building. Taking into account that more than two years had elapsed since the adoption of the Development Agenda,

the Delegation of Brazil wished to suggest the holding of an open ended stock-taking meeting to assess the status of implementation of cluster A and evaluate the impact of projects underway. It pointed out that that meeting would be open to the participation of civil society organizations and believed that such exercise would be useful in guiding future work on implementation of Cluster A Recommendations.

59. The Delegation of Madagascar congratulated the Chair on his election and thanked the Secretariat for the preparatory work and the quality of the documents made available. The Delegation indicated its endorsement of the statement made by the Delegation of Angola on behalf of the African Group. It hoped that by the end of the meeting the Committee would achieve consensus agreements that would enable each member country to benefit from the implementation of the Development Agenda. It expressed its hope that it would be able to benefit from the implementation of projects on capacity-building and transfer of technology and pointed out that those two fields were of a priority for its country. The Delegation thanked WIPO for what it had done or would do to help Madagascar.

60. The Delegation of Chile congratulated the Chair on his election and expressed its thanks to the outgoing Chair. Associating itself with the statement made by the Delegation of El Salvador on behalf of GRULAC, the Delegation noted that from the start of the Development Agenda process, Chile had played an active role and been a proponent of the Development Agenda. Therefore, the Delegation had high expectations in the full and effective implementation of the 45 Recommendations adopted by the General Assembly and the projects that were in the process of implementation. It hoped that the Committee would achieve substantial progress that week. The Delegation noted that the work on the Development Agenda was not limited to the 45 Recommendations adopted by the General Assembly and urged all members to work effectively and in a constructive spirit, taking into account the various needs of the members with the main objective of making progress on the substance. The Delegation expressed its appreciation for the commitment of the Director General Mr. Francis Gurry, and fully supported his statement delivered during that morning on the importance of each and every unit and divisions of WIPO and their place in the Development Agenda implementation. The Delegation referred to the Director General's report contained in document CDIP/5/2, document CDIP/5/4 on patent related flexibilities, document CDIP/5/7 on socio-economic development and the document on the public domain and stated that it would make interventions on each of those specific items during the course of that week. On the subject of the coordination mechanism, the Delegation attached great importance to a full implementation of the recommendations. It however wanted to remind that that was not the only item on the agenda and requested the Chair for his recommendation on organization of work so that specific agenda items were given the necessary amount of time. The Delegation believed that the Committee should continue the consideration of the coordination mechanism and find a solution as soon as possible. The Delegation wished to thank all those countries who had expressed their interest in making progress on the Development Agenda and also those who introduced the so-called Development Agenda Group that morning. It reiterated its support for the Development Agenda and its readiness to work constructively with all WIPO members who were interested in pushing forward the implementation and mainstreaming of the Development Agenda in the activities of the Organization.

61. The Delegation of Pakistan congratulated the Chair on his election as Chair of the fifth session of the CDIP, adding that as a member of the Asian Group it felt honored to see an Asian country leading them through that very important Committee of WIPO and assured him of Pakistan's full support. The Delegation also thanked the outgoing Chair for his able stewardship. The Delegation

extended its appreciation to the Director General, Dr. Francis Gurry, the Deputy Director General, Mr. Geoffrey Onyeama and Mr. Irfan Baloch, Acting Director of the Development Agenda Coordination Division and other WIPO staff for their excellent work and enduring contribution in the work of the Committee and the Development Agenda implementation. The Delegation pointed out that it had an abiding interest in the WIPO Development Agenda which sought development as the ultimate aim of the global IP system which was flexible in meeting the needs of different levels of development. It noted that as IP was essential in today's world, the global IP system should evolve in a way where it helped the developing and least-developed countries rather than impede their progress and make them perpetually dependant upon the developed world. It expressed its trust that a balanced IP system would help to alleviate poverty and misery in the world and provide a boost to the global economic system where there would be equal partners rather than donors and recipients. The Delegation of Pakistan expressed its belief in the efficacy and utility of multilateralism and noted that the Delegation was a staunch proponent of positive engagement by all Member States in all the diverse perspectives related to intellectual property issues and activities in WIPO. It noted that WIPO was the organization tasked with the subject of IP and any effort to cause fragmentation of work and negotiations in the field of IP across multiple organizations could seriously undermine the global IP system. There was a need to actively explore the ways and means which would enable intellectual property to make its full contribution and be commensurate with the task of development. This included the need to ensure that the different elements of IP appropriately contributed to economic and social development. It further observed that in order to pursue those objectives, a number of countries, including Pakistan, had taken the initiative to launch the Development Agenda Group, consisting of like-minded countries in support of development-oriented perspective on all intellectual property-related issues and mainstreaming of the Development Agenda. The purpose of the Development Agenda Group was to positively contribute to the work in WIPO. The Delegation believed that the new group of cross-regional and diverse countries would add constructively in building the bridges between the various viewpoints and would carry forward the Development Agenda implementation. The Delegation then wished to welcome the efforts of the Director General and his positive approach towards the Development Agenda which was apparent from his report on its implementation. It observed that that initiative reflected the commitment on his part by providing a succinct and clear account of many achievements made and activities undertaken during the previous year. It noted that the report gave rise to hopes about the implementation of the Development Agenda and hoped that through members' collective efforts they would be able to realize their goals of a healthy and balanced global IP system. The Delegation further wished to compliment the Secretariat for its efforts in formulating the various projects and documentation for the consideration of the Committee and especially noted with satisfaction the first ever document produced by the Secretariat on WIPO's contribution to the MDGs. The Delegation informed that it would make specific comments when that document came under discussion. The Delegation expressed its full support for the projects-based approach, in particular the thematic-project approach. It believed that such approach had speeded up the implementation process in many areas. The Delegation looked forward to tangible results of those projects. It however noted that the key challenge remained, mainstreaming of the Development Agenda. It observed that the linking of the work of the various programs of WIPO with Development Agenda recommendations was an excellent approach. It pointed out that the workability of that approach would largely depend upon the ability to deliver the expected results. Equally important was that the member countries of WIPO had the tools and mechanisms to review the progress and from that point of view, the Delegation observed that together with Algeria and Brazil, and supported by India, Egypt, Mozambique and Yemen, it had presented a proposal on the coordination mechanisms and monitoring assessing and reporting modalities. It expressed its hope that the proposal would receive wide support. The Delegation observed that the future efforts of WIPO and its Member States on the question of the

Development Agenda largely depended upon their collective ability to evaluate their work. The Delegation urged all Member States to demonstrate flexibility on that issue and was of the belief that only sincere, concerted and combined efforts of all WIPO Member States could deliver results in all WIPO activities. In conclusion, the Delegation wished to reiterate its commitment to work together from within the Development Agenda Group and in its national capacity with all other stakeholders in WIPO and build bridges across various perspectives and viewpoints. It indicated its shared belief that the Development Agenda was a global partnership from which all countries would benefit according to their specific goals, needs and priorities.

62. The Delegation of Morocco congratulated the Chair and expressed thanks to the outgoing officers, in particular to Mr. A. Bdioui from Tunisia. The Delegation indicated its support for the statement by the Delegation of Angola made on behalf of the African Group. It thanked the Director General for the interest he attached to this Committee and congratulated the Secretariat for making available to the Committee a number of very valuable documents. The Delegation wished to highlight two important documents namely the report on the implementation of the Development Agenda contained in CDIP/5/2 and the contribution of WIPO to the MDGs, document CDIP/5/3. The main lesson that could be drawn from both the documents was that WIPO had made considerable and praise-worthy efforts, both organizational and financial, to be able to contribute to the achievement of the MDGs. The Delegation however wished to note that there was a gap between the determination and efforts of international organizations and the reality was that a billion people lived in poverty. The Delegation noted that although progress had been achieved in some countries, unfortunately many others had seen their years of effort wiped out by the economic recession, especially in Africa where poor countries were most numerous and where the rate of growth had become the lowest in the world since the recession. The Delegation called upon the Committee to redouble its efforts to step up the rate of implementation of the Development Agenda recommendations so as to be able to contribute to the achievement of the MDGs before the deadline of 2015 set by the UN and in that context, called upon it to set up as soon as possible, the coordination mechanism for the follow-up and development of the activities. It further called upon the wisdom of the Chair to ensure a fair distribution of time so that the Committee could examine all the items on its agenda in order to continue and strengthen the implementation of the Development Agenda. The Delegation observed that the coordination mechanism was one of the essential items on the agenda of that session, and it should be given the necessary time. It observed that other items on the agenda should also not be neglected either, particularly the item on the transfer of technology which was considered at the previous session and expressed the desire of the Delegation to have a constructive debate leading to a consensus on the objectives of solidarity and partnership envisaged by the project. The Delegation also expressed its desire for the new project on IP and socio-economic development to be given sufficient time so that it could be examined and if necessary amended. The Delegation noted that it had come to that session in a constructive spirit and with great hopes of seeing the implementation in the field as soon as possible of the objectives of the Development Agenda and indicated that it would contribute to the debate in areas, firstly, to see respect for the principles defined at the third session of CDIP enabling each Member State to discuss and, if necessary, amend the thematic projects proposed by the Secretariat, secondly, to support any approach that would speed up the process of implementing the Development Agenda while respecting both the letter and spirit of each recommendation. The Delegation also welcomed the Development Agenda Group and indicated its preparedness to work with it to achieve its aims. Thirdly, and finally, the Delegation wished every success to the session and hoped that it would find consensus on the follow-up and assessment mechanism. The Delegation then indicated its support for the proposal by Algeria, Brazil and Pakistan and thanked the other countries for their contributions on the subject.

63. The Delegation of Japan congratulated the Chair on his election and also the Secretariat on all the hard work for the preparation of working documents including the Director General's report which comprehensively illustrated the implementation of the Development Agenda. The Delegation also extended its congratulations on the occasion of the fortiethth anniversary of the WIPO Convention and the 10th anniversary of IP Day. The Delegation associated itself with the statements made by Switzerland on behalf of Group B and observed that Japan attached great importance to development-related activities, including technical assistance and capacity-building. In that respect, the Delegation informed that Japan had been providing various types of assistance through its Funds-in-Trust, including the one for African nations and LDCs. It further informed that as one of the projects of the Funds-in-Trust program, the WIPO High-Level Forum on Global Intellectual Property Infrastructure for Promotion of Innovation was held in Tokyo in March 2010 in the presence of the WIPO Director General, Dr. Francis Gurry, where officials of more than 50 IP offices from around the world and actively exchanged views on the role of intellectual property in promoting innovation. Further, the Delegation informed that from April 27 to 30, the regional workshop on technology transfer based on the strategic use of intellectual property would be held in Casablanca, Morocco, and expressed its expectation that the workshop would increase awareness of the value of technology transfer through strategic use of intellectual property and contribute to sustainable development of African countries. Through those activities, the Delegation wished to continue holding talks to raise awareness of intellectual property rights. It observed that the effective exploitation of intellectual property rights was essential to achieve sustainable development and in that respect, appreciated the approval at the previous session to start implementing the WIPO experience-sharing of intellectual property exploitation for an economic development database, a WIPO E-SPEED Database which had been proposed by Japan as part of WIPO's ongoing activities. The Delegation expected that the initiative would be promptly implemented by the WIPO Secretariat. Furthermore, it explained that as part of the Japan funds-in-trust program, WIPO Japan Office (JPO) had started preparations to examine and collect successful cases to be stored in the WIPO E-SPEED Database. The Delegation noted that in order to achieve the objective of the Development Agenda, in an effective and efficient manner, it was important to advance substantive discussion on the project based on the WIPO Development Agenda implementation and in that respect, members should first consider how the existing mechanism and resources could be utilized to reflect the principles of the Development Agenda. The Delegation extended its commitment to constructive discussions at that session under the wise guidance of the Chair.
64. The Delegation of Spain congratulated the Chair as it did before on behalf of the EU, and wished him every success in the work. The Delegation indicated its support for the statements made that morning by Switzerland on behalf of Group B and by the European Union (EU). The Delegation extended its thanks to the Director General for providing and introducing the report on the implementation of the Development Agenda to the Committee. It further observed that the report had been very useful in helping the Committee to carry out its tasks of supervising and evaluating the implementation of the recommendations adopted. Following on what the EU said, the Delegation noted its understanding that the report should be factored in as an important element of the coordination mechanism to be adopted by the Committee. Commenting on some aspects of the report, the Delegation found particular interest in the information on the implementation of principles and guidelines contained in the recommendations. The Delegation noted that when it supported the new thematic approach for the implementation of such recommendations, it did that on the understanding that the principles contained in many of those recommendations did not have to be linked to any proposals which ran through the existing work of the Organization. The Delegation therefore, welcomed the exercise of the Secretariat in identifying how those principles

affected its various activities. It wished to receive more concrete information about the results of that work especially in the context of paragraph 3 of the Spanish version of the report where it was mentioned that it had been necessary to make important efforts and which implied, according to the Delegation, that the effort had already been made. The Delegation therefore, wished to ask the Secretariat for more specific information about those efforts and to be more specific in future reports. As an example, the Delegation pointed out to paragraph 6 where there was a very satisfactory list of all the new strategic objectives, programs and sections involved in the implementation of the Development Agenda. The Delegation welcomed the new code of ethics for the WIPO staff which should incorporate the principles laid out in Recommendation 6 of the agenda. It noted that paragraph 9 of the report raised questions as to whether the new code of ethics adopted by the UN would be the one that would be submitted to the Committee for adoption and inquired whether in that case, it would need adoption or would there be a specific WIPO code of ethics inspired by the UN model. The Delegation wished to know from the Secretariat as to when it planned to submit that code for consideration by the Coordination Committee. As regards paragraph 10 of the report, the Delegation congratulated the Organization, the Secretariat, for having made efforts to strengthen its cooperation with other intergovernmental organizations and referred the possibility of cooperating with other intergovernmental organizations for the implementation of programs and activities of the WIPO. In that context, the Delegation wished to know more details about the specific result of all those efforts and on the possibilities for cooperation. The Delegation further observed that both in the working document of the Committee as well as on the WIPO website, the expression Development Agenda was translated into Spanish distinctly as "*Ajenda de Desarrollo*" and as "*Programa de l'OMPI para Desarrollo*", as the WIPO Program for the Development Agenda. The Delegation observed that it was necessary to think about having a single standardized terminology without detriment to a better understanding of the issue by other Spanish-speaking delegations. The Delegation explained that the expressions Agenda and Program did not have the same meaning in the common use of Spanish. The first seemed to refer simply to a set of activities which was to be undertaken, whereas the expression Program also referred to other aspects such as the order in which the said activities were to be carried out. Development Agenda was approved by the Assembly of this Organization, and therefore the work of this Committee would be based on this Agenda rather than a WIPO Program for Development. Finally, the Delegation expressed its concern about scheduling of three important committee meetings, namely, the Standing Committee on the Law of Patents (SCP), the Standing Committee on the Law of Trademarks (SCT), and the intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) in three consecutive weeks within the first quarter of 2010. The Delegation observed that such schedule made it very difficult for certain Member States to prepare for the meetings and felt that that could only lead to an undermining of the quality of the results.

65. The Delegation of the Republic of Korea observed that the international community and the international organizations considered development as one of their key missions. The development issue would be on the agenda of the G20 Summit in Seoul to be held in November 2010. The Delegation expressed its country's commitment to working towards agreements on substantial activities for addressing the international development gap. In the knowledge-based society, intellectual property played an increasingly important role and was a tool for increasing creativity and technological innovation. The link between intellectual property and development meant that WIPO and intellectual property offices would play a more crucial role than ever. The Delegation expressed the hope that Member States would collaborate to reduce the gap between countries, especially in terms of intellectual property infrastructure and capabilities. The Republic of Korea had made efforts to contribute to the development of such collaboration. It established

a WIPO Funds-in-Trust in 2004 to implement activities that aimed at assisting developing countries and least-developed countries to use intellectual property for development. In 2008, the programs for using intellectual property to support local community development were launched. In order to expand those local development support programs globally, two proposals were presented at the third and fourth sessions of the CDIP. Two projects based on those proposals were going to be discussed and approved by Member States during that session. They contained substantial activities for the benefit of developing and least-developed countries. The Delegation expressed hope that those projects would be approved and implemented at the earliest possible moment.

66. The Delegation of Panama stressed the interest of its national authorities in the WIPO Development Agenda and expressed satisfaction for the efforts made to implement the ongoing projects on the basis of the adopted recommendations. As invited by the Chair, the Delegation expressed its commitment to work with an open mind in the search for solutions that would enable projects that were beneficial for all Member States to be implemented. It supported the statement made by the Delegation of El Salvador on behalf of GRULAC. Proactive and constructive attitude was of great importance as regards the implementation of the work, the Delegation noted. It noted also with great interest the setting up of a program on economic studies whose activities would hopefully lead to concrete benefits and the achievement of higher levels of economic development. It also expressed satisfaction on the study on flexibilities under the TRIPS Agreement and WIPO's emphasis on innovation and the transfer of technology. The Delegation said the CDIP's work represented an important guarantee that intellectual property would be considered a tool for enhancing creativity and encouraging innovation in a balanced manner. One of the guiding principles of the Development Agenda was that intellectual property should become part of national plans and programs for economic and social development in all Member States. With that objective in mind, the Delegation said that would continue working on obtaining technical cooperation which would help develop its national capacities based on actions which would be carried out at the national level.
67. The Delegation of the Dominican Republic supported the statement by the Delegation of El Salvador made on behalf of GRULAC. It thanked the Director General for presenting the report contained in document CDIP/5/2, which showed his commitment to the Development Agenda and hoped that he would continue to inform the Committee about the work done in future. The Delegation supported the Development Agenda in line with the active role it played in the Friends of Development Group and considered it an ideal platform to understand the importance of intellectual property as a tool for economic and social development for all sectors. That position was in line with the pilot program in the Dominican Republic. Many recommendations of the Development Agenda fully corresponded to what its intellectual property office was trying to do to contribute to the economic and social development of the country. Highlighting the situation in its neighboring country Haiti, the Delegation said that it was involved in rebuilding its infrastructure and institutions. It said that WIPO could count on the full cooperation of the Dominican Intellectual Property Office for any action to that effect. Finally, the Delegation said there was a need for enhancing the coordination between the different sectors so as to mainstream the Development Agenda throughout WIPO.
68. The Delegation of Bangladesh expressed its appreciation to all Members States for electing Ambassador Abdul Hannan as Chair of that important WIPO Committee. The Delegation expressed its appreciation to the past Chair and Vice-Chairs of CDIP for their valuable contributions. It endorsed the statements made by the Delegation of Thailand on behalf of the Asian Group and the Delegation of Nepal, on behalf of the Least-Developed Countries (LDCs). The Delegation thanked the

Secretariat and the Director General, Mr. Francis Gurry, for his report on the implementation of the Development Agenda and supported the idea of presenting the report on an annual basis. It believed that the review of the ongoing projects should have remained on the Agenda giving delegations the opportunity to discuss implementation in-depth and provide guidance as necessary in order to ensure the member-driven nature of the Development Agenda implementation. The Delegation extended its felicitations to WIPO on the fortiethth anniversary of its Convention, and recognized its strong role and commitment to do its part in the implementation of the MDGs as part of the UN family. The implementation of the Development Agenda recommendations would allow WIPO to assist the developing countries better and in particular, the least developed countries, to utilize intellectual property effectively in attaining their development objectives, promoting innovation and taking advantage of the flexibilities in the area of intellectual property available to them. In that context, the Delegation stressed the need for specific actions to follow up on the donor's conference held in November 2009. The Director General and WIPO's Secretariat were called upon to make every effort for an early commencement of additional activities that have been planned. It reiterated the urgency for establishing the LDCs Fund-in-Trust as envisaged by the Development Agenda Recommendation 2, which would have provided a window, not existing presently, to donors for channeling funds for additional activities for the least-developed countries. In that regard, it underlined that the ten-point action plan for the LDCs, and the LDCs Ministerial Declaration adopted in July 2009, provided useful guidance to proceed on that and other matters that were of importance to the least-developed countries. There were a number of projects for consideration at that session which were potentially able to help to build capacity of the LDCs to brand their products and to enhance access to scientific and technological information for their small and medium enterprises. Regarding the proposed coordination and monitoring mechanism, the Delegation felt encouraged by the progress made on the matter at the previous CDIP session. The text under discussion before the Committee contained two proposals, and since many of the proposed elements were essentially similar, there was a need to focus on the areas where differences of opinion persisted in order to bridge the gaps and to come up with an agreement on an effective mechanism.

69. The Delegation of Azerbaijan expressed gratitude to the Secretariat for its very good preparation of the documents in all WIPO languages. It pointed out that at the third session of the CDIP, the Director General said that he would report every year to the CDIP and he kept his word. It stated that regular reporting was appreciated and should be continued in the following years as well. With reference to the document CDIP/5/2, it pointed out that a central part of the Committee's work was to report on what had been done and to see how the work was coordinated with other bodies of WIPO. During 2009, discussions started within the Committee on coordination mechanisms and monitoring, assessing and reporting modalities and Member States had positively engaged in defining the necessary mechanisms and modalities. Having an assessment mechanism based on consensus would have promoted greater transparency in the Committee's work and lead to the further development of thematic projects and their implementation. The Delegation stated that there was no need to create a new structure in WIPO for assessment mechanism. It also congratulated all participants on the celebration of World Intellectual Property Day, and also on the fortiethth anniversary of the WIPO Convention.
70. The Delegation of Sudan congratulated the Chair and thanked the Director General for his report. It also thanked the Organization for all the technical and financial support that had been provided to all the Member States, particularly the developing countries and the LDCs. The Delegation expressed its support for the statement made by the Delegation of Egypt on behalf of the Development Agenda Group.

71. The Delegation of Kyrgyzstan, expressed its special interest in the Development Agenda, and opined that the national IP strategies should be used as a tool for economic development. It stated that recently Kyrgyzstan hosted a WIPO mission as an initial step to develop a national IP strategy. A number of meetings with high officials and the private sector were held, while support was provided by private entities which were seen as the main engine of the economic development also because they valued their intellectual property and saw it as a potential for economic development. The Delegation stressed the importance of an effective monitoring and evaluation system. Finally, the Delegation thanked the Director General Mr. Francis Gurry and the Secretariat for their tireless efforts and assured that Kyrgyzstan would continue to provide all the necessary cooperation and commitment for the success of the Development Agenda.
72. The Delegation of Costa Rica associated itself with the statement made by the Delegation of El Salvador on behalf of GRULAC. The Delegation said it had played an active role from the start of the discussion of the Development Agenda. It believed that the CDIP had reached a new phase where it was important to make progress on all the projects and also include them into the work of WIPO. It congratulated the Secretariat for the documents that were under discussion. With reference to the document CDIP/5/2, it thanked the Director General for his excellent report on the implementation of the Development Agenda in its three parts and annexes because it reduced the complexity of the issues and showed clearly what work had been done to implement the recommendations. The Delegation informed that the previous week in Santiago, Chile, a meeting of the heads of the intellectual property offices of Latin America had taken place. The meeting served as a platform for all participants to express the desire to cooperate with WIPO. That represented a good input for the realization of all the projects or the designing of new projects to help developing countries. The Delegation reiterated its satisfaction for the documents prepared, especially the one on WIPO's contribution to the implementation of the MDGs and also the document on flexibilities in patents in the multilateral framework. The Delegation recognized the efforts of the Member States in implementing the Development Agenda and the creation of the Development Agenda Group. That was a group involving cross-cutting interests and it was an added value enabling a rich discussion in the Committee. Finally, it informed that the Delegation would hand in its precise comments on the various subjects that should be taken into account to achieve the aims of the recommendations.
73. The Delegation of Niger brought to the attention of the Committee the recommendations made at the Regional Forum on IP for Parliamentarians of the LDCs in French speaking Africa, which was organized by WIPO and the Government of Benin, in Cotonou, on April 13 and 14, 2010. The meeting brought together Parliamentarians from Benin, Burkina Faso, Burundi, Comoros, Guinea, Madagascar, Mali, Mauritania, Niger, Central African Republic, Democratic Republic of Congo, Senegal and Togo. The Delegation drew the attention of the Committee to the following recommendations: (i) WIPO should provide assistance and support for raising awareness, capacity building and increasing understanding of IP as an instrument of development of LDCs; (ii) WIPO should study the possibility of organizing similar fora for parliamentarians and those responsible in the legal sector for drawing up policies in IP in the French speaking LDCs; (iii) The national assemblies of the concerned countries should create sub committees at a parliamentary level and networks dealing with IP issues. These parliaments should also integrate IP issues into their strategies for national development (iv) the capacity of research institutions and that of science and technology institutions should be strengthened and a culture of science, technology and innovation in using and commercialization of IP should be fostered including greater cooperation between research and industry; (v) WIPO should provide assistance in order to

create technical and scientific information centers in the Member States; (vi) The governments of the concerned States should request an assessment of the needs in the IP area in each of their countries; (vii) WIPO should provide on request, support on issues related to copyright and related issues; (viii) WIPO should provide technical assistance and support to raise awareness and draw up policies on the legal aspects of TK. Projects to assist LDCs to take advantage of their genetic resources should be implemented. The Delegation added that those recommendations could also be considered as input in the organization of a UN conference on LDCs.

74. The representative of the Electronic Information for Libraries (EIL), an international NGO working with libraries in developing countries and countries with economies in transition, speaking with the support of the Library Copyright Alliance, wanted to comment on a project discussed in the Director General's report and also further on Agenda Item 8. The project on intellectual property and the public domain focused, as a first step, on analyzing the implications of a rich and accessible public domain and explored the various tools available for identifying and accessing subject matter that had fallen into the public domain. In that context EIL highlighted the impact of technological protection measures known as TPMs. TPMs were problematic because they were allowed to restrict access to the public domain. The first concern was that TPMs did not know, and by their nature, could not know, when the term of copyright protection had expired. Therefore, the content could remain inaccessible even when it had fallen into the public domain. The second concern was obsolescence; TPMs, like many technologies, were quickly to become out of date unless they were actively maintained by the producers. It stated that the average lifespan of the TPMs was three to five years, and that commercial mergers and acquisitions amongst producers meant that the original key-holder might not be found and therefore it might not be possible to transfer digital material onto new platforms or operating systems. As a result, it was conceivable that a great number of digital works with TPMs would be inaccessible in the future. Libraries understood the problem, because the world of libraries, mandated to preserve the cultural heritage, needed to be able to transfer protected digital works to other formats for preservation purposes, so that the content was going to be fully accessible when the rights had expired. Major libraries such as the British Library had expressed their grave concern about the impact of TPMs on the preservation of cultural and scientific heritage and had called on policymakers to help find a solution. In conclusion, EIL believed that the role of TPMs was a very critical and central issue to the existence of a rich and accessible public domain and it should have been examined as part of the project. The library community was ready to offer advice or assistance in that regard.
75. The representative of the Library Copyright Alliance (LCA), representing public, academic and research libraries in the United States of America, speaking with the support of the Electronic Information for Libraries stated that the Development Agenda offered an unprecedented opportunity to benefit libraries in developing and least-developed nations. As the Committee continued its implementation, it wanted to offer a concrete proposal for a project that, if mainstreamed with current activity in the SCCR, would have solved a specific problem of the type that the Development Agenda was designed to target. The current system of copyright provisions governing library activity was insufficient for a durable and sustainable global information society. Flexibilities had not expanded with enhanced rights and obligations. They did not sufficiently address digital activity or cross-border distribution of work. Private licensing often prevented certain uses of works and technological protection measures prevented uses that copyright law had long intended to support. The impact of those barriers in LDCs and developing nations was tangible. Referring to the project on intellectual property information and communication technologies, the digital divide and access to knowledge, document CDIP/4/5 revised referenced in the Director General's report, document CDIP/5/2,

it said that drawing from the new studies on libraries, archives and education within the SCCR, the project could have explored the potential of minimum mandatory provisions essential to education, research and e-information services to enhance access to knowledge in LDCs and developing nations. It would have covered cross-border uses of print and digital works to support the primary mission of libraries. It would have also covered library lending and document supply as essential services for furthering social and economic development. It noted that many national laws lacked such provisions. It would have covered library preservation; in many countries libraries suffered from the lack of legal certainty with respect to digital preservation, especially involving audiovisual materials, sound recording, e-books and websites. Of key importance for LDCs and developing nations were library provisions for education, research and private study, including provisions that would have made online global education more feasible than it was at that time. Open access and scholarly communication was a major focus related to education and research. Further exceptions included accessibility for persons with disabilities. The project should have uncovered solutions to the use of orphan works that otherwise were to be forgotten or foregone in the digital age. It should have explored policies reaffirming that copyright limitations and exceptions were important statements of national and international principle and that they should have not been varied by contract. Finally, because implementation of anti-circumvention legislation in many nations exceeded the requirements of article 11 of the WIPO copyright treaty, further study of unnecessary restrictions should have been encouraged. The LCA asked Member States to consider, in relation to the above-mentioned project, discussion of a functional system of minimum, mandatory, limitations and exceptions that removed barriers to equitable access to information. That would have enhanced the component on copyright and access to information and creative content. The organization reminded that the copyright study proposed for the project was designed to be conducted by multiple parties, including civil society organizations to facilitate the multi stakeholder approach and the representatives from the international library community were prepared to be involved in addressing the issues.

76. The representative of Creative Commons International (CC) explained that was a non-profit organization dedicated to making it easier for people to share and build upon the work of others consistent with the rules of copyright and it provided free licenses and other legal tools to mark creative work as some rights reserved, in order to allow third parties to share, remix, use commercially or any combination thereof. CC also complemented sister organizations dealing with education, open access, open science and cultural development. CC had projects and specific licenses in 102 countries with 19 more jurisdictions in the drafting process. It encompassed a vast network of volunteers who were engaged in the principles of sharing information for the wider good. Millions of objects were already shared under a Creative Commons license. It was pointed out that it was already mentioned during previous sessions as an important tool for reaching balance for developing countries. It believed that CC offered developing countries with opportunities to legitimately access scientific and educational materials released under the Creative Commons licenses by researchers and public institutions in the developed world, something that had already taken place in many countries. It noted that it did not solve the digital divide issues, particularly with access, but it believed that making the works available under permissive licenses was a step in the right direction. CC strongly supported the work of the Committee and encouraged in particular the work in technology transfer and in studying the public domain, and also welcomed the work of the SCCR in limitations and exceptions for educational activities. In addition, CC was creating a prototype tool for marking and tagging public domain works which was expected to be out by mid-summer 2010. Any work on tools to facilitate the access to public domain content should have received inputs from all stakeholders that had valuable information and could facilitate the marking of such content. CCs' work also included substantial

involvement in scientific arenas; and the encouragement of the creation of patent pools with other NGOs working in the biotech area, which it believed would produce important results for developing countries.

77. The representative of the Third World Network (TWN) believed that the WIPO Development Agenda represented a significant cultural change in WIPO. A shift from uncritically promoting IP protection and enforcement to a paradigm where development related issues were central and the different categories of IP were used to achieve the development strategies of a country. The cultural change also pertained to the way WIPO operated; there was a deeper reflection on the development implications of IP and the consequences of adoption of IP standards by countries at different stages of social, economic and technological development. The Development Agenda was also about WIPO making a transition to an Organization that was objective, transparent and accountable. In relation to the Director General's report, the representative wanted to focus on four issues. Firstly, while TWN welcomed the RBM framework of WIPO mentioned in paragraph 5 of the report, it was viewed as a self-evaluation tool. There was a need for independent evaluation of the extent to which development considerations and Development Agenda recommendations had been mainstreamed into WIPO. To that end it supported the coordination and assessment mechanism proposed by Algeria, Brazil and Pakistan. Secondly, it was very important to ensure that the technical assistance was responsive to the needs of the recipient of assistance. At the last CDIP, it had been agreed that WIPO would contract external experts to undertake an independent review of WIPO's technical assistance and that relevant stakeholders, including NGOs, would be consulted. In that context, there was a need for a robust engagement with NGOs to obtain inputs for the external review. Such an engagement could include inviting written submissions from NGOs, as well as organizing hearings between external experts and NGOs on WIPO's technical assistance. Thirdly, TWN believed that more could have been done to implement recommendation 5 of the Development Agenda, which required WIPO to display information on technical assistance activities on its website. There was very little information provided by WIPO on its technical assistance activities. Finally, regarding paragraph 11 of the report stating that civil society participation had been enhanced in WIPO's meeting, TWN welcomed that development; but it appealed to the Director General, by virtue of also being the Secretary General of UPOV, to ensure that UPOV was also open to civil society participation. At the UPOV meeting last October, civil society and pharmaceutical organizations were denied observer status. Recently, about 81 NGOs had, in an open letter to Dr. Gurry, supported the renewed application of those organizations for observer status to UPOV. The Director General was urged to play an important role in enhancing the participation of civil society groups in UPOV as had been done in the case of WIPO.
78. The representative of 3D informed that its mandate was to encourage cooperation amongst professionals of trade and development and the advocates of human rights so that the commercial regulations were drawn up and applied with the objective of an equitable economy. It expressed satisfaction in regard to the approach in the implementation of a Development Agenda based on human rights. There was a need to identify real conflicts which might exist between intellectual property rights and the achievement of the right to development in the field and to propose constructive solutions. The representative informed that its policy brief number 4, entitled "How Human Rights can inform the WIPO Development Agenda" discussed that issue and was available in English at its website. It also stated that the document demonstrated how it was possible by using the approach based on human rights to guide an implementation of the Development Agenda and take into account the fundamental needs of developing countries, particularly as regards access to health, education and nutrition. It stated that the laws and rules of intellectual property might limit or even prevent the satisfaction of these

fundamental rights. For example, making reference to the document on flexibilities CDIP/5/4, 3D believed that an approach based on human rights would have led to substantially different and more useful results. Instead of limiting the study to review flexibilities which were already existing in the TRIPS Agreement in the specific field of health, the proposed approach should have identified specific needs of developing countries in the fields where the achievement was constrained by intellectual property; then it would have led to a reflection about conceivable mechanisms of flexibilities to solve these specific challenges. The results of that work would have been two-fold; first to enable to seek within the multitude of international agreements wherever those flexibilities existed and if not existing, the CDIP would have had to inform Member States so that they could have discussed possible introductions to international agreements. Secondly, to establish a set of flexibilities for development of which Member States also have to be called upon to respect outside WIPO. For example, to negotiate other international agreements or free trade agreements, which could introduce new measures with regards to intellectual property. Indeed, all the Member States of the CDIP had signed at least one human rights convention. Hence the respect of all the flexibilities established should have been in line with the different human rights conventions that they signed at national and international level. To conclude, 3D was convinced that a systematic approach based on human rights might contribute to the implementation of the Development Agenda; firstly, by contributing with significant responses to the real requirements of populations in developing countries, and secondly, by applying the human rights in a legal framework in the implementation of the said Agenda would have also meant that the Member States were in harmony with their international obligations.

79. The Director General thanked all the delegations that took the floor for their extensive comments made with respect to the work that had been carried out by the Secretariat, and in particular by the Development Agenda Coordination Division. In clarifying some of the points raised, the Director General, first, addressed the question asked by the Delegations of El Salvador and Slovenia concerning the budget and stated that the problem had been due to the lag that existed between the mechanism for consideration and approval of projects within the CDIP, followed by the subsequent approvals of the allocation of funds within the overall budgeting mechanism in the Program and Budget Committee (PBC) of the Organization. He informed the Committee that that problem would be rectified in the future. The first future occasion to do that systematically for the Organization would be the Program and Budget for the next biennium 2012-2013, and that discussions on that matter would commence at the end of 2010. In the draft Program and Budget, each program manager would need to integrate in his or her own program, the particular projects or areas or activities of the Development Agenda that related to that particular program. In the interim, the Director General considered that the *ad hoc* mechanism used would continue as it had been delivering satisfactory results and funding had been made available on each and every occasion by the PBC and he would ensure that that continued in the future. Continuing, the Director General said that a number of delegations had enquired as to how much had been committed by donors, and informed the meeting that at that point, apart from the quite considerable bilateral donations that have been made by Member States, which amounted to approximately 17 to 19 million Swiss francs, the Secretariat had not been able to tap funds from the prospective donor community. The Director General recalled that before the donor conference last year, there had been a big discussion in the membership as to the nature of the conference, and it had been agreed that it was not a pledging conference, but rather a conference to demonstrate to potential donors the sorts of projects and activities that the Organization was capable of undertaking and which could be attractive to the donor community. The Secretariat continued to pursue, quite vigorously, the contacts with the potential donor community and would report back to the meeting as soon as there was any positive news. The Director General continued his clarifications and referred to the questions from the Delegation of

Spain concerning paragraph 9 of his report, in particular regarding the code of ethics which formed part of the broad strategic realignment program of the Organization and informed that the position of the Chief Ethics Officer had been created, and the appointment of a person to that position was currently taking place and was expected to be completed within the following weeks. The Secretariat had cooperated with the United Nations and with Secretary General Ban Ki-Moon with respect to UN's code of ethics which had been circulated to all of the specialized agencies requesting input and the Secretariat had organized an internal review process in order to respond to it. It was now planned to integrate that code of ethics into the Organization's Staff Regulations and Rules, which were currently being thoroughly revised prior to being presented to the Member States. The Director General noted that it had already been signaled at the Coordination Committee in 2009, that specific provisions for a code of ethics would be made in the future. The Director General also referred to the question from the Delegation of Spain concerning paragraph 10 and the Secretariat's contact with other intergovernmental organizations, which he said were extensive and could form the basis of a document in their own right. He continued by giving some examples such as the extensive contacts with the Food and Agriculture Organization (FAO) with respect in particular to the International Treaty on Plant Genetic Resources for Food and Agriculture, where the Secretariat was cooperating in relation to dispute resolution in respect of the standard material transfer agreement under that particular multilateral system, as well as generally providing intellectual property advice. He hoped that there would be a Memorandum of Understanding (MOU) between the two organizations that would be put before the Member States at the Assemblies later in 2010. The Director General informed the meeting that he would shortly be speaking to the Governing Board of the United Nations Industrial Development Organization (UNIDO), with the Executive Director of the Convention on Biological Diversity (CBD) to jointly offer a panel talk exposing genetic resources and intellectual property to industry. WIPO had cooperated with the International Telecommunications Union (ITU) with respect to visually impaired persons and access to published works. The Secretariat had also hosted a meeting of webmasters of all international organizations with an attendance of about 90 persons with the aim of making UN websites accessible to visually impaired persons. A joint Secretariat working party between WTO, WHO and WIPO to discuss issues of trade, intellectual property and health had been held and the Secretariat would be bringing forward proposals to those Organization's respective memberships in that regard. The Director General further referred to the question from the Delegation of Spain concerning the sequencing of meetings and joined the Delegation in deploring to have three consecutive weeks of meetings and noted that it was extremely difficult on everyone concerned including the Secretariat. However, he stated that it was a practical problem due to the number of meetings which included the Standing Committee on Trademarks, the Standing Committee on Patents, the IGC, the CDIP and the Standing Committee on Copyright and Related Rights, each of which meet twice a year. Added to those were the Assemblies as well as other bodies, notably the Standards Committee, the Nice Working Group, the Locarno Working Group, the International Patent Classification Working Group, the Program and Budget Committee and the Organization's Member States had informed the Secretariat that any coincidence with the TRIPS Council meetings must also be avoided. The Director General expected the new conference room would eventually resolve this problem in the future. Finally, the Director General responded to the suggestion made by the Third World Network in relation to WIPO's sister organization, UPOV, and said that the decision on the status of observers was indeed a Member States decision, in that instance the Council of UPOV, and not of the Secretariat. The Secretariat only facilitated putting to the Member States the requests that were made, the Director General added.

80. The Chair thanked the Director General for his comprehensive and exhaustive clarification and thought that the Director General's report could be included in the Chair's summary as a report for consideration by the General Assembly.

Agenda Item 7: Continuation of Discussion on Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities

81. At the invitation of the Chair to introduce the Agenda Item, the Secretariat informed the meeting that at the fourth session of the CDIP, two proposals on the establishment of coordination mechanisms and monitoring, assessing and reporting modalities were presented. The first proposal was jointly submitted by the Delegations of Algeria, Brazil and Pakistan and supported by India, which was contained in document CDIP/4/9. In addition, the Permanent Mission of Algeria, through a Note Verbale dated April 6, 2010, indicated to the Secretariat that Egypt, Mozambique and Yemen also supported that proposal. The second proposal was presented by Group B, and was contained in document CDIP/4/10. A third document CDIP/4/11, was in turn prepared by the Secretariat which recapitulated the discussions held on that matter up to the third session. During the informal consultations held in CDIP 4, the two groups revised their respective proposals and merged them into a single negotiating text which was made available to all interested Delegations. That document would also be made available to any other interested delegations and circulated for informal discussions to be held on the topic.
82. The Chair thanked the Secretariat for introducing the agenda and opened the floor for discussion.
83. The Delegation of Switzerland, speaking on behalf of Group B, and referring to its general statement, said that the Group was convinced that a great deal of progress had been made on the issue of coordination mechanism as a result of the consultations held during CDIP 4. In order for all delegations to be on the same page, the Delegation recalled that during CDIP 4, there was a very productive exchange of views that resulted in identification of the key points about what was feasible in terms of establishing a coordination mechanism. Referring to the information provided by the Secretariat, the Delegation stated that Group B went back during the last session of the CDIP to work together to revise its initial proposal and submit a proposal aimed at achieving a compromise that would be acceptable to everybody. It observed that the proposal submitted by Group B was guided by certain principles, the main one being that the coordination mechanism should be made to promote the implementation of the recommendations of the Development Agenda in WIPO. For Group B, it was important that the CDIP was at the centre of the evaluation and assessment mechanism because it had been mandated by the General Assembly to do so. The Delegation reiterated that it was important to bear in mind that all committees in WIPO were at the same level and enjoyed the same standing and that only the General Assembly should be the supreme organ of WIPO. Therefore, in Group B's opinion, it was important that maximum use of the existing structures in WIPO was made, and in that regard, Group B was of the opinion that there was a very useful element already in place to support the work of the CDIP as it had been demonstrated during that week. In that connection, the Delegation noted that the report by the Director General covering all the activities carried out within the Organization also included the summary of activities of the various committees of WIPO. Further, it was necessary to bear in mind that the implementation of the results-based management framework (RBM) would also contribute to further coordination and evaluation in the Organization. The Delegation pointed out that the WIPO Internal Audit and Oversight Division would play an important role in any coordinating

mechanism that would be established. The Delegation stated that Group B's proposal was underpinned by the principles of transparency, flexibility and pragmatism. It wanted to see the setting up of a mechanism that would be resource-neutral so that further financial burdens would not be imposed on the Member States. Touching on the various points that were discussed with other delegations which Group B felt were important and must be included in the proposed coordinating mechanism, the Delegation noted that one of the points that came out was the need to ensure that during the General Assembly sessions, an item for discussing the Development Agenda and its progress was created. That should be done within the framework of the report that the CDIP would submit to the Assembly, where all the relevant issues would be discussed. The Delegation further noted that the discussions at the General Assembly level could be carried out on the basis of a revised proposal on the coordination mechanism as well as the report submitted to the CDIP by the Director General. The Delegation therefore, suggested that the Director-General's report should also be submitted as one of the official documents of the CDIP to the General Assembly. That, the Delegation noted, would be a useful tool and a good approach to adopt. Another point mentioned during the last CDIP was the need to have within the framework of the Committee's work, an agenda item dedicated to the monitoring and assessment of the implementation of the Development Agenda recommendations. The Delegation noted that there was also the suggestion to reorganize the way the Committee worked so that it could get through all agenda items and that it took into account the reorganized working time, the need to discuss that agenda item. In the same vein, Group B's revised proposal had also taken into account the need for that approach. Therefore, the Group supported the inclusion of that important agenda item in the CDIP's future sessions, in fact, as the opening agenda item, if necessary. It also noted the suggestion that there should be a reorganization of the way the CDIP worked so that participants could get through all agenda items, but the Group did not favor special sessions simply to discuss the Development Agenda items. Concerning the issue of coordination of the work of the CDIP with other relevant WIPO committees and bodies, the Delegation of Switzerland observed that not all committees needed to have a systematic agenda item on the Development Agenda. The Delegation was of the view that that would be possible only where it had been specifically requested by the CDIP or on the basis of the recommendations made by it to the General Assembly if it impacted the work of other committees and bodies. Concerning the question of an independent monitoring and analysis, Group B had looked at that proposal in detail, and realized that it was included in the Group's initial proposal. However, Group B's suggestion on the issue would be to settle it at some point in the future, when the projects would be up and running, and when the various recommendations and the various activities of WIPO under the Development Agenda were established and operating. After that, the envisaged external analysis could take place when the terms of reference for the external evaluation and the choice of experts had been duly negotiated in the CDIP. The Delegation stated that Group B was open to the possibility but it did not see the need to institutionalize it as part of the mandate of the Audit Committee or to set up another committee or commission of independent experts for regular oversight at that point. The Delegation also observed that another point that was brought to Group B's attention was the proposal to mention the implementation of the Development Agenda in the framework of or in the context of the report submitted by WIPO to the United Nations. The Delegation stated that that proposal was not included in Group B's initial proposal but the Group could support the idea. It however reiterated that such a report would be submitted within the general coordination framework of WIPO, and that it should also be ensured that it would be included in the agreement between WIPO and the United Nations.

84. The Delegation of Thailand speaking on behalf of the Asian Group stated that the establishment of the coordination mechanism was an important issue that needed to be finalized urgently. The early operationalization of a member-driven

institutional mechanism to oversee the mainstreaming of the Development Agenda was a critical requirement for an enduring and meaningful implementation of the Development Agenda recommendations. The Delegation observed that it was important for the Member States to have a mechanism to monitor and evaluate the implementation of the Development Agenda recommendations. It also suggested that administering of the Development Agenda should be mentioned in the WIPO program. The Delegation stated that the Asian Group was also of the view that there were no major divergences of views among the different groups. Members of the Asian Group were therefore ready to constructively engage with others so that a resolution of the issue could be achieved.

85. The Delegation of Egypt speaking on behalf of the Development Agenda Group, stated that from the outset, it wished to thank the Delegations of Switzerland and Thailand for making a clear statement about their various positions and that it was encouraged by some remarks as to how progress could be made on this very important agenda item. It stated that it was in fact one of the key items on the day's agenda which was the continuation of the discussion of the coordination mechanism and monitoring, assessing and reporting modalities. According to the Delegation, it was well known that a considerable amount of time was dedicated to that issue at the last session of the CDIP, especially, during the informal consultations led by the outgoing Chair for which he should be thanked. As a result of those efforts, the gap between the two proposals that were on the table had been reduced. One of those proposals was to be found in the document CDIP/4/9, which was originally presented by Algeria, Brazil and Pakistan and co-sponsored by Egypt, India, Mozambique and Yemen. The second proposal from Group B could be found in document CDIP/4/10. The Delegation said that it would encourage the Chair to continue the informal consultations towards facilitating a consensus on that important issue. It said the Development Agenda Group believed that the agreement on the matter was within reach during that session. It therefore called for other Member States to build on the work accomplished during the fourth session of the CDIP in a constructive spirit of engagement and to seek to build bridges rather than draw lines. The Delegation felt confident that the meeting would be able to bridge any outstanding differences and come to mutually satisfactory outcomes speedily. It believed that agreeing on an effective coordination mechanism and monitoring, assessing and reporting modalities could greatly contribute to the effective implementation and mainstreaming the Development Agenda in WIPO. That, it further noted, would undoubtedly, contribute positively to other facets of WIPO's work.
86. The Delegation of Brazil thanked the Delegation of Switzerland for its initial intervention which was very constructive and positive. It also thanked the Delegation of Thailand which spoke on behalf of the Asian Group and Egypt on behalf of the Development Agenda Group for their positive statements. The Delegation stated that it spoke on behalf of the sponsors of document CDIP/4/9 namely Algeria, Brazil and Pakistan which were subsequently joined by India, Mozambique, Egypt and Yemen. It said that it would like to refresh the memory of all delegations before they embarked upon discussions on this very important item on the agenda that a lot of effort went into discussing that item during the last session of the CDIP as reflected in the report of the session. All the points pertaining to the discussion have been factually recorded in the report of the last session so there was no need to repeat the rationale behind the proposal submitted by those countries. Suffice it to recall that it was based on the key concept of mainstreaming the work of the Development Agenda into the work of all bodies in WIPO. The Delegation stressed that the sponsors of the proposal had already come a long way from their original position and had shown flexibility as clearly reflected in the papers now on the table. That paper, the Delegation further noted, was a compilation of the two proposals from Group B and from the Development Agenda, but the compilation reflected a lot of flexibility and a lot of

adjustment to the original proposals. The Delegation further stated that it would like to stress two additional points at that stage. One was that the principles referred to by the Delegation of Switzerland could be accommodated within the operative paragraphs of the coordination mechanism. It however stated that they should not be held up as principles or a kind of a preamble to the operative mechanism but they should be incorporated to the extent that it was possible into the operative paragraphs. In fact, the Delegation observed that most of the operative paragraphs already reflected in one way or the other the principles advanced by the Group B proposal. Second, that the meeting should adopt a flexible approach in the process of developing the new coordination mechanism, since the Development Agenda implementation was at an early stage. Therefore, it would be early to say how much work would be required in terms of coordinating, monitoring and assessing of progress in implementing the Development Agenda. The Delegation therefore suggested that a provision could be introduced which would stipulate that at a certain time from that time, maybe in the next two or three years, the CDIP could come back to whatever was agreed upon in order to revisit and reexamine it. The Delegation believed that it could introduce a provision, such as the one proposed, in the mechanism. That would facilitate an agreement at that session of the CDIP.

87. The Delegation of Azerbaijan, having carefully heard the Delegations of Switzerland and Brazil and with reference to the proposal put forward by Algeria, Brazil and the Pakistan, felt that the idea of holding at least two special sessions every year in addition to the regular sessions of CDIP, would prove to be a burden on WIPO. The Delegation added that two regular sessions together with an annual report from the Director General should serve the purpose of Member State evaluation. The possibility of prolonged CDIP sessions could also be considered without holding any special sessions. The Delegation supported the idea contained in the Brazil, Pakistan and Algeria proposal as regards some kind of report, either from the Director General or from the Deputy Director General to be presented to the Committee. The Delegation thought that its proposal was somewhat a compromise proposal between the two proposals on the table. It also observed that the position of Brazil appeared quite flexible and irrespective of which proposal was adopted, the possibility of modifications and additions after two or three years should be left open as there was nothing set in stone. That was an evolving process and therefore whatever route was chosen, experience showed that there would always be some inadequacies and need for adjustments. The Delegation reiterated its opinion that any such mechanism should not add financial and administrative burden for WIPO. The Delegation concluded that the mandate of other committees which were carrying out work on different aspects should also be respected.
88. The Delegation of Nepal believed that an independent coordination mechanism was essential for mainstreaming and the smooth and effective implementation of the Development Agenda. It also noted that such a mechanism would help in monitoring and offering on-the-spot solution of the problems that might arise in the process. Furthermore, it stated that it would contribute to final evaluation of the existing projects which would lead to further improvements in the implementation mechanism of the new projects. It therefore hoped that the meeting would be able to find a solution that would be acceptable to all.
89. The Delegation of Israel, as took the floor for the first time, congratulated the Chair on his election and expressed confidence that under his leadership the meeting would achieve progress that would correspond to the interests of all the different groups and individual Member States in WIPO. The Delegation also supported fully the statements made by Switzerland on behalf of Group B regarding the coordination mechanism. It agreed with all the main elements of Group B's

position such as the place and status of the CDIP as part of the general structure of committees in WIPO, and on the need for flexibility, transparency, avoidance of duplications and appropriate and full use of resources. As it had been made clear in the statement by the Delegation of Switzerland, it believed in working together on the issue for the benefit and interest of all.

90. The Delegation of Monaco congratulated the Chair on his election and stated that it was quite convinced that under his guidance, the Committee would make progress and find solutions to the issues that were before it. The Delegation said it fully supported the declaration made by Switzerland on behalf of Group B and also supported the principles guiding the proposals that Group particularly on the need to maintain the current structure of WIPO committees, which should all remain on an equal footing, as well as the need to optimize the mechanisms and structures already existing in the Organization.

91. The Delegation of Iran (Islamic Republic of) noted that the CDIP had two important and separate but inter-related aspects. Firstly, it requested the Member States, the Secretariat, and other relevant WIPO bodies, to implement the Development Agenda. Secondly, to ensure that the implementation should be immediately and effectively fulfilled. The Delegation said it was obvious that ensuring effective implementation would require an effective mechanism on coordination so that the outcome of the process could be independently verified. At the same time, the Delegation noted that there were ongoing projects and activities but that it was not clear who would monitor and verify the effectiveness of the ongoing work. It also reiterated that the WIPO General Assembly had mandated the CDIP to monitor, assess, discuss and report the implementation of all recommendations adopted and for that purpose, to coordinate with relevant WIPO bodies. The Delegation was of the opinion that the coordination mechanism should contain three pillars. Assessment could be done by independent experts. The reports concerning the development activities could be channeled from committees to the General Assemblies to CDIP, to ensure the equality of the committees. Member States could discuss and review the reports in the CDIP and monitor the effective mainstreaming of the Development Agenda in the various committees. For those reasons, the Delegation was of the view that the coordination mechanism should contain the following essential elements: Evaluation by independent experts, inclusion of the agenda item in all committees and the General Assembly and submission of reports by all committees to CDIP through WIPO General Assembly, and the reporting to the UN on the implementation. The Delegation also stated that it would like to support the idea of convening a special session for coordination. In its view, with these essential elements, the General Assembly mandate could be fulfilled and the Development Agenda could actually be mainstreamed in all the committees of WIPO.

92. The Delegation of Angola, on behalf of the African Group, stated that the Group believed that an effective monitoring mechanism was important for the implementation of the WIPO Development Agenda. The Group welcomed the effort made by the former Vice-Chair for his hard work and his ability to bridge the gap between the two proposals on the coordination mechanism put forward by Algeria, Brazil and Pakistan and co-sponsored by Egypt, India, Mozambique and Yemen, and the second proposal put forward by Group B. The Delegation said it believed that an agreement on that important issue should be achieved during that session. It also stated that the African Group supported the joint proposal presented by Algeria, Brazil, and Pakistan and considered it a good basis for discussion and looked forward to a comprehensive mechanism at the end of the meeting which addressed the concerns of all Member States.

93. The Delegation of Algeria fully supported the statement made on behalf of the African Group by the Delegation of Angola, as well as the statement made by Egypt on behalf of the Development Agenda Group. It also supported the statement made by Brazil on behalf of the initiators of the joint proposal and reiterated the need for the implementation of an effective mechanism for monitoring, assessing, discussing and reporting on the Development Agenda. The implementation of such a mechanism would allow the CDIP to fulfill its mandate and provide a solid basis for the effective implementation and application of the Development Agenda. Therefore, the Delegation informed that a joint proposal was tabled by Algeria, Brazil and Pakistan at the fourth session of the CDIP which was then supported and co-sponsored by India and more recently by Egypt, Mozambique and Yemen. That joint proposal contained many of the elements that were also contained in Group B's proposal, and the Delegation of Algeria thanked that Group for its contribution. The Delegation also noted that the preliminary discussions and informal consultations on the fringes of the previous session have allowed Member States to see where they stood on issues and enabled progress in bridging the remaining gaps. It hoped that under the guidance of the Chair, Member States would be able to continue the discussion in a productive manner and reach an agreement on the shape of the mechanism before the conclusion of this session.
94. The Delegation of China thanked the Delegations of Algeria, Brazil and Pakistan for their joint proposal, and also Group B for their separate proposal. The Delegation was convinced that those two proposals would help the CDIP to reach consensus on a coordinating mechanism and the modalities for monitoring, assessing, discussing and reporting on the Development Agenda. The Delegation also noted that currently, various countries were working together to reach an agreement on the implementation of the Development Agenda and to find consensus on the future work of the projects under this agenda item and the remaining recommendations. It noted however that there were still some points of divergence on the modalities for monitoring, accessing, discussing and reporting. Nevertheless, it noted that implementation of some recommendations had already begun and without an effective and efficient modality in place to monitor, access, discuss and report on the implementations of the recommendations under the Development Agenda, the aspirations of the Member States might not be fully met. Therefore, the Delegation called on the members of the CDIP to cooperate in a spirit of achieving consensus on the subject.
95. The Delegation of Pakistan observed that when the proposal was originally submitted by Pakistan, Algeria and Brazil and subsequently co-sponsored by India, Mozambique and Yemen, the objective of the proponents was to have an in-built systematic opportunity to address the need and to fulfill the conscious desire of all the Member States to have the Development Agenda implemented in the right manner. That was the idea behind that proposal, it reiterated. The Delegation said that taking that into view, it would like to recall that documents CDIP/4/9 and CDIP/4/10 were submitted by the joint proponents of the proposal and then by Group B respectively at the fourth session of the Committee. The Delegation observed that its remarks were general rather than going into the details such as which document should form the basis of discussions, as both sides would naturally have preference for their own document. However, it noted that there was the need to focus more on the substance of both the proposals. The Delegation further stated that there could be a theoretical debate for years and even centuries on issues and principles without reaching results and that it was important to focus on the substantive process. It also pointed out that from a very broad perspective, the discussions that transpired at the last session indicated that there was a general agreement on the operational paragraphs 1 to 4 of both the proposals, that is to say there seemed to be an agreement on the first four points. The Delegation said it believed that going by the operative paragraphs 5 to 8 and

subsequently paragraph 9, the meeting could reach an agreement, and looked forward to a very sincere and complete participation by both groups, and requested the Chair's cooperation and guidance in that regard.

96. The Delegation of Spain stated that it was making the statement in English as the first statement of the European Union (EU) was delivered by the Ambassador in that language. The Delegation stated that the 27 Member States of the European Union (EU) would like to recall what was expressed during the general statements segment, and to confirm their support to the proposals submitted by Group B, in relation to the coordination mechanism.
97. The Delegation of Canada stated that as it was its first intervention, it would like to congratulate the Chair on his election, and to fully align itself with the statement made by Switzerland on behalf of Group B and also to express support for the proposal that was submitted by Group B. The Delegation noted that the revised proposal was an outcome of the last session of the CDIP, and echoed the statements made by Angola on behalf of the African Group to the effect that a coordination mechanism was essential for the effective implementation of the Development Agenda. The Delegation said it believed that good progress was made at the fourth session of the CDIP on this issue and thanked everybody for their hard work during the informal consultations. The Delegation stated that it was confident that constructive discussions would continue at the session under the guidance of the Chair and as mentioned by the Delegation of Egypt, it also believed that the meeting was not far from reaching agreement on the issue.
98. The Delegation of Germany also noted that since it was taking the floor for the first time during the session, it would like to congratulate the Chair on his election. The Delegation offered the Chair its full support in his work. It said that it had observed that last time there was a very good atmosphere of negotiations which brought the meeting closer to finding areas of convergence where the various groups could meet. In that regard, it said that it would pick up a remark made by the distinguished representative of Brazil who noted that the proponents of the first proposal - Algeria, Brazil and Pakistan - had gone a long way to get to the point where they were now, and with all due respect, submitted that it was also the Delegation's impression that Group B had also gone a long way to get to the revised version of the proposals. Also, in supporting the intervention of Switzerland and also to a large degree by what had been said by Azerbaijan, the Delegation from Germany said it wanted to highlight a couple of principles which have been reworked and noted by the Coordinator of Group B, which were very important for its country. The Delegation thought that there were no divergences of views in the room and that all the participants wanted to establish a proper and effective mechanism that would enable the CDIP to comply fully with its mandate. The Delegation also said that it had the impression that it was broadly accepted that all committees of WIPO should stand on an equal footing as it would entail reporting to the General Assembly as other committees did. It also supported the idea of using the existing infrastructure within the Organization which would also entail the desire that the mechanism that should to be established should be as resource-neutral as possible. The Delegation said there were a couple of other points to raise but it did not want to dwell on them at the moment because they were already known, and it would simply like to lend its support to the Coordinator of Group B.
99. The Delegation of Japan fully supported the statements made by Switzerland on behalf of Group B as well as the proposal submitted by that Group. The Delegation said that it would like to highlight that for the implementation of the Development Agenda as well as the setting up of the coordination mechanism, efficiency and effectiveness would be very important. Therefore, the Delegation said it was very

important that the existing structures in the Organization were fully used. The Delegation also emphasized that all WIPO committees stood on equal footing, and that the CDIP was on the same level as other committees of the Organization. However, the Delegation believed that the meeting was getting closer to an agreement and that it would work constructively to bridge the difference between the two proposals under the Chair's guidance.

100. The Delegation of Cuba expressed its support for the proposal contained in document CDIP/4/9, presented by Algeria, Brazil and Pakistan, and co-sponsored and supported by other Member States on the mechanisms for coordinating the monitoring, assessment and implementation of the Development Agenda, as well as reporting on the same.
101. The Delegation of Australia aligned itself with the comments made by Switzerland on behalf of Group B recalling that the Committee was specifically mandated to monitor, assess, discuss and report on the implementation of all recommendations adopted and to coordinate with relevant WIPO bodies and that that function of the Committee was crucial to support and encourage practical, meaningful and sustainable development outcomes. The Delegation assured the meeting that it stood ready to actively discuss monitoring, assessing and reporting modalities on the basis of the side-by-side text that was prepared at the end of the fourth session of the CDIP.
102. The Delegation of the United States of America expressed its support for the statement made by Switzerland on behalf of Group B, stating that it was a reasonable approach for establishing an appropriate institutional framework for the CDIP so that it could operate as one of the many WIPO bodies, but one charged with overseeing the implementation of cross-cutting recommendations. It stated that it was striving to be constructive and to bring a positive spirit of cooperation to the negotiations, keeping in mind the ultimate goal of establishing an institutional framework for the new Committee that will permit it to become a forum for balanced discussions on the role of IP and development and a mature, deliberative body fully informed of the latest facts and objective economic evidence. In that spirit, the Delegation commented on the following specific issues raised by the proposals on the coordination mechanism. On external review, the 2007 mandate from the General Assembly made no reference to any type of external review. The General Assembly instead made it clear that the Committee itself was charged with oversight responsibility under the supervision of the General Assembly. The Delegation stated that it believed that any type of external review was premature until there were evident gaps in the reports that would be generated through other channels, including project managers reporting on the progress of projects adopted by the Committee and the Secretariat reporting on implementation through the RBM mechanism approved at the last session. With respect to the role of the Audit Committee the Delegation stated that it was concerned that this would be in effect a second request for external review. It noted that the Audit Committee has no jurisdiction over non-financial matters. Its members did not have the necessary expertise to conduct internal investigative reviews and program implementation and it was, therefore, the wrong body to undertake such reviews. Even if the mandate of the Audit Committee were changed, the Committee was already overburdened with financial concerns and could not easily take on a new set of responsibilities. With respect to the coordination mechanism overall, the United States of America believed that the coordination system should be resource neutral and avoid new financial obligations for Member States while, of course, significant resources will and should continue to be devoted to CDIP projects that are approved by agreement of this Committee. Finally, it stated that on additional sessions, it agreed with the view of Group B that for all CDIP meetings there should be a standing agenda item to evaluate implementation of the

recommendations. That agenda item should be the first substantive item on the agenda and sufficient time should be allocated for the Committee to complete its work

103. The Delegation of Chile reiterated its belief that the issue of a coordination mechanism was essential for the smooth implementation of the Development Agenda. It also expressed the view that it was important to avoid placing the status of one committee above that of others and that there should be no duplication of work. It expressed the view that while there should be adequate monitoring and assessment of the Development Agenda as a mechanism, it should not become a mechanism which added to the work burden of other committees in WIPO. It went on to state that it was important that the General Assembly as the leading body of this Organization was involved in the process and that it was important that there should be a standing agenda item in General Assembly meetings allowing for reporting on DA implementation.

104. The Delegation of India expressed the view that the establishment of an effective coordination mechanism for monitoring, assessing and reporting on the implementation of the Development Agenda as mandated by the General Assembly was of central importance. It believed that an early operationalization of a member-driven institutional mechanism to oversee the mainstreaming of the Development Agenda was urgently needed and that was a critical requirement for a meaningful integration of the development dimension in WIPO's work. The Delegation recalled that it was a co-sponsor of the joint proposal presented by Algeria, Brazil and Pakistan and that there was a broad convergence on the initial paragraphs of the joint proposal at the fourth session of the CDIP. It stated that it was encouraged by the progress made in the last session and hoped that the Committee would be able to reach consensus on that issue in the present session. It was of the view, that in order to make further progress it was important to focus on the few substantive aspects that remained to be resolved. Commenting on some of the remarks made by other delegations with regard to that agenda item, it stated that in its view, the reporting by the Secretariat, the reporting by the Project Managers and the very useful RBM project were internal and self-reporting managerial mechanisms and tools. While there was great value in those, the Delegation stated that it did not see them as substitutes for a member-driven and external review of the implementation of the Development Agenda. It underlined that external review had been recognized all over the UN system as an essential component of good institutional governance and management. With regard to the assessment, monitoring and coordination mechanism being resource neutral, it agreed with other delegations that there should be financial balance in the mechanism that was proposed. If adequate resources were allocated to the implementation of the Development Agenda recommendations, but no resources were allocated for their assessment, monitoring or coordination, there would be a mismatch. The Delegation closed by stating that it stood ready to dialogue constructively on these and other outstanding aspects of its proposal and was hopeful that progress would be made on that agenda item.

105. The Delegation of Yemen expressed support for the statement made by Egypt on behalf of the Development Agenda Group, and Angola on behalf of the African Group, as well as Brazil, on the issue. It considered the proposed mechanism for coordinating monitoring, assessing and reporting presented by Brazil and Pakistan, and supported by other countries would show the seriousness of the Member States of WIPO in implementation of the Development Agenda in that regard. It affirmed its complete open-mindedness regarding the discussion and the expressed hope that consensus on the mechanism for coordination and monitoring would be reached.

106. The Delegation of Kyrgyzstan stated that ensuring coordination, assessment and reporting of all activities and programs undertaken under the Development Agenda, as well as reporting to the General Assembly, was of utmost importance. It expressed concern that having special sessions could increase the burden on WIPO and that it should be avoided. An agenda item was necessary only in those committees which were related to the Development Agenda. Concerning the Group B proposal, the Delegation stated that it was important to have fair and transparent principles and that there should be no duplication of functions within WIPO. Where necessary, existing mechanisms could be used and not create new ones. The Delegation expressed support for the proposal made by Algeria, Brazil and Pakistan with regard to reporting by the Director General or the Deputy Director General.
107. The Delegation of Argentina expressed the view that it was essential that the CDIP had a mechanism for coordination and monitoring, assessing and reporting, and that the documents on the table were a good basis for discussion and for starting negotiation it reiterated that no new text was required.
108. The Delegation of Brazil addressed an issue raised by the Delegation of Azerbaijan and stated that one of the concerns about having informal consultations, was that not everybody was fully briefed of the result of the former consultation. In fact, Brazil had proposed in paragraph 5 of CDIP/4/9, to convene special sessions. It stated that for general information, it had not included that particular provision in the joint proposal. Replying to the Delegation of Germany, it confirmed that there was flexibility on the part of Group B, and as such there had been movement from both groups and that the side-by-side text was therefore a good platform from which the work could begin.
109. The Delegation of Senegal stated that the discussions in the CDIP were important given that they dealt with issues that cut across the whole Organization. Therefore, it was important that it received special consideration. The issue the Delegation noted was not a technical one but an issue of political will. The Delegation went on to express support for the statement made by the Delegation of Angola on behalf of the African Group. The Delegation also thanked the Secretariat by noting that no delegation in that session had complained about not having a document, and complimented the Secretariat on the progress that merited commendation. The Delegation thereafter noted that the adoption of WIPO's Development Agenda had brought about some changes within the Organization and that there was naturally resistance to change. However, the Delegation was of the view that it was important to persevere as the Committee was implementing a mandate derived from the General Assembly and that its implementation was crucial. It went on to say that in adopting the Development Agenda, the WIPO General Assembly essentially gave three objectives to Member States. They may not be the only objectives but they may be considered the most important. These were to ensure that development was integrated into all WIPO activities, to promote technological innovation, and ensure the transfer and dissemination of technology in order to promote economic and social well being. It was therefore important that those be kept in mind in implementing the Development Agenda. The Delegation also emphasized that achieving the Development Agenda was not just about implementing projects but that it went beyond that. Therefore, the Delegation was of the view that the independent monitoring and evaluation would be very useful and that the joint proposal from Brazil, Algeria and Pakistan, indicated possible solutions and would be a good basis. Referring to the proposal made by Group B, which it stated was pertinent, and the Delegation noted that "the coordination mechanism should be based on criteria which ensured the success of implementation". It noted that if there was not an appropriate coordination,

evaluation and follow-up mechanism in place, then the success of the Development Agenda could not be guaranteed.

110. The Delegation of Panama expressed support for the statement made by El Salvador on behalf of GRULAC and the proposals put forward by Algeria, Brazil, India, and Pakistan and by Group B. The Delegation added that it shared the positions expressed by several delegations on the issue of additional meetings which could use up financial resources which should be better used in the implementation of the Development Agenda. Therefore, other approaches such as the thematic forum sessions held with accredited Missions in Geneva and perhaps conferencing with capitals may be considered. The Delegation concluded by expressing its agreement with the statement made by the Chair on the creative proposal and with the statement of the Delegation of Pakistan that there was already an agreement on certain points and would be a good basis for moving forward.
111. The Chair suspended the plenary to move into an informal session and encouraged the proponents of the two proposals, as well as the Regional Coordinators and any interested Member States to participate in the informal session. The Chair stated that once the plenary resumed, all delegations would be briefed on what had transpired and depending on how things evolved, another informal might be scheduled.
112. Upon resumption of the plenary, the Chair briefed the delegations on what had transpired in the informal sessions, and stated that initial signs and discussions on the outstanding issues had been very encouraging. The Chair added that only two issues had been addressed: the aspect of reporting to the UN General Assembly and the issue of having a standing agenda item in the WIPO General Assembly, on Development Agenda implementation. He hoped that progress could be made on both issues given the flexibility shown by both sides. The Chair then advised that in order to continue with outstanding issues, he would suspend the plenary and invite delegations to Room B to continue with the informal consultations. He reiterated that the informal session was only open to Member States. The Chair added that the plenary session would be resumed at 11.30 the following morning and would commence with the consideration of Agenda Item 8.
113. The Secretariat announced that it was in the process of preparing the list of participants for the fifth session of the CDIP. It stressed the need for all participants including representatives from Permanent Missions, as well as nominated delegates from capitals, to fill out the participation form that could be obtained from the registration desk. The Secretariat elaborated that failure to fill out that form, would result in the name of a participant and or the country represented not being included in the List of Participants. The Secretariat added that the absence of a completed form could be the reason for the omission of the names of certain countries in earlier reports as had been highlighted by the delegations concerned earlier during that session.

Agenda Item 8: Consideration of Work Program for Implementation of Adopted Recommendations

114. The Chair opened the debate on Agenda Item 8, and asked the Secretariat to introduce the first project for consideration which was IP and the Public Domain, as contained in document CDIP/4/3/Rev.

115. Introducing document CDIP/4/3 Rev. the Secretariat explained that the document on IP and the Public Domain was initially submitted for consideration at CDIP 3. Following discussions during that session, the document was revised to reflect comments from delegations and was subsequently re-submitted for discussion at CDIP 4. The Secretariat went on to say that the project document initially had four components, namely, copyright, trademark, patents and traditional knowledge. However at CDIP 4, due to some concerns expressed by certain delegations the component on traditional knowledge (TK) and traditional cultural expressions (TCEs) was dropped and the Committee only approved the copyright and partly the patent components of the project. With respect to the Patent component, the Secretariat said that, the suggestion from one delegation to add certain issues in the study did not pass because it was not accepted by another delegation, thereby the matter was deferred for decision to CDIP 4. The Secretariat then clarified that the project was approved with the component as was and that the inclusion of the issues suggested by one delegation would be reconsidered at CDIP 5. Concerning the trademark component, the Secretariat pointed out that due to lack of agreement with regard to the scope of the study proposed under the project document, the Secretariat presented the document CDIP/4/3 as revised after CDIP 4 for reconsideration of the above mentioned two issues.

116. The Chair thanked the Secretariat for introducing the document and opened the floor for discussions and called on the Delegation of Egypt to take the floor.

117. The Delegation of Egypt speaking on behalf of the Development Agenda Group, noted that the agenda item took into consideration the five documents pertaining to the project i.e. IP and the Public Domain, the project on IP and Technology Transfer, the project on IP and Product Branding, the project on Capacity Building in the use of Appropriate Technologies-specific Technical and Scientific Information as a solution for identifying development challenges and the project on IP and Socio-Economic Development, and clarified that its intervention at that stage of the debate would be limited to the project to IP and Public Domain. The Delegation reiterated the three golden rules on the approach to the discussion on thematic projects, which were approved by consensus and were included in paragraph 8 of the Chair's summary of the third CDIP session, and reproduced in the document CDIP/3/9/Prov.2., which stated under Agenda Item 7, that the Committee agreed to proceed on the basis of the following guidelines; (a) each recommendation would be discussed first in order to agree on the activities for implementation; (b) recommendations that dealt with similar identical activities would be brought under one pool where possible and (c) the implementation would be structured in the form of projects and other activities as appropriate, with the understanding that additional activities may be proposed. The Delegation reiterated the position that the golden rules be applied as the Committee discussed that agenda item on consideration of the recommendations for implementation. With regard to the project on IP and the Public Domain, the Delegation noted that the patent component of the project prepared by the Secretariat was limited and cited "to explore the analysis of patent information and certain provisions of the patent system as a tool, and basis for identifying and claiming subject matter that has fallen into the public domain" and "legal status information to identify patent technology". The Delegation stated that the Development Agenda Group was of the opinion that that did not fulfill the requirements of Recommendations 16 and 20 that had at their core, the promotion, preservation and enhancement of a rich and accessible public domain. The Delegation explained that in order to faithfully implement Recommendations 16 and 20, the Development Agenda Group believed that the studies proposed for the patent components should include in its analysis the following aspects: (a) the important role of a rich and accessible public domain; (b) the implications and impact of specific practices in the area of patents and the public domain; and (c) possible norm-setting activities to preserve and enhance the

public domain. The Development Agenda Group therefore sought approval of the project with the addition of those three elements to the study.

118. The Delegation of Bolivia associated itself with the statement made by the Delegation of Egypt on behalf of the Development Agenda Group and explained what it believed could be incorporated into the proposed study. The Delegation pointed out that the patents study focused very much on the function and use of patent information when it came to the discovery material and the use of the materials in the public domain but when one read the recommendations on public domain, it seemed that there were three fundamental elements, firstly, that Recommendation 17 went into the depths of analysis, consequences and benefits of the public domain, which was accessible and very broad. Secondly, to consider the preservation of the public domain in a standard setting of procedures, and thirdly, one which was implicit and would recognize and preserve the public domain and would mean some standard setting practices and actions, that may have an impact on the public domain. The Delegation felt that the three elements should be included in the two recommendations and even though the initial draft project was very useful and practical, the Delegation wanted to know whether it had any focus on the use of patent information. The Delegation elaborated that it would be good to round up the matter with some further elements that would take into account the three elements mentioned earlier. Regarding Item 31, the Delegation felt that the patent components study on the use of the patent information be an option, that it could broaden the mandate of the study to encompass the three elements that the Delegation described previously, because the study required an analysis of the consequences and advantages of a rich and accessible public domain. The Delegation proposed that an easy way forward would be to add that element as well as consideration of the possible impact arising from patent practices on the public domain and possible standard setting activities. The Delegation suggested another possibility of separating the two components and creating a new study, which would analyze the three elements thereby providing total flexibility regarding the way forward on how the elements could be dealt with.
119. The Delegation of the United States of America expressed continued concern about the proposed expansion of the patent study to include the implication of patent “thicketing” ever-green patents, the extension of patent term, pre-grant or post-grant opposition to patents and disclosure requirements. The Delegation remained concerned about the additional elements that had been mentioned by the Delegations of Egypt and Bolivia, respectively. The Delegation pointed out that the proposed expansions appeared to be unrelated to the original thematic project, which was on legal status information that could be used to identify all patent technology in a focused, fact-based study that promised to yield valuable and useful information for practitioners, businesses and members of the public. It further noted that the proposed additions would unreasonably expand the scope and shift the focus of the study in a way that would not necessarily be related to the task of identifying all patent technology. The Delegation believed that it would be best for the Committee to focus on what was originally agreed to and not yet undertaken, to see what results would be produced before deciding to expand the study at this early stage. It further stated that the proposed expansion would also increase the cost of the project since the proposed expanded topics appeared to be indirectly related to the original project proposal. Elaborating further, the Delegation informed that it had met with the Delegation of Bolivia the previous day, to try and work out a compromise and that at that time the Delegation had requested a more formal scoping study or scoping document to flesh out the proposal including the cost implications, and once that exercise was carried out and submitted, the Delegation of the USA would be delighted to study it. At the time of that meeting, the Delegation made it clear that the United States could not support the proposed additional studies.

120. The Delegation of India expressed support for the statements made by the Delegation of Egypt on behalf of the Development Agenda Group adding that it believed that the present scope of the proposed project did not adequately capture the essence of Recommendations 16 and 20. The Delegation recalled that Recommendation 16, which called upon WIPO to consider the preservation of the public domain within WIPO's normative processes and deepen the analysis of the implication and benefits of a rich and accessible public domain. The Delegation supported the request made by Bolivia and India, during the last session which directly responded to the requirement under Recommendation 16, to undertake a study on the role of a rich and accessible public domain, and requested that that be included either in the present project or as a stand-alone or a follow-up or supplementary project, to better capture the essence of the recommendation. Recalling the statement of the Delegation of Egypt on behalf of the Development Agenda Group, it stated that the importance of looking into the implications of practices particularly in the area of patents impeding the public domain, if they were to do justice to the recommendations which were conspicuous by their absence in the present project, and the Group had requested that it be added and reflected either in the revised project or in a separate project as mentioned previously. The Delegation added that the suggestion made by the Delegation of Egypt concerning possible norm-setting activities in the area of public domain be considered, and as stated in Recommendation 20 "to promote norm-setting activities related to IP that support a robust public domain in WIPO's Member States". The Delegation asked for a logical corollary to the recommendation itself and hoped that the Secretariat would take into account those views either through the revised project proposal or a new one.
121. The Delegation of Brazil recalled the beneficial and fruitful discussions in the previous session of the CDIP, where the delegations had an opportunity to share views and concerns on document CDIP/4/3, as a result of which the outcome papers were balanced, reflecting many of the developing country's needs and concerns. With respect to the copyright component of the project, the Delegation stressed the importance of the proposed activities as it reflected more clearly the letter and spirit of Recommendations 16 and 20, and thereby the scope and study on copyright and related rights in the public domain, should include a discussion on how to enhance access towards the public domain. It was important the Delegation added, to present misappropriation of public domain subject matter, as expressed in the introduction of the project, and that there was need to understand how the different jurisdictions defined the public domain directly or indirectly. There was a need also to continue to identify the existing initiatives and to choose which could facilitate the management and the access to public domain material. The Delegation understood that the study would also evaluate the potential impact of the rights and related rights on the public domain subject matter, as that was an important issue to be addressed in order to clarify how to guarantee the access to public domain subject matters, based on the fact that Brazil would have liked to contribute at a later stage during the discussions concerning the terms of reference of the proposed study. Concerning Recommendation 16, the Delegation requested an addition after the description of the first project objective on page 7, with the following sentence "for enhancing access to the public domain". With that change, it stated that the objective read as follows: "Enhanced understanding of the definition of the public domain and the availability of tools for identifying subject matter that has fallen into the public domain for enhancing the access to the public domain". In conclusion, the Delegation considered that the study on the misappropriation of signs and possibilities of preventing such practice should be an essential part of the project, as there was need for raising awareness of traditional communities to the important problem, given the fundamental right to rely on cultural heritage to make the progress unique. The Delegation elaborated that condoning misappropriation would be preventing some traditional communities from becoming exporters of value-added progress and active players of international profits. The Delegation also commented on the trademark component

and referring to page 4, line 11, in the part which read: "Common Communal Heritage and Patrimony" wanted to include the "Patrimony of Any Member".

122. The Delegation of Nigeria said that access to the public domain was imperative for expanding the boundaries of IP. It stated that deliberation on the public domain would bring a balance that would include key issues for developing countries. The Delegation also added that what had been discussed would make the proffered advice practical. Firstly, in the area of projects, there was need for legislative advice in order to establish the legal criteria and parameters for the protection of materials at a national level, thereby allowing for technical advice and support that would enhance activities at a national level. Secondly, it would also assure the efficiency of the public domain in terms of protection of materials that would be fine-tuned at the national level. The Delegation added that when one got to the fine-tuning of materials at the national level, it would by implication involve a level of technical advice and support that would come from the Secretariat as well as other partners in terms of developing a public material in the public domain. The Delegation also associated itself with the overall suggestion that came from the Delegations of Brazil, India and Egypt, which were quite pertinent in terms of the proposals under consideration. The Delegation went on to emphasize the need to strike a clear balance that in the end would be within the Development Agenda while at the same time, deal with helping developing countries to move from where they were, to a higher level of development.
123. The Delegation of Japan shared the concern expressed by the Delegation of United States of America; on the patent component of the proposed project from the viewpoint of the effective and efficient implementation of the projects particularly the cost implication in adding the new factor of the patent component.
124. The Delegation of Bolivia informed the meeting that it had held informal consultations the previous day and felt that more information was required and would therefore not be prepared to mix the two aspects in the same project and study. The Delegation stated that in the spirit of trying to make progress, it requested that in the next CDIP session, the Secretariat should prepare a complementary document. It suggested that it should be a separate project with the three elements mentioned, with costing, and which would be additional to the study that had already been undertaken which looked at the importance of access to the public domain.
125. The Delegation of Chile said that public domain was a very important issue for Chile in terms of development and the implementation of the recommendations, particularly with regard to the study on patents and felt that document CDIP/4/3 Rev. did not reflect that. The Delegation elaborated that there were elements in Recommendations 16 and 20, which could be incorporated, and requested clarification from the Secretariat as to whether it would be possible to see where in that project, the second part of Recommendation 20, in other words, guidelines for Members States on the public domain could be included? The Delegation also sought clarification on the possibility of making progress with the elements cited by Delegations of Brazil, Bolivia and India, as they were relevant elements and should at some point, whether within the project, or as an additional project, be included to give a more complete overview of the relevant recommendation.
126. The Delegation of Egypt commented on the three elements proposed and emphasized the importance and pertinence of the elements as they went to the core of Recommendations 16 and 20, adding that since the proposal came from Bolivia, the Delegation would accept it in order to proceed with the flexible

approach that the Secretariat would prepare, based on the elements, a sort of a follow-up project to be presented to CDIP 6. The Delegation would also accept that as it was in consonance with the original intent of the discussions of the recommendations to developed ideas that could then be translated with the help of the Secretariat to project proposals. With that background, the Delegation agreed to accept the patent-related elements with the understanding that the Secretariat would be preparing the particular elements identified by the Delegation as well as the Delegation of Bolivia which would be presented to CDIP 6.

127. The Chair pointed out that it was his understanding that the project was approved at the last CDIP meeting while only two components remained outstanding, adding that the implementation of the project had already started from January, and the Secretariat needed a stable project to implement. The Chair noticed that additional elements had been proposed and appealed, in light of the Delegation of Bolivia's statement, that delegations should concentrate on resolving the two outstanding elements before additional elements could be added into a future project. The Chair added that if there would be an agreement he would declare the project approved and requested the Secretariat to prepare project proposal for the next CDIP.
128. The Delegation of the United States of America sought clarification on what appeared to be some suggestions and modifications of elements of the copyright study, that the Delegation believed were approved at the previous meeting, and the Delegation was therefore unclear on what the exact proposal was and how it would be taken into account, in accordance with what the Chair had just proposed.
129. In response to the Delegation of the USA, the Secretariat recognized that there was need for clarification and explained that the proposal on the component concerning the copyright study was approved in the fourth session of the CDIP, that all the four sub-components, as contained in the document before the Committee, had already begun. The Secretariat was not very clear whether the proposal suggested by Brazil went beyond those four components, or were in addition to the four components, which had been agreed at the previous session.
130. The Delegation of Brazil requested that the sentence under discussion should include a small change which would not affect the final objective of the project, as it would only clarify what the Delegation considered was an important element of the project. The Delegation added that the activities were with the focus of enhancing access to public domain. Finally, the Delegation requested that Brazil be included in the process of drafting the terms of reference of the study.
131. The Delegation of Nigeria pointed out that Nigeria had made a proposal with regards to the project, and had made two proposals in that regard, and requested that it be recorded.
132. Thanking the Delegation of Nigeria, the Chair requested for the approval of the project as amended.
133. The Delegation of the USA stated that with respect to the copyright component, it was not comfortable with amending the project to add what appeared to be somewhat of a different emphasis on enhancing access to the public domain as the overarching goal of the project. The Delegation said that it did not fully understand the proposal and suggested bilateral discussions with the Delegation of Brazil to

work out the terms of reference, and further requested that if other delegations were involved in setting the terms of reference, the United States of America would also want to be involved in that exercise. The Delegation stated that if the study was approved it would also include a preliminary analysis of the possible implications of a rich and accessible public domain, which seemed to be largely what Brazil had asked. At that stage, the Delegation stated that it would be more comfortable with retaining the original language of the study as approved.

134. The Secretariat clarified that with respect to the trademarks study, the United States of America was still unable to support it as drafted but the Secretariat was in contact with the interested delegations and suggested further time may be allowed for discussions before a formal consideration by the Committee.
135. The Chair expressed his wish to continue with discussion on Agenda Item 8. He suggested that the delegations with concerns about the Public Domain project meet later to discuss it further. He proposed the consideration of project on Intellectual Property and Technology Transfer contained in document CDIP/4/7 followed by the project on Intellectual Property and Socio-Economic Development contained in CDIP/5/7. He noted that some groups still needed time to finalize their positions on the other two projects, and therefore they be discussed the following morning.
136. The Delegation of Egypt thanked the Chair and announced that the Syrian Arab Republic was now a member of the Development Agenda Group. In that regard, it looked forward to the contributions to be made by the Syrian Arab Republic.
137. The Delegation of the Syrian Arab Republic thanked the Chair and congratulated him on his election as Chair of the Committee. It said it was also very grateful to the Secretariat for their assistance in preparing the various documents. It became a member of the Development Agenda Group because it shared the views of other members on the issues of intellectual property and on the application of the Development Agenda in all WIPO's areas of activities. The Delegation assured of its full cooperation with the Group and indeed with all the members of the Organization so as to help it achieve its objectives in a transparent, sensible and logical manner.
138. The Secretariat thanked the Chair and stated that there were three documents for consideration on project on Intellectual Property and Transfer of Technology. First, document CDIP/4/7. Second, the Non-paper which inter alia contained the comments received on the project document, and was numbered as Paper No.1 CDIP/5, dated March 12, 2010, and third, an extract of discussions from the report of the previous session of CDIP, reproducing paragraphs 131 to 190. The Secretariat reminded the Committee that the project document on "Intellectual Property and Technology Transfer, Common Challenges Building Solutions", was originally prepared by the Secretariat for CDIP/3. Due to the lack of time, the document was discussed for the first time at CDIP/4 and during those discussions a group of like-minded delegations provided extensive comments orally and indicated that it would be submitting detailed comments in writing. The Committee could not agree on the project in that session and it was decided that; the group of like-minded delegations would submit a document containing comments on the implementation of the relevant recommendations before the end of 2009; other Member States would be invited to respond to those comments until January 31, 2010, and the Secretariat would then prepare a non-paper for discussion at the 5th session of the CDIP. Accordingly, the Secretariat circulated the comments received from Egypt on behalf of the like-minded delegations, as well as the extract of discussions from the report of the CDIP/4 pertaining to that project. Thereafter,

comments were received on the project document from the following Delegations: Australia, Colombia, Mexico, Monaco, Syria, the United Kingdom and the United States of America. The Secretariat reiterated that based upon the comments from the group of like-minded countries and further comments on those comments, the Secretariat had prepared a non-paper, which was published on the WIPO website on March 12, 2010. The Secretariat further explained that it had received a wide variety of comments based on the comments received from the Delegation of Egypt on behalf of the like-minded group. Furthermore, it explained the approach to structure the non-paper into three parts or three different categories of proposals. There were proposals thought to be on common ground and agreement on which could be sought and were thus treated in part I. In part II, the Secretariat mentioned that it felt that there was a partial common ground and that it was possible with full discussions that solutions could be found on those issues. The third category identified by the Secretariat was the evident differences between the proposals. The paragraphs inserted under each country or each group of countries, were excerpts of their submissions and that they were unchanged excerpts, and were exact reproduction of submissions. In addition, the full texts of the submissions had been included in the annexes in order to follow all the proposals made by each country, or each group of countries.

139. The Delegation of Spain thanked the Chair and speaking on behalf of the European Union (EU) and its 27 Member States, thanked the Secretariat for gathering all comments received in a non-paper as requested during the last session of the Committee. In line with the structure of those comments, the Delegation provided additional remarks which it hoped would help find a common ground for the finalization of that important project. First of all, the Delegation expressed its support for maintaining the current title of the project as it precisely reflected its objectives and mentioned that eliminating references to intellectual property in the title would widen its focus which would in turn create unnecessary confusion. The Delegation shared the concerns expressed by some countries with regards to the timeline of the project. It felt that the phases did not seem to follow a chronological order or remain in line with the description of the project. The Delegation indicated that regional meetings should be used to exchange views and gather inputs reflected in the concept paper to be discussed later at the experts meeting and therefore, it considered moving to an earlier phase as a sound proposal. The Delegation also agreed that in regional meetings, regional studies containing experiences and initiatives should be considered for presentation and discussion. It supported the preparation of the studies which were required to provide input to the forum and noted that they would require a neutral and balanced approach identifying both positive and negative impacts in developing countries. The project document should take that into account. In particular, the Delegation considered that the tasks of the Committee should take full account of the work being carried out and avoid possible overlaps, by continuing discussions with other Committees, including the SCP. The Delegation mentioned that the concept of technology transfer for the purpose of the project should therefore align with the definition provided by the SCP. The Delegation considered that the preparation of a document on initiatives and policies to promote the transfer of technology should not be considered as one of the initial studies but as one of the main resources of the project and should benefit from all the activities that it foresaw. In particular the technical advice provided by this Organization on all IP matters was based on a well defined framework already adopted at an international level. The Delegation informed that within the scope of the TRIPS Agreement, in a revision of IP standards, development of new ones or adoption of commitments fall outside the mandate of the CDIP. The Delegation pointed out that it would not support the establishment of a special fee through the PCT system as much of the revenue obtained was already being used to cover the implementation of the new Development Agenda. In relation to the platform for technology transfer on IP collaboration, the Delegation considered that the objective was unclear on the form it should take and asked whether the objectives of such a platform should be

through web-based tools or through an actual forum for debate. It further raised questions on who was to participate and in which status, and sought further clarification on the issues not sufficiently described in the project namely, on what the governing principles were to be and the need for an unambiguous platform. The project included the development of country projects on IP infrastructure to facilitate the transfer of technology. The specific question of the need of IP infrastructure to manage IP assets was considered by the Delegation as an important element for the further implementation of the objectives of the project at the national level. However, it seemed much too broad to be considered as an element in the project and should be considered for independent projects. It noted that other projects had been dealing with the issue. In terms of the coordination and implementation of the project, the Delegation considered it essential for the introduction of a project coordinator to monitor the correct implementation of that complex and important project for which budget allocation would be necessary. In that context, the Delegation highlighted the need for a mechanism by which country views would be sought for the preparation of the fully-fledged project document and would be part of the monitoring process. Finally, the Delegation referred to the high budget of that project and suggested that a logical framework approach should be followed in the preparation of the fully-fledged project document, to include detailed objectives, output and indicators for each specific activity since it was the practice of the United Nations to ensure the quality of the project document and to facilitate its implementation and further evaluation. In conclusion, the Delegation pointed out that the European Union (EU) and its Member States welcomed the development of a project on technology transfer since it was one of the objectives of the Committee. However, it stated that more work was needed so as to focus more clearly on its objectives and some of its key elements. The Delegation, making those comments on behalf of the European Union (EU) and its members, did not preclude individual comments that its members may add on the subject.

140. The Delegation of Egypt thanked the Chair and stated that it was speaking on behalf of the Development Agenda Group. It said that the Group had paid particular attention to the issues of transfer of technology and the implementation of Cluster C of the Development Agenda on Technology Transfer, ICTs and Access to Knowledge. The Group believed that there was a need to develop appropriate solutions, guidelines and/or instruments in particular, for the transfer and dissemination of technology to the benefit of developing countries taking into account varying levels of development and differing absorptive capacities of Member States. The Delegation said that it looked forward to a constructive engagement on the non-paper produced by the Secretariat, recognizing that WIPO had an important role to play therein as well as there were opportunities for cooperation with other UN bodies including most importantly UNCTAD, UNEP, UNIDO, WHO, UNESCO, ITU and CBD. The Delegation thanked the Secretariat for producing the non-paper and also the Member States who were constructively engaged and who provided very positive comments. It specifically pointed out the Member States that provided the comments in the following order: Mexico, Colombia, the United Kingdom, Australia and the United States of America. The Delegation believed that the process captured the essence of the exercise in implementing the Development Agenda and that through the ideas exchanged, a fine-tuned project would be constructed in order to address the needs as agreed by consensus. It also wished to thank the Delegation of Spain which spoke on behalf of the European Union (EU) for some very positive and constructive ideas. The Delegation expressed a concern raised in the paper by the like-minded developing countries which was the need to frame the projects in a proper form that would cover relevant aspects of the recommendations of the Development Agenda. As such, it had noted that the project originally proposed referred to Development Agenda Recommendations 19, 25, 26, and 28, which it believed were pertinent. However, the Delegation noted in that there were other Development Agenda recommendations which should also be considered. It mentioned six other

Recommendations namely 17, 22, 23, 27, 29 and 31, and considered that it would be important nonetheless to include three additional recommendations to that project, specifically Recommendation 22, as it contained an important reference to technology transfer. The recommendation stated that "WIPO's norm-setting activities should be supportive of the development goals agreed within the United Nations system, including those contained in the Millennium Declaration." The WIPO Secretariat was then requested that, in preparing documents for norm-setting activities, to ensure that the working documents were informed by those particular aspects. The Delegation added that subparagraph (c) of Recommendation 22 mentioned intellectual property-related transfer of technology, and believed that that element of Recommendation 22 contained an important aspect that it would have liked to see encompassed in that particular project. Likewise, the Delegation believed that Development Agenda Recommendation 23 was also of relevance to the Committee's work, and quoted "to consider how to better promote pro-competitive intellectual property licensing practices, particularly with a view to fostering creativity, innovation and the transfer and dissemination of technology to interested countries, in particular developing countries and LDCs." The Delegation reiterated that it believed that to be a particularly important recommendation. On its final point, the Delegation believed that Development Agenda Recommendation 31, to be also pertinent and in essence, thought technology transfer to be extremely important and added that the international community had been undertaking multilateral efforts at looking at technology transfer since the 1960s. However, the Delegation added that the main emphasis, at that stage, was to be equally concerned with how WIPO was to contribute to the exercise of the transfer of technology. The Delegation further noted that there was a particular reference that WIPO had in order to pronounce on issues of technology transfer, most notably in Article 1 of the WIPO-UN Agreement, that mentioned "The UN recognizes WIPO as a specialized agency and as being responsible for taking appropriate action in accordance with its basic instruments, treaties and agreements administered by it inter alia for promoting creative intellectual activity and for facilitating the transfer of technology related to industrial property to developing countries in order to accelerate economic, social and cultural development." Similarly, the Delegation noted that Development Agenda Recommendations 19 and 22, were directed at WIPO to undertake actions with regards to the transfer of technology and it believed that in delivering that project the Committee needed to be aware that it was not only looking at issues of discussions of technology transfer, but equally about what WIPO could do in that regard. One of the most positive contributions which the Delegation thought might, upon first reading, not seem so consensual with the proposed approach of the like-minded developing countries, came from the comments submitted by the Delegation of the United States of America, specifically in paragraph 3, in which that Delegation noted that the proposal raised a host of issues which could be worthy of discussion. In the Delegation of Egypt's view, it would not be practical to examine all of them in one project. The Delegation fully agreed with the approach and believed that the project was more a procedural approach to how WIPO planned to interact on the issue of technology transfer and as such, it believed that it would be a first step and that it would be difficult to expect everything on technology transfer to be conducted in that project. The Delegation stated that it had remarks on ten items. It noted that the Delegation of the United States of America had submitted particular views on the subject and the Delegation of Spain had also presented its views. The Delegation continued that through some consultations and flexibility it could reach an accommodation. The second issue referred to by the Delegation was on definitions, which it noted came under sections I and II of the Secretariat non-paper. It believed that ultimately, while it could not expect to reach a final definition on the topic, it wanted to ensure that all the issues were on board. It noted that some Member States had referred to the study presented by the SCP and cautioned that some revisions and amendments had already been requested for that study. The Delegation added that the study spoke about patents, whereas the technology transfer exercise encompassed other issues in other fields of intellectual property and most importantly that there was a

wealth of work which had been carried out on definitions, most notably in the 1985 version of the code of conduct on the transfer of technology, which was the draft code of conduct produced by UNCTAD. The Delegation believed that discussions on issues of definitions were a very good starting point and thought it important to include all the various references. Thirdly, regarding international IP standards, the Delegation had noted a lot of procedures and comments pertaining to the role of TRIPS and other international IP standards. The Delegation remarked that the PCT could also be an important and interesting element in international IP standards relating to technology transfer. The Delegation mentioned that its fourth item, technology transfer supportive of IP related policies in developed countries, was in the substance of the Development Agenda but the Delegation could not recall which one exactly. Fifthly, the Delegation thought it would have a discussion on multilateral supportive measures as well. The sixth item would be on the new platform and the Delegation thought that if there was one element that had full consensus, an element also echoed by the Delegation of Spain, was the fact that the new platform sounded interesting but the Delegation did not know what it would entail. It thought that conceptual clarity and agreement on what it entailed was important. The seventh item would be the scope and the methodology which the Delegation had put in a very broad topic because of the timelines. The Delegation agreed with the Delegation of Spain that there were some issues, particularly on the holding of regional consultations. While it noted that a particular Delegation seemed to see the logic behind the Secretariat proposing that those occurred at the end of the project, however, it agreed with the Delegation of Spain that an initial consultation on the regions would perhaps present a better understanding of what the work should entail. The Delegation's eighth point concerned the proposed new studies. The Delegation pointed out that there were of course a number of studies that should flow into the high-level expert meetings which it believed was important. However, it wanted to further elaborate on what such studies would include and equally importantly on the terms of reference. The Delegation also explained that it needed to ensure that those studies took on board different levels of development and that they were prepared by experts who represented geographical balance and who were aware of the problems and issues of developing countries. The Delegation's ninth point was concerned with the web forum which it believed was very pertinent. However, it believed that there should have been some further modifications to make it more interactive and more receptive to stakeholders, including civil society organizations. It believed that the web forum idea was a way forward for it to add value to the discussions on transfer of technology and finally the projected outputs. The Delegation pointed out that it was aware that the project represented talks about the new platform for IP collaboration on technology transfer and that it was proposing that once it was there it was translated into WIPO's work program. The Delegation clarified that it understood the value of providing new ideas, but that at the end of the day, it was a Member States driven Organization. It mentioned that whatever was decided by the experts needed to be vetted by the Member States before being adopted by WIPO. The Delegation explained that it believed it could accommodate and reach consensus on the ten items mentioned to launch the project in that session and looked forward to further consultations, particularly with the delegations that had been very kind in sharing their comments. The Delegation added that it thought it had been a very positive way forward in the implementation of the Development Agenda.

141. The Delegation of Norway thanked the Chair and welcomed the proposal on technology transfer which was described in document CDIP/4/7. The Delegation appreciated the Secretariat's role in producing the non-papers in order to facilitate discussions and find further common ground. The Delegation expressed its support for the comments made by the Delegation of Spain, on behalf of the European Union (EU) and its Member States. The Delegation of Norway mentioned that it placed great importance on the implementation of sound projects to enhancing and stimulating technology transfer. The Delegation said it had a few remarks regarding some specific points, first on definitions. For the purposes of

the mandate of the CDIP within the overall mandate and objectives of the Organization, Norway found it fruitful that definitions of technology transfer in the project document should be related to what it meant in relation to intellectual property, as already expressed by the Delegation of the United Kingdom, and reflected in the non-paper. The Delegation also supported proposals to focus on what had already been achieved in that regard within the SCP, not only on definitions but on aspects such as standards, exceptions etc. The Delegation thought it essential to see coordination with the work underway for instance in the SCP as the risk of duplication would otherwise be considerable, with unnecessary financial consequences. Referring to the proposal to establish a special PCT fee, the Delegation of Norway stated that it could not support such a proposal. It is said that in line with the United Kingdom's reasoning as reflected in the non-paper, and what had also been expressed by Spain on behalf of the European Union (EU), the aim of PCT was to increase its efficiency and dissemination and it wished to stimulate increased use of the PCT system. The Delegation believed that implementing recommendations of the Development Agenda should take place on a step-by-step approach with results and findings of projects and studies guiding further activity. The Delegation therefore, cautioned that projects should not be launched at a pace and a scope which would not give the Delegation enough room to evaluate and monitor the right follow-up processes.

142. The Delegation of Mexico thanked the Chair and expressed its gratitude for the non-paper prepared by the Secretariat in which there was an attempt to bring together the proposals by Member States with the aim of finding a common solution. The Delegation believed that there was consensus on some of the basic issues that would help to make necessary modifications to the project which could then be taken into account when implementing it. The Delegation also explained that it was important for the majority of Member States present and that the Committee would also need to bear in mind that the current project on intellectual property and the transfer of technology was an initial step towards the carrying out of consultations on holding fora on the issue of technology transfer in order to help it deal with the appropriate recommendations of the Development Agenda. Once implemented, that would enable the Organization to have studies on the current status with respect to those issues along with the needs of Member States and complementary actions which could be taken in individual cases. That could then lead to specific projects at national level and the normal program of work of WIPO in respect of innovation and technology transfer. The Delegation agreed with the proposals that had been put forward by Member States with respect to the carrying out of studies by other WIPO committees, particularly the SCP, in order to avoid duplication of efforts and in order to meet the specific needs and requirements of Member States. The Delegation stated that it had made that clear in an initial statement made on behalf of Mexico. It considered it very important that the Committee kept the budgetary implications for the implementation of projects of the Development Agenda in mind. The Delegation also said that there was the need to use the appropriate coordination; monitoring and supervisory mechanisms which would help ensure that the actions undertaken for the Development Agenda throughout the Organization were properly organized. In conclusion, the Delegation mentioned that the transfer of technology was one of the most crucial aspects of the Development Agenda for Mexico. The Delegation believed it essential that the Committee embarked upon the implementation of the transfer of technology project contained in document CDIP/4/7 as soon as possible. The Delegation also pointed out that when it came to setting an additional timeframe for the support of IT centers, it could not support the proposal because it believed that that was something used at by the PCT and the PCT was devoted to reducing not increasing them. Therefore, the Delegation confirmed that it did not believe that that would be the most appropriate way to approach the matter.

143. The Delegation of El Salvador thanked the Chair and expressed its appreciation for the Secretariat for the preparation of the document. The Delegation believed that it was a very valuable project and the Delegation was very much interested in it. It also expressed support for its approval as soon as possible. The Delegation noted that recommendations of the Development Agenda on that issue showed that the Committee was taking the correct approach to it. The Delegation reiterated its thanks to the Secretariat and the Member States who had contributed to the document, especially by showing a full interest on the transfer of technology and intellectual property. The Delegation believed that that was going to be one the instruments which would be extremely useful for the members in capitals and indeed in the Missions. It would help all of them to participate more actively in the work of WIPO. The Delegation also noted that transfer of technology was one of the first benefit that it saw coming out of the Development Agenda. The Delegation added that it had obligations to comply with the TRIPS Agreement and mentioned that it looked towards WIPO to benefit from the transfer of technology. It hoped that with the new Section on the transfer of technology it would be able to take a better advantage of the TRIPS Agreement. The Delegation added that it supported the approval of the project to start as soon as possible.
144. The Delegation of Brazil thanked the Chair and supported the views of the Development Agenda Group and the like-minded countries in regard to the ways to improve the projects on IP and transfer of technology currently under revision. In the comments of Development Agenda Group, it was important to recall that one of Brazil's main concerns about the proposed project was that it did not foresee action-oriented resource, but rather it focused only on broadly analyzing ways to improve the transfer of technology. The Delegation added that it considered that the project must envisage ways to ensure that transfer of technology actually occurred and that ensuring the effective transfer of technology was a substantial element of the implementation of the Development Agenda. In that regard, the Delegation felt that the so-called new platform for technology transfer, a term which delegations at large agreed was vague and unspecific, and should envisage concrete transfer of technology measures, agreed upon by delegations on the basis of the discussions held during the high-level experts forum or any other input that contributed to experts deliberations. The Delegation believed that in order to achieve results that one expected from the project the studies in component two should also aim at providing concrete recommendations to countries with different levels of development.
145. The Delegation of Spain thanked the Chair and made three specific points. The Delegation observed that on the one hand, unfortunately there had not been a compliance with the deadline indicated by the Director General in paragraph 185 of the draft report of the previous session, document code CDIP/4/14. Furthermore, contrary to what the Director General had announced, a revised version of the document had not been prepared. The Delegation noted that the Committee had a non-paper with contributions made by Member States but that it was not totally sufficient in its opinion. The Delegation believed that it was very complicated to hold a coherent debate on the issue because it did not really see how it could do that and reach a specific result during the course of the session. The Delegation added that it believed it essential that before continuing it needed the work to be completed as it previously mentioned and that it needed the document prepared by the Director General which had been omitted.
146. The Delegation of Canada thanked the Chair and also the delegations for submitting written comments on document CDIP/5/7 and the Secretariat for preparing the non-paper. The Delegation confirmed support to a number of suggestions made in the like-minded countries' comments, and said it wished to also endorse the comments made by the United Kingdom, Australia, Monaco and

the United States of America, as well the interventions recently made by the European Union (EU) and the Delegation of Norway where further comments were offered on the like-minded countries' document. First element that the Delegation wanted to highlight was that it was important to ensure that the project did not go beyond WIPO's mandate. The Delegation clarified that the study proposed by the like-minded countries on the extent to which Article 66.2 of TRIPS had been fulfilled, was clearly outside of the WIPO's mandate and therefore it could not agree to include it in the study. The second element was that the project should complement the work of other Committees such as the SCP and not duplicate it. The third element was that the proposed studies to be added to the project should be balanced. The Delegation offered an example in the project description in point 2, the Study on research on development policies, where it believed an explanation on how priorities could contribute to a certain development and not only the negative aspects should be identified. The fourth point was that the Delegation could not support the proposal to charge additional fees for PCT applications as it saw that as potentially having an impact on delivery of patent filing. The Delegation believed it might be a deterrent for some applicants and furthermore, in February 2010, at the meeting of the authorities, the general view was that those fees should be reduced as much as possible to encourage African countries to use the system. The Delegation said it needed more clarification from the Group of "like-minded" developing countries as regards its proposal contained in point 2 (e) of the project description, where it asked that the issues to be addressed should be those of "traditional concerns to developing countries and least developed countries." The Delegation of Canada requested from the Group of "like-minded" developing countries further elaboration on what it meant by "traditional concerns" and what it would cover. In closing, the Delegation wished to express its general support for the project on technology transfer and hoped that agreement could be reached on the elements where there were divergences of views to ensure its adoption.

147. The Delegation of Angola, speaking on behalf of the African Group stated that the Group indicated that it paid special attention to the issue of the technology transfer and the implementation of the Cluster C of the Development Agenda on transfer of technology and access to knowledge. The Group also co-sponsored some comments submitted by the Group of "like minded" developing countries on the thematic project proposed in document CDIP/4/7 and underlined the need to follow WIPO's engagement on transfer of technology in cooperation with other UN agencies. The African Group also thanked the WIPO Secretariat for the preparation and production of the documents on the issue of transfer of technology. It said that it was also grateful for the non-paper which WIPO provided to Member States. The Delegation made a couple of comments on some of the points which were raised in the non-paper, especially on definitions. As far as the definition was concerned, the Delegation believed it was important that that took into account the various and varying levels of development for each country and for each region, because transfer of technology has different meanings for Europe, Africa and Latin America. So the variations of development specific to each region needed to be taken into account. The Delegation also believed that it was very important to have mutual support measures in the case of transfer of technology. The Delegation stated that it was important that the support measures be there in order to ensure effective transfer of technology. One very interesting proposal here included the special tax or levy or fee on the PCT to encourage the transfer of technology, the Delegation added. It had been raised by the "like-minded" countries and the African Group subscribed to it. In Copenhagen and in a lot of other environment related fora, there was talk of tax on travel for example, or a levy on travel to help deal with climate change. The principle would be similar here as understood by the Group. When looking at the WIPO Development Agenda, the Delegation believed in the need to look at that kind of idea. It stated that the PCT had funds available so maybe having a levy, with the percentage sorted out at a slightly later stage to help finance and encourage the transfer of technology would be a useful

suggestion. When it came to other multilateral measures, the Delegation also advocated the adoption of measures similar to those taken in the WTO under the article 66.2 of the TRIPS Agreement. That kind of measure would help to ensure that technology transfer takes place effectively from the developed to the developing and least developed countries. The Delegation also supported regional consultations in order to establish a time table for the implementation of specific projects. On standards for the transfer of technology, the Group emphasized the importance of taking into account the varying levels of development of individual countries. That was very important if standards were to be developed. Another point was the need to include a consolidated approach by WIPO and other specialized agencies of the UN system, for example the WTO, UNCTAD, UNIDO, etc. It indicated that there were other regional organizations which should not be forgotten and explained that transfer of technology was not just about transferring it from the developed nations of the northern hemisphere to the developing countries of the southern hemisphere, but there were also regional organizations which could have an important role to play and which should not be forgotten. The final point pertained to the studies which should be balanced and took into account the interest of the various Member States of WIPO involved.

148. The Delegation of India, as a member of the “like-minded” developing countries that offered the consolidated views on the project proposal, aligned itself with the statement made on behalf of the Development Agenda Group. It thanked the Secretariat for the very useful non-paper prepared by it and the considerable efforts that had gone into preparing for the discussion. It also thanked the delegations that had sent in their written comments on the “like-minded” countries proposal and those who had made very useful remarks that afternoon in the Committee. In the Delegation’s view, the process had underlined the value of dialogue and exchange of views before finalizing Development Agenda projects, something that the Delegation had been reiterating in the Committee especially since the inception of the thematic project approach. For the Delegation, the issue of technology transfer, the recommendations under Cluster C and others that dealt with technology transfer and dissemination were very important. The Delegation therefore welcomed the initiation of the project on technology transfer. The Delegation had a lot of detailed comments but it realized that many of them had already been made more articulately by other delegations and therefore did not repeat them. However, in the Delegation’s view, the Committee should now begin with the process outlined in the project while bearing in mind that that was a beginning and while agreeing to keep that Agenda Item open for discussion in the Committee for follow-up projects, new studies and actionable proposals based on the ideas and the proposals of the “like-minded” developing countries and those of other Member States and the constructive deliberations in the Committee would be taken on board. That had also been the view expressed by some others and the Delegation supported those sentiments. The Delegation also supported the need for avoiding duplication and facilitating synergy in the work being done in the area of technology transfer in other WIPO committees and it certainly hoped, like one other Delegation had mentioned, that the coordination mechanism being negotiated would be finalized and would contribute to the avoidance of duplication in the following months. On the issue of definition, the Delegation noted that those discussions were substantive and complex discussions that had been going on for several years and something that would continue. The Delegation agreed with the view expressed by the Delegation of Australia and their written comment, that the discussion and definition should not be at the expense of practical actions to increase and accelerate transfer of technology to developing countries. So, while the Committee began implementing that project with some of the fine tuning suggested by other delegations, perhaps it could proceed on the understanding that that discussion would continue and in the Delegation’s view, would need to also involve other intergovernmental organizations, especially UNCTAD, which was the seminal intergovernmental UN forum for the definitional debate on transfer of technology. Apart from the definitional issue, the Delegation thought there was

also a broad consensus on the need for greater clarity on the concept, composition, and terms of reference of the new platform for technology transfer and IP collaboration and similarly, for the proposed high level expert forum. The Delegation also suggested that the Secretariat could perhaps add that clarity in the revised project for the benefit of all delegations and it could then approve the project as proposed. Similarly, the Delegation thought there was broad agreement that given the enormous work already done in that important area, it would be useful to include the literature review before undertaking the studies and the key studies proposed in the project. A third issue where the Delegation saw convergences upon was the need to make the proposed web forum more useful and efficacious to the process and that could perhaps be looked into again by the Secretariat. Lastly, according to the Delegation, the outcome of the project and how it would contribute to more concrete projects and actionable proposals of new studies would indeed be the subject of intergovernmental discussion and consensus and there the Delegation took the point made by other delegations that the Committee needed to proceed in a step by step manner, that would indeed be the final penultimate goal of that exercise.

149. The Delegation of Pakistan joined others in thanking the Secretariat for preparing the documents and consolidating the comments which had been offered by the various Member States. The Delegation noted that the fact that a broad range of countries had commented on that document was in itself very encouraging and it showed the importance which was attached to that subject by all of the Member States of WIPO. As part of the "like-minded" group of countries that offered the comments on that document, the Delegation shared the views expressed by the Development Agenda Group. In addition, the Delegation stated that it would like to focus on and reiterate three points; firstly, that it would like the project to be considered as a beginning. It was important that the process be initiated and then various actions to be taken in a phased approach of subsequent projects integrating the Development Agenda recommendations 22, 23 and 31, in addition to the ones that had already been incorporated into it. Second, that there was a need for more clarity on the new platform for technology transfer. The Committee would need to look more into that new platform. The third point was that the Delegation understood that the studies would be geographically balanced and would keep in view the different levels of development. However, the Delegation stated that it would like to have more clarity on the terms of reference of those studies when going into more detail on the studies.
150. The Delegation of Japan thanked the Secretariat for preparing the working documents and also the non-paper No. 1 compiling the various countries' submissions. Other opinions and observations had already been presented by various delegations and most of them were shared by Japan. The Delegation highlighted three points. Firstly, the implementation of the Development Agenda had to be done within the mandate of WIPO. Therefore, the Delegation was not supportive of something which was outside of WIPO's mandate, such as the discussion of the TRIPS article 66.2. The TRIPS Council was especially dedicated to discussing trade issues, including the Article 66.2. Secondly, for the sake of efficiency, the Delegation stated that duplications had to be eliminated. Therefore, for example, for patents, the SCP was discussing various studies which the Committee should have in mind. Thirdly, on the PCT fee issue, the Delegation indicated that WIPO also was a functional service provider which included PCT, the Madrid System and other international registrations. In order to be user-friendly, the Delegation was not in support of increasing the PCT fees which would not be favorable to the clients of its country, and especially the developing countries.
151. The Delegation of Nigeria thanked the Secretariat for the non-paper it had presented which it found quite illuminating. The Delegation noted the comments of

the various delegations on the contents of that paper and associated itself with the position of the African Group, especially the call to distinguish between the levels of development of different countries and the requirements of various regions regarding technology transfer. The Delegation also wanted more clarification on the issue of the new platform for technology transfer and IP collaboration.

152. The Delegation of France congratulated the Chair for his election and thanked his predecessor Mr. Mohamed Abderraouf Bdioui of Tunisia for leading the discussion at the previous CDIP session. The Delegation thanked the Secretariat for the preparation of many project documents and endorsed the statement made by Spain on behalf of the EU. France attached a lot of importance to the implementation of the recommendations of the Development Agenda and shared the objective of taking into account the particularities of development in a cross cutting fashion in WIPO's work. However, the Delegation drew the Committee's attention to the fact that even though WIPO took into account the specificities of developing countries, it was still a specialized technical agency. The Delegation stated that development was a cross-cutting issue and not an end in itself and that was the concern it had about this transfer of technology project. The Committee had to better understand the dynamics of technology transfer and the role of intellectual property. The Committee should be able to generate a diagnostic process and to create a tool box to facilitate technology transfer and not make WIPO the organization in charge of all aspects of technology transfer. The Committee should also focus on identifying needs as many Delegations had said that afternoon. One single approach would not be appropriate given the particular needs to meet in each country. The Delegation made two specific comments about two points that were raised by several other delegations. First of all, regarding the title of the project, the Delegation preferred retaining the current name which seemed to better reflect the content and the spirit of the recommendations. On definitions, the Delegation of France stated that the Committee should absolutely come to an agreement on as wide definition as possible. The Delegation also stated that there were multiple definitions that already existed which could be used including the one that was in the international code of conduct for technology transfer. As regards comparative studies on the TRIPS implementation, the Delegation thought that WIPO's role was not to measure the implementation of the TRIPS Agreement and that the TRIPS Council had that role.
153. The Delegation of China thanked the Secretariat for preparing the non-paper on the transfer of technology and indicated that the ability to developing countries to benefit from innovation and facilitate their economic development was very important. The Delegation indicated that it would help the different parties in the spirit of efficiency to arrive at an early consensus so as to put that project into implementation.
154. The Delegation of Morocco thanked the Secretariat and all the countries that had contributed on that matter and fully concurred with what was said by the African Group coordinator, the Delegate from Angola. The Delegation had listened with great interest and indicated that it seemed there were quite a few points of consensus. The Delegation said it attached great importance to the project because it considered the transfer of technology very important for all developing countries, including Morocco, which was why the Delegation preferred the project to be launched, based on all of the points where there was consensus and then leave the other questions where there was no consensus. The Delegation indicated that a lot of time would be wasted if the Committee did not adopt that approach.

155. The Delegation of Azerbaijan indicated that the issue under discussion was a very important one. It was important not only for developing countries and for least developed countries, but also for developed nations. It was important particularly for those who actually have the technology that the Committee was talking about. In some of the other documents discussed the previous day and that day, the Committee could not actually reach a consensus. For the present document, the Delegation felt that the Committee seemed to agree more easily, and there seemed to be more synergy in the discussions of that document and maybe that would help the Committee to move forward towards some kind of agreement. The Delegation said it had listened to what had been said by various delegations, and was particularly happy to hear what Pakistan, France, Japan, China and Morocco had to say, and that was just to name a few, but all of them came forward with very useful proposals. Furthermore, they were specific; the Delegation of India also made a very useful comment. Quoting the Delegation of India which said "we have a document, we have all the things we need to work, so we must start actually getting down to work, even though in some areas there were some points with which we were not in full agreement, we must still start getting down to the text as it were." The Delegation of Azerbaijan agreed to that approach. However, the Delegation wanted to know that when the step-by-step work was completed, what would happen? If a document with recommendations was prepared, it would open steps for the transfer of technology. If one had the technology and preferred to ignore the recommendations, what would happen? It pointed out that the Committee did not have any mechanism in place through which it could exert pressure on those who had the technology. However, it stated that the PCT and the Committee had the legal tools at their disposal, to ensure that the recommendations were applied. The Delegation further observed that the majority of the Member States participating in that meeting were also the Member States of the WTO and that they could perhaps provide the Committee with useful information on the transfer of technology. The Delegation was skeptical about what those countries could provide and that meant it was a limiting mechanism for the transfer of technology. The Delegation emphasized the need to think about what could be done to encourage countries which already have the technology and would be willing to transfer it in certain cases. It was not a question of coercion but it was a question encouragement. So, the Delegation supported that document even if there was some disagreement on certain aspects. Even if all countries could not agree with everything, the Delegation supported the document, and was eager to get to work, as suggested by the Delegation of India. The Delegation hoped that its statement would not be taken as excessively pessimistic, but it insisted that it was not enough to just have recommendations on paper. The Delegation urged to move on and implement them in practice. If the recommendations were not implemented, then the document in the end would not be of any use to anyone, neither those who already have the technology nor to those who want to obtain it.
156. The Delegation of Korea stated that the most important thing was to identify common grounds and approve the project, based on such common grounds, so that that important project could be implemented as soon as possible. As for the elaboration of studies, the Delegation thought that Member States would reach an agreement on the scope of studies to be conducted if they kept in mind the principle of avoiding the duplication of work within WIPO bodies. Regarding the proposal of "like-minded" countries on issues to be considered in the project, the Delegation thought that the Committee should not predefine the scope of issues to be discussed at the high-level forum. That would probably create imbalance in the discussion on the issues like the establishment of a special fee on PCT applications which the Delegation felt would hinder the promotion of the use of the PCT system. However, it deserved to review the lessons of the previous discussion done in the field of technology transfer which the Delegation said was the case. The Delegation stated that Member States should take advantage of those and should bear in mind that the first review would need to be done in a

neutral way. The ideas for the project suggested by the “like-minded” Group might be addressed in such a review. The Delegation thought that it was not very appropriate to predefine issues to be addressed. It hoped that with such an approach, conflicting views could be reconciled. The Delegation ended its statement by noting that the project should initiate discussions and debate on how to further facilitate efforts for technology transfer.

157. The Delegation of Argentina stated that the transfer of technology was essential for developing countries, as discussed before. It stated that it believed that in the project on intellectual property and transfer of technology, initiatives needed to be added to assist in carrying out specific action on the transfer of technology.
158. The Chair thanked the delegations stated that from the comments made, he expressed the view that there was a need for further consultations on some of the areas. He believed some informal consultations would help and encourage making some progress, especially since that was the second time the CDIP was considering that project. He also requested delegations to talk to each other and find a common ground stating that he also would do the same in order to find best ways to organize consultations and get the best out of them. The Chair then suggested the Committee discussed the project document CDIP 5/7 on Intellectual Property and Socio-Economic Development and invited the Secretariat to introduce the project.
159. The Secretariat referring to document CDIP/5/7, stated that the document contained a new project entitled, “Intellectual Property and Socio-Economic Development” addressing Recommendations number 35 and 37 of the Development Agenda. Recommendation 35 reads “To request WIPO to undertake, upon request of Member States, new studies to assess the economic, social and cultural impact of the use of intellectual property systems in these States” and Recommendation 37, which reads “Upon request and as directed by Member States, WIPO may conduct studies on the protection of intellectual property, to identify the possible links and impacts between IP and development.” Firstly, the Secretariat stated that in drafting the proposal, it concentrated on those two recommendations. There were other recommendations that dealt with studies which had not yet been addressed, in particular Recommendation 34 on IP and the Informal Economy and Recommendation 39 on IP and Brain Drain. The reasons for focusing on Recommendations 35 and 37 in that project were, first of all, that those recommendations were more clearly defined in terms of the direction the work on the studies would take. Secondly, even though that was certainly not an easy work, one could draw from existing work and methodologies used in academic circles as well as elsewhere. The third important point was that data, which was certainly not easy to come by, seemed within reach. The proposal was quite ambitious and the goal was to push the envelope, while acknowledging that WIPO was not the first organization to try to do economic studies work on IP and Economic Development. But it would require substantial time and effort. Comparing that situation with Recommendations 34 and 39, the Secretariat added, one faced there a complex set of issues and in looking at them, there was no certainty in which direction one should go. In addition, data on migration flows and the informal economy in particular for developing countries were much harder to come by and there was very little if any, prior work to draw on. For those reasons, the Secretariat would want to have more input from Member States as to the direction that a future project on those two recommendations might take. What was proposed was that at the next session of the CDIP, the Secretariat would present a conceptual non-paper that would lay out some of the main issues that might fall under those recommendations in order to seek a greater input from Member States as to the direction and nature of the project that would be undertaken in relation to those recommendations. On the proposed project, there

were a number of different themes as to the relationship between intellectual property and economic development that were outlined in the proposal. A process was envisaged whereby that project would conduct economic studies in six to eight countries and those studies would be undertaken on request and in fact in close consultations with Member States. The reasons for that were two-fold; on the one hand the Secretariat would want to do analysis on those questions that coincided with policy priorities in the countries in which those studies would be performed. Those studies would inform the discussions on IP and economic development more broadly but they should also be an input into the national policy making process. Secondly, it would be important to have the ownership of the governments when it came to those studies because of the need to push the envelope as far as data are concerned and for that reason it was important to work with local authorities. In addition, WIPO would try to work with the best experts that exist in the world on those type of questions and also, in the implementation of the studies, and would also seek to work with local research institutes that have an interest in questions of IP in relation to economic development in order to also build up capacity as far as economic analysis was concerned.

160. The Chair thanked the Secretariat for introducing the project document. Referring to the Project Manager, he believed that the Committee was in very distinguished hands of the Chief Economist of WIPO and opened the floor for comments.
161. The Delegation of United States of America was in general very supportive of the project, which it hoped would provide valuable new information regarding the relationship between IP and development and would provide national policy makers with very credible empirical guidance on how to develop and strengthen their IP systems to meet their national capacities and needs. The Delegation noted that in addition to the value of the studies themselves, several other benefits were mentioned, such as the creation of the new analytical capacity in several countries and the compilation of databases whose contents would be made freely available for future research. The Delegation noted that it was pleased to see a solid emphasis in the project description on the importance of ensuring that those studies were implemented in a thorough manner, with a solid methodology, rigorous data gathering and analysis and cross checking by recognized international experts. It stated that although the Chief Economist had touched upon that, the Delegation wanted to know how the researchers and international experts would be chosen and also noted that in general, it might be useful to have some clarifications on the statement at section 2.3 of the project description that the choice of the topics and design of the studies would be determined in consultations with the requesting Member States when Development Agenda Recommendation 37 suggested that it would be the consensus of the Member States that would help with the design of the projects. Therefore, the Delegation requested a little bit more input and a little more clarification on those two points.
162. The Delegation of Spain speaking on behalf of the European Union (EU) and its 27 Member States, thanked the Secretariat for the document that had been prepared for consideration. The Delegation stated that due to its Presidency of the European Union (EU), it made its previous statement extraordinarily in English and also because the text on technology transfer was negotiated and approved in that language. The Delegation observed that the project on IP and socio-economic development addressed both Recommendations 35 and 37 of WIPO's Development Agenda in a comprehensive way. The aim of that study was indeed to narrow the knowledge gap faced by policy makers in developing countries when designing and implementing an IP regime promoting development. Focusing on the relationship between intellectual property protection and various aspects of economic performance in developing countries, the project should improve understanding of the socio-economic effect of intellectual property protection in

these countries. Moreover, the three broad things, domestic innovation, international and national diffusion of knowledge and institutional features of the IP system and its economic implications identified in the project were key elements in assessing the economic, social and cultural impacts of the use of the intellectual property systems in developing countries. European Union (EU) and its 27 Member States welcomed the project proposed by the WIPO Secretariat and considered that both the analytical work to be conducted at micro level and the establishment of credible policy scenarios were essential for the efficient running and effective outcome to the project. In that context, an accurate selection of topics for the studies reflecting the overall demands of WIPO Member States would be important. It stated that it should avoid a duplication of studies and insisted adherence on the crucial elements to promote intellectual property protection in developing countries effectively. As it was mentioned in the document, by offering a practical tool for local business development, the project was fully in line with the spirit of the Development Agenda. The Delegation looked forward to when the result of the studies would be available on that important topic for the implementation of the recommendation of the Development Agenda.

163. The Delegation of Egypt, speaking on behalf of the Development Agenda Group, thanked the Secretariat for the presentation and for the very well prepared project contained in document CDIP/5/7. It stated that the project was promising and that it looked forward to a deeper understanding of the important inter-linkages between IP and development, and IP related policy-making processes in developing countries. At the same time, the Delegation stated that it was of the view that the proposed broad themes needed to be further modified in order to capture the essence of Recommendation 35, which required assessment of the "economic, social and cultural impact of the use of intellectual property systems in those states". Accordingly, the Delegation proposed that the broad themes should also address the social and cultural dimensions, in addition to the economic dimension. Furthermore, the Development Agenda Group emphasized the importance of rigorous terms of reference and methodologies to ensure that the studies reflected the realities on the ground, and were well researched, empirical, objective, and of high quality. The Delegation thanked the Chair and stated that it looked forward to the implementation of the project, particularly as it was entrusted to the very capable hands of the Chief Economist.
164. The Delegation of Japan thanked the Secretariat for preparing the document and also for the explanations by the Secretariat. The Delegation stated that it expected that WIPO, as an official organization of intellectual property of the United Nations, would conduct demonstrative and constructive research on the economic impact of the protection and utilization of IP in a fact-based manner, taking into account the comprehensive aspects which would lead to future innovation. The Delegation stressed that a significant number of studies had already looked at the themes in that proposal as mentioned in the working document. Future studies should consequently be built on existing ones in order to maximize resources. The Delegation emphasized that for Asian countries, an infrastructure and economic impact study had been conducted by the WIPO Japan Office and the United Nations University, which should be considered as a good input to the WIPO project. In closing, the Delegation looked forward to seeing a good study being undertaken.
165. The Delegation of Sri Lanka aligned itself with the statement made by Egypt on behalf of the Development Agenda Group. The Delegation thanked the Secretariat for providing delegations with a good introduction on this project. The Delegation also raised question on the use of the intended study and announced that it had already taken a pro-active role and had requested the assistance of WIPO to draw up a national innovation strategy for Sri Lanka. The Delegation acknowledged that

a corresponding needs assessment and a feasibility study were currently being completed. In that light, the Delegation asked: (i) how would the study enhance already on-going work in WIPO, especially in the technical assistance bureau? (ii) how would the Secretariat choose researchers to assist from the respective countries even if they may not have much expertise? and (iii) how would countries be selected by the Secretariat for conduct of such studies?

166. The Delegation of Norway thanked the Secretariat for an excellent paper and presentation and stated that it supported the proposal contained in document CDIP/5/7, to conduct studies to gain more understanding on the socio-economic effects of IP protection in developing countries. The Delegation expressed its belief that facts were a very good guide for policy-makers, and that empirical studies on the economic implications should provide a good guidance. The Delegation raised a few minor points where it sought clarification. Its first point related to the wording of paragraphs 2 and 3, on delivery strategy, as mentioned by the Delegation of the United States of America. The Delegation wished to know as to what form of process had been foreseen to decide on topics and the design of studies. Secondly, the Delegation sought clarification with respect to paragraph 3 on the project review schedule. According to the Delegation, on page 4, in section 2, the schedule stated that each year monitoring reports would be produced to indicate progress. The Delegation stressed that it was assuming that those monitoring reports would be presented to the CDIP for the Committee's further evaluation before they would go ahead. Thirdly, the Delegation addressed one point which it thought was probably just a typing error. In the overview of the budget in paragraph 5.2, of the project document referred to a budget beyond the 2012/13 biennium, although the project was intended to be finalized by that biennium.
167. The Delegation of Iran thanked the Chair and aligned itself with the statement made by the Delegation of Egypt on behalf of the Development Agenda Group. The Delegation noted that the focus of the project would be on the economic dimension only of the use of IP in developing countries. The Delegation, however, felt that Recommendation 35 recognized the three inter-related aspects of economic, social and cultural impact of IP use. Accordingly, a purely economic approach would not be sufficient for the implementation of Recommendation 35, and the Delegation stated that the study should also focus on the cultural and social dimensions. Moreover, the Delegation stated that, for the purpose of having an inclusive review, the Committee should not only benefit from the expertise of the WIPO Chief Economist, but that it should also utilize the expertise of other UN bodies such as UNCTAD. The Delegation also emphasized that the proposed studies should be distributed equally between all regions and that they should take into account the different levels of development in order to help more countries to benefit from the results and explore the concluding recommendations in formulating their IP policies. The Delegation also invited the Secretariat to come up with concrete methods for identifying challenges. It looked forward to receiving concrete solutions under the second theme entitled "The International and National Diffusion of Knowledge", and invited WIPO to include the results of the project into its technical assistance tool kits.
168. The Delegation of China stating that the project would study the relation between IP and the social and economic development in developing countries, expressed its belief that it was very important that the Committee supported that project. The Delegation emphasized that the research team would take into account the full representation of all countries so that the project would serve all the developing countries.

169. The Delegation of Pakistan expressed its appreciation to the Secretariat for the very excellent project and stated that it would discuss it with the Secretariat in the future. The Delegation also raised a couple of questions. Firstly, it expressed its understanding that there would be a series of studies and that the goal would be to narrow the knowledge gap faced by the policy makers in the chosen countries. The Delegation asked if there would be some outcomes by way of recommendations emanating from those studies and asked whether those recommendations would only be for specific countries or Member States. Secondly, the Delegation emphasized that national policy-makers in developing countries lacked credible empirical guidance in utilizing the IP system. Hence, the Delegation looked towards producing empirical data that would serve as a basis for further work. The Delegation enquired as to how that data would be collected, and whether the data would only be produced for a given year. The Delegation also asked whether the WIPO experts would be collecting the data or if there would be involvement of the country-based experts also, and how the Committee would then proceed. Finally, the Delegation stressed that Recommendation 35 made reference to the social, economic and cultural impact of the use of IP, whereas in the brief description of the project on the first page, there were references to the various aspects of the economic performance of developing countries. Hence, the Delegation expressed its hope that the cultural and social aspects could also be reflected in the study.
170. The Delegation of Angola spoke on behalf of the African Group and welcomed the new thematic project proposed on IP and Socio-Economic Development, and expressed its belief that the project document presented a good basis on which to improve the outcome and help tackle the socio-economic dimension of development. The Delegation also thanked the WIPO Secretariat, especially the Chief Economist, the Project Manager on this project on IP and socio-economic development. The Delegation welcomed the idea to produce a non-paper for the next session, expressing its belief that it would help the Member States in making some amendments to the project. It also expressed its wish to see some African countries selected within the five or six countries for the case study. The Delegation of Angola also thanked the Secretariat for having this original approach to see how the expert can help in this area. It also expressed its interest in seeing how IP can help, for example, if countries protected their traditional knowledge, and in identifying what the economic benefits might be. The Delegation stated that the topic was linked to development in many countries, and studies of the pros and cons of IP would be of interest. The Delegation also noted its interest in an economic study on how brand and marks could impact the economic development of African countries in particular and developing countries in general. The Delegation of Angola suggested that those themes might also have to be treated in the non-paper and that a study should potentially be conducted on related economic implications in the future.
171. The Delegation of Brazil associated itself with the statement made by Egypt on behalf of the Development Agenda Group. The Delegation welcomed the project document and considered it would be very useful in narrowing the knowledge gap faced by policy-makers in developing countries in designing and implementing a development-promoting intellectual property regime. Wishing to add some comments on terminology, the Delegation stated the study should compliment the definition of the expressions “transfer of technology”, and “dissemination of technology”. The Delegation also enquired as to what was meant by term “knowledge diffusion” in the proposal. Whilst that expression was not present in the TRIPS Agreement, the Delegation of Brazil suggested that the study should adopt a ‘dynamic analysis’ that took into account the disruptive impact of IP on development in the short and long-term.

172. The Delegation of India thanked the Chair and strongly welcomed the proposed series of economic studies to foster a better understanding of the social, economic and cultural effects of IP protection in developing countries. The Delegation expressed its appreciation on the initiative that sought to give effect to the Development Agenda recommendations aimed at redressing the lack of empirical and objective research within WIPO on this important and fundamental issue. The Delegation was especially heartened that the studies would be undertaken under the competent and trust-worthy guidance of the Chief Economist at WIPO. The Delegation associated itself with the spokesperson of the Development Agenda Group, in emphasizing the importance of rigorous terms of reference and methodologies to make sure that the studies were well-researched, empirical and reflected the realities on the ground. The Delegation also noted that under Section 2.3, 'Delivery Strategy', the second point stated that a research team would be assembled consisting of the Office of the Chief Economist in WIPO, relevant international experts and local researchers. Keeping within the spirit of the Development Agenda recommendations that the project sought to implement, the Delegation of India wondered whether it would be useful to explicitly state that Member States would be consulted, or would be allowed to suggest or at least review the consultants who would be selected for the national and regional studies. The Delegation suggested that that was perhaps all the more important because the updated 'Roster of Consultants' that had been compiled in 2008, had not been updated, implying that it might be useful to allow Member States to be consulted while selecting the experts to undertake those studies.
173. The Secretariat thanked all the delegations for their insightful comments and stated that those comments would help to reshape and revise the proposals. The Secretariat stated that some of the comments were quite straight forward and that those could be carried directly into the proposals, while others would need to be reflected upon. The Secretariat also suggested that it would go through the issues that were raised and present its initial thoughts and maybe some further explanation, before considering jointly with delegations how to revise the proposal. With respect to the choice of consultants and international experts, the idea would be to go for some of the best academics in the world that work on questions of IP and that have a credible development interest. The selection criteria would be their academic record and their prior research on the questions of interest. Regarding the local experts, the Secretariat admitted that it would certainly be more challenging, especially in countries where not a lot of academic expertise existed on this highly specialized topic. The Secretariat stated that it would be important to have the input of governments and that the choice of local consultants would definitely be done in a cooperative way. With respect to local experts, the Secretariat also announced that it would be good to work with institutions that have a longer term interest in doing analytical work in the area. That way one could go beyond the production of a single study, hoping that the latter would initiate a longer term research program on the questions at hand. The Secretariat recalled the question raised by the United States of America concerning the planned process of consultation with Member States to decide on the specific shape of the study and stated that at least as far as the general direction of the project was concerned, the themes outlined in the project proposal should of course be agreeable to Member States and would be pursued across all studies. The concern of the Secretariat however was that, according the Chief Economist's experience, it would be a frustrating exercise to design a project from scratch, with a specific number of research questions, and a number of methodological approaches in mind, and then going to various countries to implement it. Firstly, the Secretariat pointed out that in some countries valuable research had already been carried out, which the Secretariat would not want to duplicate. Secondly, especially as far as the methodology was concerned, when doing new empirical analysis, one had to be very realistic about the kind of data that was available, and that the data would differ quite dramatically from country to country. The Secretariat further informed that while not being an academic project, the studies

would draw on a lot of the work that academics have done, in particular the very successful micro-data approaches, where researchers have been able to combine IP level data with firm level data, and thereby putting together rich data that one can use to answer various types of questions in relation to IP and economic performance. The Secretariat expressed the belief that that kind of approach was, in principle, possible in developing countries although it would require an initial investment in terms of collecting firm level data. It also stated that data matching would not be a straight forward issue, but that one can benefit from existing approaches by various academics around the world. The Secretariat also addressed the point raised by Egypt and other delegations with respect to the focus of the project on economic versus social and cultural development. It took the point that the recommendations specifically called for studies on the economic, social and cultural dimensions, and that the cultural side in particular might probably not find adequate reflection in the current proposal while the social side was meant to be implicitly in there. The Secretariat wished to set expectations clear by stating that, given the background, the kind of data and methodologies that existed out there, it was reasonably confident and excited to do new investigations also believing that there was a reasonable prospect that interesting results would be produced. Yet when it came to questions of social and cultural impact, the Secretariat emphasized that it was much more difficult to give a sense of what really was feasible. It would certainly not mean that WIPO should not investigate those issues, however, as far as cultural impact was concerned there might not be a great amount of experience and expertise in-house and that the right experts there would have to be found. The Secretariat stressed that that was something where it would tread carefully and would not want to promise dramatic new insights. However, it agreed with delegations that that was certainly part of the recommendations and that it would need to be addressed. The Secretariat welcomed Japan's suggestion regarding work that was done in collaboration with the WIPO Japan Office and the United Nations University (UNU) and confirmed that it had been in touch with a WIPO colleague who was involved in that project including the possibility of doing work in that regard. With respect to the question of the Delegation of Sri Lanka on the usage of the intended study, the Secretariat said that WIPO had reflected on how the results of the studies would be disseminated in the countries, and later on through an international symposium. It also stated the question of how the results would influence the future work of WIPO, including the future direction of the technical assistance work was also very important and that it could explicitly be taken up in the proposal. In response to the Delegation of Angola, the Secretariat stated that it had explicitly left the door open for studies on questions such as traditional knowledge and brands and marks. It also agreed that regional balance would be important aiming for one study in every region. Clearly, the set of questions that one would probably try to investigate in Africa would be quite different than a middle income East Asian or South American country. It emphasized that when talking about the economic impact of IP protection, it was important to ask 'relative to what' and to correctly and clearly identify the counter-factual which one was using. An obvious counter-factual would be 'no IP regime', but that was something that one clearly did not observe, so answering that type of question would be quite difficult. Thus, the Secretariat noted that one would need to be clear about what was the counter-factual that one would analyze when speaking about the economic impact and whether the project should look at cross-country comparisons, at changes in IP policies over time, or other elements. The Secretariat expressed its belief that those types of questions could not be answered at a generic level but only at the country-level. It stated that it was important to apply a tailor-made approach to the selected countries to be studied which would then also hopefully generate evidence that would be of interest to other countries as well. The Secretariat also recalled that resource constraints have to be considered and that it would not be possible to do the type of work envisaged in more than fifty percent countries and that the desire to do serious work and to push the envelope would mean that it was important to work with new empirical data, which would require time and effort, and which would also put a natural limit to the number of countries that could be studied. Regarding the

observation made by the Delegation of Norway, the Secretariat stated that it was clearly a typographical error in the document. The text should read 'for the biennium 2012/13', not beyond.

174. The Chair thanked the Secretariat for the detailed clarification and expressed the belief that the replies were very comprehensive and that they satisfied all the queries raised by the delegations. Furthermore, the Chair stated that he believed the project to be excellent and was assured that the Chief Economist would look into addressing the issues raised by different delegations when finalizing the document. The Chair then invited the meeting to adopt the project document CDIP/5/7.
175. The Delegation of Angola enquired if the project would be adopted without the suggested amendments. According to the discussion, the Secretariat was to present the non-paper at the next session allowing Member States to make some comments. However, if the project was adopted now, the non-paper would not have any utility. The Delegation of Angola sought clarification in that regard.
176. The Secretariat thanked the Delegation of Angola and stated that according to the procedure that CDIP followed in the past, the Secretariat would revise the project document, include all the suggestions that had been made, and start implementation given that the Chair had approved the project. The revised final version would be brought before the next session of the CDIP, which would by then already be under implementation. For information, the revised project proposal would be presented again to the CDIP.
177. The Delegation of Egypt stated that it was in agreement with the adoption of the project as long as it took on board the suggestion that the studies and experts would be chosen, and decided upon, in consultation with the Member States. The Delegation expressed that that point was the broad sentiment from the floor, and that on that basis, the Delegation was very happy to adopt the project.
178. The Delegation of Sri Lanka stated that it had no problem with the adoption of the project. Yet it also reminded the Secretariat that having a mere empirical study was good, but that at the same time it would be helpful to receive information as to where the funding for those recommendations would be found in the UN system, or in WIPO, so that it would become more meaningful in the implementation.
179. The Delegation of Angola thanked the Chair and stated that it did not want to complicate the matter but wished to know whether there was the possibility of temporarily adopting the draft proposal and after the discussion of the non-paper at the next session to adopt the definite proposal. According to the Delegation, that would also minimize the risk that the Secretariat would not take into account the discussion and suggestions of Member States when the non-paper would be presented. The Delegation suggested to simply take note of the information presented on that day and only to approve the project upon presentation and discussion of the non-paper.
180. The Secretariat thanked the Delegation of Angola for raising that point and explained that what it had mentioned in the beginning about a non-paper was not related to the particular project under discussion. It stated that in the opening statement, it had sought to explain why the focus of the project was on Recommendations 35 and 37, and not on Recommendations 34 and 39. It further

explained that to move the implementation of those two latter recommendations forward, the Secretariat had suggested presenting non-papers that would outline some of the main issues that were raised by those recommendations at the next session. The Secretariat stated that it alluded to non-papers in the opening remarks in relation to Recommendations 34 and 39 only, and not to Recommendations 35 and 37, which were at the center of the projects which had just been discussed. It also emphasized that it was obviously up to Member States to decide on how to move forward on that particular project, but that it just wanted to add that clarification.

181. The Delegation of Angola stated that given that clarification it agreed to approve the project and requested the Secretariat not to forget the presentation of the non-paper.
182. The Delegation of Algeria thanked the Secretariat and while welcoming the project, expressed its confusion resulting from the reference to a non-paper. In particular, the Delegation asked whether the procedure was being changed. It stated that in principal each recommendation had its own project but that now the Secretariat was proposing to have a non-paper to implement Recommendation 39. The Delegation of Algeria sought clarification in that respect.
183. The Secretariat thanked the Delegation of Algeria and stated that the proposal with regard to the non-paper was not meant as a substitute for a project that would implement the recommendation. Rather the Secretariat expressed that Recommendations 34 and 39 could go in quite different directions so it thought that a non-paper would be useful as a first step, before undertaking a project, also to allow the Secretariat to seek further input from Member States with regards to its direction. However, the Secretariat confirmed that the non-paper would not in any way be a substitute for an eventual project.
184. The Chair thanked the Secretariat and all delegations for their cooperation, understanding and flexibility and declared the project approved. The Chair then proposed the consideration of document CDIP/5/5 on "Intellectual Property and Product Branding for Business Development in Developing Countries and Least Developed Countries" and called upon the Secretariat to introduce the project document.
185. The Secretariat stated that at the third session of the CDIP, the Republic of Korea had presented two proposals for activities to implement certain recommendations of the Development Agenda. Those proposals were submitted to the Committee in document CDIP/3/7, Annexes 1 and 2. During discussions at the fourth session of the CDIP, some delegations had expressed concern that the proposals lacked some substantive information, such as the financial resources required, evaluation indicators, timelines, and other similar features. Accordingly, it had been agreed that the Secretariat would prepare project documents based upon the two proposals and upon the comments made by a number of delegations and would present them to the fifth session of the CDIP. It was also agreed at the fourth session of the CDIP that while the Secretariat was preparing project documents for the fifth session of the Committee, in the meantime it could begin with the implementation of phase 1 of the two proposals. The Secretariat explained that document CDIP/5/5 was based on the first Korean proposal. Phase 1 of the original proposal was a conference, the cost of which had been estimated at 120,000 Swiss francs and had been included in the present project document. The Secretariat was then requested to provide a summary of the project document. The Secretariat highlighted that the project document had been prepared based on

the proposal by the Republic of Korea and that all the elements of that original proposal were contained in the present project document. The project structure, however, had been revised slightly in order to allow a better monitoring and attainment of project results. The project was linked to Development Agenda Recommendation 4, which called for placing particular emphasis on the needs of SMEs, as demonstrated by the project focus on business development. It was also linked to Development Agenda Recommendation 10 which called for assisting Member States to develop and improve national IP institutional capacity through further development of infrastructure and other facilities. In that context, special emphasis would be placed on strengthening different forms of business association to promote competitiveness in the productive sector. It was stated that the project would be implemented by the Cooperation for Development Sector in coordination with the Trademarks, Industrial Designs and Geographical Indications Sector. In the project description that followed, it was recalled that the project's main focus was on providing support to SMEs, especially those SMEs resulting from the association of local groups of farmers and producers, in designing and actually implementing appropriate strategies for the use of intellectual property for product branding. Such support to SMEs was intended to result in the social and economic development of local communities and, where appropriate, it would also contribute to environmental development and sustainability. It was further explained that the project aimed not only at strengthening local capacities in the business area, but also at improving institutional capacities, whether at the local or at the national levels. That approach fitted very appropriately with the spirit of the Development Agenda, where technical assistance and cooperation activities were concretely linked with, and interwoven into, national development priorities. The project had been structured in three main phases. The first phase would focus on research and IP strategy development, and would aim, initially, at identifying products with a strong potential for branding, based on their specific characteristics. After the identification of products, it would be necessary to develop appropriate IP strategies (involving for example the use of trademarks, other distinctive signs, geographical indications, or certification options) aimed at developing, protecting and commercializing a product variety. The second phase would consist of a series of capacity-building and awareness-raising activities aimed, first and foremost, at the producers and farmers' associations already identified in phase 1, but also at IP offices and government officials, and at all the stakeholders involved in the process of community and business development. The last phase of the project would focus on awareness-raising, in line with the initial proposal of the Republic of Korea. During the third phase, a conference would be organized for the purpose of show-casing the experiences gained and documented as part of the project, and presenting the methodology used. The project was designed to be implemented in three pilot countries, with two products identified in each country. The criteria that would be used for selecting the countries included the existence of a legal framework for the protection of geographical indications and other distinctive marks, the existence of political support and commitment for the development of local communities, the existence of mechanisms for the association of farmers or producers and of course the existence of products with specific characteristics which made them eligible to be protected and marketed. It was proposed that the project would be carried out with the participation of international and local consultants who would work in close cooperation with local authorities and the productive sectors, with the IP offices and other national authorities. Among its most valuable outcomes, it was mentioned that the project would produce a complete methodology for the development of a product brand, including the availability of written rules and procedures on IP use and management, rules on the standards for quality certification and control, capacity-building packages and case-study documentation, which could also be referred to, replicated and adapted to other situations. In the course of the project, monitoring systems could also be set up to monitor the impact on local resources of the strategies adopted, as well as systems to assess the results of the applied methodology, comparing the situation before and after the project implementation.

186. The Delegation of the Republic of Korea expressed its appreciation for the efforts made by the Secretariat in drafting document CDIP/5/5 on the implementation of the proposal submitted by that Delegation at the fourth session of the CDIP. It also thanked the Member States for their support for, and inputs to the proposal and considered that the document in general, appropriately reflected the proposal submitted and the comments made by Member States during the discussions at the third and fourth sessions of CDIP. The Delegation supported the approval of the document. It also stated that it was important to adopt an appropriate process for identification of the products to be assisted. Regarding the Conference, the Delegation underlined the difference between its original proposal, where the conference was to be held in the first phase of the project in order to give the project high visibility, and under the present project document the conference would take place in the last phase. It agreed with the Secretariat on the advantages of holding the conference at the last stage and therefore accepted the present project design. At the same time, the Delegation underlined that it still hoped to achieve its original objective of publicizing the project, and that to do so an alternative process should be explored, such as a mechanism for product selection. A second request the Delegation made concerned the project description. It noted that the project proposal mentioned IP strategic development as one of its important activities as indicated on page 2 of document CDIP 5/5. The Delegation noted that the current document described only geographical indications (GIs) and trademarks as IP rights to be utilized in IP strategies, while IP strategic development should focus more broadly on the use of all appropriate IP rights, including trademarks, certification marks, collective marks and GIs, to assist the local communities and the SMEs to develop and implement branding strategies. That broader meaning should be applied to all the relevant parts in the project description in the document CDIP/5/5, in line with the spirit of the draft proposal by Korea and the comments of other Member States. In the Delegation's proposal, the expression development of IP strategy meant devising appropriate marketing strategies that utilized IP tools such as brands, trademarks and GIs. In the discussions on the proposal during the third session of the CDIP, the Delegation of Thailand had hoped that the project would include GIs as one of branding-related IP rights to be utilized in the project, to which the Delegation of Korea had agreed. However, the Delegation also recognized that the systems for protecting GIs might vary from country to country and in that regard, it thought that it would be better to state more expressively in the description of the project that alternative rights might also be considered, in accordance with the legal systems of beneficiary countries and the countries of export markets. During the third and fourth sessions of the CDIP, Member States had agreed on the importance of Korea's proposals in the implementation of WIPO's Development Agenda, and now the project documents prepared by the Secretariat contained concrete action plans to implement those proposals. The Delegation therefore, requested that the project be approved by the Member States, so that its implementation could rapidly commence.
187. The Delegation of Spain, speaking on behalf of the European Union (EU) and its 27 Member States, stated that the project under consideration addressed both Recommendations 4 and 10 of the Development Agenda. The goals were to contribute to the business development of local communities and procure product brands through the appropriate use of IP rights. Secondly, the project aimed at improving the capacities of national institutions to handle efficiently the procedures for registration and examination of trademarks and geographical indications. Thirdly, it aimed at raising awareness on the impact of product branding on the business development of local communities and local and small and medium-sized enterprises, in the framework of sustainable development priorities. Focusing on the strategic use of intellectual property, in particular in the field of geographical indications and trademarks, the project could indeed contribute to the development of local communities. The Delegation stated that the appropriate use of intellectual property rights could increase the value of the products and enhance export

income. In that context, the improvement of institutional capacities and of appropriate infrastructure for the effective use of IP would be essential for effectively implementing the project. The three main components of the project, i.e. research and IP strategy development, capacity-building, and awareness-raising, appeared to be a suitable approach in order to assist developing countries in setting up appropriate national strategies in the field of intellectual property and therefore addressed the needs of local SMEs. In relation to the implementation of the project, the Delegation considered an accurate selection of the countries and the products to be essential. That should be based on the proposed criteria, paying particular attention both to the presence of a framework for the protection of geographical indications and distinctive signs and also to the existence of specific products with well-defined characteristics having the potential to be protected by IP rights. The Delegation also stated that project documents should include a timetable and a starting date for their implementation. That timetable should take into account the necessary budget in human resources from the Organization. As it was mentioned in the document, by offering a practical tool for local business development, the project interpreted the spirit of the Development Agenda. Moreover, it oriented WIPO's cooperation activities in the framework of national development priorities. For those reasons, Spain, on behalf of the European Union (EU) and its Member States supported the development of the project and looked forward to seeing its outcomes.

188. The Delegation of Thailand also expressed support for the project. It stated that many local producers in the developing and least-developed countries provided unique and high quality products but those products were not yet known to many consumers, partly due to the fact that those producers had not successfully developed their product brands. The project aimed to tackle that problem by providing a practical approach to overcome those marketing challenges and provide those local products with the recognition that they deserved. The project would be useful in helping local producers to make appropriate use of intellectual property, particularly geographical indications and trademarks. It noted that that was the first CDIP project involving geographical indications, to which many developing countries, including Thailand, attached much importance. The Delegation concluded by saying that Thailand welcomed such development and hoped to see additional practical projects in that direction.
189. The Delegation of Panama welcomed the project on intellectual property and product branding for business development in developing and least-developed countries. It believed that it included a very specific element to which Panama attached high importance and in which it had already been actively involved. The Delegation also believed that its implementation would make a considerable contribution to channeling and guiding action taken at national level, especially in respect of geographical indications. That was an issue on which the highest levels of government had a great deal of interest and the Delegation was convinced that a project of that kind would be of help to the country, the national IP Office, and other parties, by supporting the effective handling of registration and review procedures relating in particular to geographical indications. The project would also complement other similar activities undertaken in the country, contributing to business development in specific communities and boosting the country's export capacities. At the same time, it would build awareness on the development and use of the appropriate protection and branding mechanisms. For all those reasons, the Delegation was very enthusiastic about the project and hoped that Panama would be considered as a pilot country for its initial implementation.
190. The Delegation of Canada believed that the project provided a good case study on the use of intellectual property as a means of product promotion and recognized that labeling and branding were very important for that purpose. There were a

number of different ways to promote products using intellectual property. Those typically included the use of trademarks, geographical indications, certification marks or other origins like fair-trade labeling which sometimes generated a certification mark. The Delegation stated that different countries had different regimes in place, but in principle all of those regimes supported that type of desired outcome. It proposed a revision of the project description also to make reference to certification marks and collective marks in addition to the predominant reference to trademarks and geographical indications and concluded that, with that revision, Canada would support the project.

191. The Delegation of Australia believed capacity-building in the area of branding strategies, using the broad range of options available in the IP system, was a useful and practical contribution to the implementation of the Development Agenda, in particular, Recommendations 4 and 10. It further stated that Australia supported the adoption of the project on the understanding that the amendments outlined by the Republic of Korea were incorporated by the Secretariat. It also thought that the project complemented other projects being already undertaken in the Asia-Pacific region, particularly the Korean-led APEC One-village One-brand project, which Australia co-sponsored, and concluded by thanking Korea for both the projects within the WIPO context and also within APEC.
192. The Delegation of Mexico asked for clarification on how the countries participating in the project would be selected since no selection procedure was specifically mentioned in the project itself. The Delegation believed that a transparent way of doing so would be through the establishment of a tender where countries could send in their projects to see whether they fitted in. It also requested modification of the implementing timetable in the annex to the document in order to start the activities with the selection of countries, since at present there was no indication as to how and when the selection procedure would be carried out. Lastly, the Delegation reiterated the importance for Mexico of collective marks and GIs, since they had always had an important role to play in that area and believed that those instruments could promote development. The Delegation also believed that Mexico would be able to take effective steps to provide protection for the marks and GIs resulting from the project. That would help to promote product branding in local communities, particularly when there was an association of local farmers and producers. Mexico had specific products with very special characteristics and features which could be subject to protection and could be the subject of the creation of marks in the future.
193. The Delegation of Barbados welcomed and supported the project which would no doubt be of significant importance to developing and least developed countries, including small, vulnerable economies such as Barbados. The Delegation said it had seen the criteria for selection in section 2.3 of the project document, but noted that those criteria were applicable to many countries and asked in which region the project would be carried out and who would select the countries. It concluded by stating that Barbados wished to know whether the project would be implemented in other countries at a later stage and to register its interest in implementing it in Barbados whenever possible.
194. The Delegation of Sudan was convinced that the transfer of technology was a very important issue and it was happy that the project had been submitted. It hoped that it would be beneficial to all Member States, particularly the developing countries and least-developed countries. The Delegation supported the proposal made by the Republic of Korea, and hoped that the industrially developed nations would continue to provide technical assistance to the least-developed countries in particular. The Delegation reminded the meeting of decisions which were taken

subsequent to the Singapore conference. In that instance, it was requested that assistance should continue to be provided to developing countries so that they could begin the long process of catching up with the more developed nations. The Delegation also hoped that the least-developed nations would be assisted in developing their national plans and strategies. It concluded by expressing its hope that the project would be approved and thanked the Secretariat for having presented and prepared it.

195. The Delegation of Brazil appreciated that the comments made by Member States during the last session were clearly reflected in the new text presented. It also stated that the Brazilian experience in that field showed that small farmers and producers usually faced great difficulty to guarantee the necessary quality standards in order to commercialize and export their products. It was important to enable those farmers to improve their production by supporting them with expertise and the necessary resources in all relevant areas. In order to establish trademarks, collective marks or geographical indications, producers needed to be able to organize themselves, undertake associative initiatives and produce in conformity with quality standards. The Delegation said it was important to bear in mind that quality certification processes should not be undertaken if it was to cause prejudice to the traditional communities, which should continue to develop their products in a distinctive way and with autonomy. Brazil understood the wish to establish some criteria to define which countries should be selected. For that purpose, the Delegation suggested that, in line with the spirit of the Development Agenda, the socio-economic context of the country in the TRIPS provisions and flexibilities on geographical indications and trademarks should also be considered among the criteria proposed. Finally, it sought clarification of the allocation of resources under the agenda item "Others".
196. The Delegation of the United States of America supported the project with the revisions suggested earlier by the Delegation of Korea. It believed that the project would be useful to provide guidance as well as a road map for producers in developing countries and least-developed countries on how to identify products and develop successful branding campaigns in order to reap a higher reward for their products. The Delegation also noted that it looked forward to receiving progress reports on the development and implementation of the project on a periodic basis. In order to help fulfill the objectives of the proposal, the Delegation would be happy to reach out to experts from within the United States of America's private sector who would be willing to share their experiences and knowledge on successful product branding initiatives established for their products.
197. The Delegation of Angola, on behalf of the African Group, welcomed the project on IP and product-branding for business development in developing countries and LDCs presented by Korea. Regarding its implementation, the African Group requested that African research institutions be part of the beneficiaries. In addition, the African Group requested that as part of the activity pertaining to the implementation of the project, a planning session and the provision of hard and soft infrastructure should be given due attention while requesting the implementation of the projects CDIP/5/4 and CDIP/5/5 in all African countries. The African Group supported the project, and recognizing its potential benefit to many countries requested to increase the number of countries and products to participate in it.
198. The Delegation of Morocco supported the statement made by Angola on behalf of the African Group and strongly supported the project with the proposals made to broaden its scope in order to cover the needs of the communities at the local level. It noted that the project was designed in three stages and the last stage involved organizing a conference to look at the experiences gathered during the project

implementation. The Delegation questioned the relevance of such activity, since the thrust of the project was to finance activities to respond to the needs of the developing and least developed countries who wanted to develop the appropriate intellectual property strategies. The Delegation stated that the Republic of Korea intended to put forward the necessary financial means in order to satisfy the requests of the largest possible number of countries, since it could be foreseen that there would be several requests and there was no certainty about which countries would be chosen as the project interested a lot of Member States.

199. The Delegation of Azerbaijan supported the proposed project and felt that there was a need for specific criteria for choosing the countries in which the projects would be carried out as well as the products to be chosen. With regard to the indicators of success, the Delegation proposed to eliminate the reference to a maximum of six filings for trademarks and/or GI registration in connection with the products selected. The Delegation of Azerbaijan continued that in the last paragraph under indicators of successful completion and output indicators, it was stated that a number of local authorities would have up to six filings for trademarks and/or GIs registration, in connection with the project selected, and asked for clarification as to why it was limited to six filings. The Delegation also requested that some type of certificating marks be included at that point.

200. The Delegation of Spain expressed its support to the project and thanked the Secretariat for the preparation and presentation of the document. The Delegation also wished to thank Korea for its excellent proposal which had been adopted at the fourth session of the Committee. It was understood that the creation, development and the use of distinctive brand could be a successful strategy for small producers in developing countries, in order to achieve better access to markets, which added value, protected tradition and used traditional knowledge. The Delegation considered that both brand names and GIs could be very useful in developing that strategy at a local level and in other broader spheres. But concretely, it were GIs which the Delegation believed could fully fulfill the objectives for better efficiency in that area because in themselves they were destined to be associated with specific type of products and specific characteristics of the geographical area where those products were produced, and a specific system of production. The Delegation wished to propose that the title of the project be changed to read "Project on Intellectual Property and Product Branding and Geographical Indicators for Business Development in Developing Countries and Least Developed Countries." The Delegation pointed out that Recommendation 1 of the Development Agenda established that technical assistance from WIPO should be in response to request, be transparent and take into account the priorities and special needs of developing countries. Recommendation 6, added the principal of neutrality. Therefore, the Delegation considered that the project needed to be neutral, and make available to all beneficiaries, technical assistance on product branding and geographical indications. The beneficiaries should also be able to use whatever tool they felt was most helpful to their interest and along those lines the Delegation wished to request that all references throughout the project which only mention branding, for example 2.3(a), should have the addition of GIs or it should be put instead of branding because the Delegation felt that both were important and should be referred to and only then would the concept of the response to request and neutrality be really respected. The Delegation continued that it wished to highlight 3 questions: firstly, it was interested in having more details on the modality of consultations with local communities, associations of producers, farmers etc. and felt that perhaps the first step should be to identify those communities and associations and then secondly, strategies should be drawn up with those individuals and communities. The second question the Delegation put forward was related to the possibility of achieving the first phase. It was understood that it would be a complex exercise to simultaneously carry out work for each of the potential beneficiaries, accordingly, a small number of

communities would be chosen annually in order to achieve, on a step-by-step basis, all of the requests made. The Delegation suggested that WIPO could avoid some difficulties by taking note of prior experience and basing itself in areas of greatest geographical interest. To hold a conference would only be justified, in the Delegation's opinion, if it were with the aim of establishing that type of material, and noted that limited dissemination could convert it into a superfluous exercise.

201. The Delegation of the Dominican Republic thanked the Secretariat for document CDIP/5/5, which presented the project proposed by Korea and thanked that country's Delegation for the initiative. The Delegation supported the approval of the project and expressed the importance it attached to the issue. The Delegation felt that it would contribute to productive sectors in developing countries being able to make better use of IP and would benefit commercialization of products and market access and welcomed the implementation of the project.
202. The Delegation of Chile thanked the Republic of Korea for presenting the project and also thanked the Secretariat of preparing and presenting the documents. It noted that similar projects were being carried out in APEC and Chile actively participated in that. As an exporter of agricultural products, Chile expressed interest and saw the necessity of promoting both product branding and GIs at a local and international level within a whole range of options that small and medium size enterprises in developing countries had. In terms of strategy for IP, the potential for product branding and geographical indications were absolutely essential with regard to the changes proposed by the Republic of Korea including collective marks and certification marks. Suggesting that those elements should be included in the project the Delegation expressed its support for the project, the Delegation requested the Secretariat to provide further information on the procedure which would be used for choosing the countries that would be assisted under this project.
203. The Delegation of Madagascar supported the statement made by Angola on behalf of the African Group and thanked the Republic of Korea for the initiative on the project, and the Secretariat for having drawn up the document CDIP/5/5. The Delegation applauded the concept of assisting farmers and producers to brand their products, and as an agricultural country, supported the project and invited the Committee to work along those lines. The Delegation expressed its wish, along with the Dominican Republic, to be chosen as a pilot country for the project.
204. The Delegation of Kenya stated that it was an agricultural product exporting country and said it wished to support the project on IP and product branding for business development in developing countries and LDCs. The project would help to promote the development of local communities through its emphasis on GIs and trademarks. Kenya supported the project, noting that the delivery strategy on the selection criteria of countries should be made more flexible. The Delegation noted that most developing countries and LDCs required technical assistance to put in place a legal framework for the protection of GIs and distinctive signs. The implementation of those criteria should be flexible enough to make more countries eligible. The Delegation informed the Committee that Kenya was implementing a similar project with the support from Switzerland, and was willing to share its experience with others in the implantation of such a project. It noted that an important component in the success of the project was the provision of GPS equipment to facilitate the delimitation of boundaries for GI product localities. The Delegation expected that a budget line for the GPS equipment would be provided.

205. The Delegation of Senegal subscribed to the statement made by Angola on behalf of the African Group. The Delegation thanked the Government of Korea for the proposal and expressed its support for the amendments made by that Delegation. The Delegation also supported the project which could be of assistance to its farmers and producers who had difficulties commercializing their products and adding value. The high-level Senegalese authorities were very committed to helping farmers, particularly with regard to food self-sufficiency and security. Senegal was already carrying out a GIs project and expected to set up committees to identify its specifically geographical products. Therefore, it would like to be taken into account for the implementation of the project because it believed it would be of great importance for Senegal.
206. The Delegation of Switzerland thanked the Secretariat for the preparation and presentation of the project and also thanked Korea for launching the initiative. Switzerland supported the launching of the project to the extent that it would promote the use of distinctive signs such as brands and GIs to assist developing countries. It wished to particularly highlight the positive role of GIs in initiatives for local development and emphasized that the project needed to examine that area given the positive role that GIs could have in local development. In that context, the Delegation wished to revert to the statement made by Spain which highlighted the fact that in the French description of the project the word "marque" was often used to mean brand and that could cause some confusion with regards to the breadth of the term because brands and GIs were different. It requested clarification on certain points of the project and, supported the suggestion of Spain, for having brands and GIs included. The Delegation also supported Spain's suggestion that GIs should also be included in the title of the project for clarity's sake. Equally, it supported the comments made by Spain, on behalf of the European Union (EU), with regards to the importance of the project and indeed all of the thematic projects that had been launched. It pointed out the importance of having a detailed timetable for each project, and a greater breakdown of the budget, particularly in terms of the timetable because certain projects continued beyond one biennium. That would also be useful within the Program and Budget Committee. Also, it would be important to highlight the human resources within the Organization which would be involved in carrying out these projects.
207. The Delegation of Nepal extended its appreciation to the Republic of Korea for the preparation of the proposal in the interest of developing countries and in particular LDCs. It also thanked the Secretariat for their very useful and implementable project document on that basis, and stated that one of the apparent difficulties of the LDCs was the insufficient capacity in branding their products, and benefitting from it, which was even true in the case of SMEs. Hence, as the project sought to address the problem, the Delegation said it would support it. The Delegation also requested an increase in the number of beneficiaries, particularly from among the list of the LDCs.
208. The Delegation of Nigeria expressed its appreciation to the Republic of Korea for the initiative. The Delegation wished to associate itself with the position of the African Group as contained in the statement of the Delegation of Angola, and requested clarification as to the criteria for selection of countries that would benefit from the proposed project.
209. The Delegation of Cambodia thanked the Republic of Korea for the project on intellectual property and branding for business development in developing countries and LDCs, and strongly supported the project. It felt that it was very useful for LDC countries such as Cambodia, whose SMEs strongly needed support

in brand building which the Delegation considered, was the key element in marketing success which could lead to poverty reduction.

210. The Delegation of the Republic of Korea addressing the comments made by the Spanish and Swiss Delegations with respect to a change in title to include GIs was of the view that the concerns of some delegations originated from a technical problem in the language. The term “branding” in English and the concept of branding included all the tools such as trademarks, geographical indications, collective marks and certification marks. As far as it understood, in Spanish and French, “branding” generally meant a trademark. The Delegation proposed that the present title in English be maintained so that the project would have a broader spectrum.
211. The Delegation of Germany supported all delegations that had spoken before it and added its own support for the project. It highlighted the issue of terminology raised by the Delegation of Korea and shared its impression that that was a language issue because in the German language, it would be difficult to find an exact word for “brand” because it would not be the word “marks”. It understood that the word branding was not really a legal term but rather an economic term, which spoke of the creation of a market differentiator, which would not be a patent, but would be some kind of entity with legal terms and tools, and the possibility to either brand by having a GI in the sense of the European Community system according to a regulation, or a certification mark, a collective mark or a traditional trademark. The project could be given a more economic terminology that could be known in every national legal system with legal terminology and specific tools. The Delegation proposed the development of competition for participation in the project and in that respect, commented that the expectation of the German government was that the market differentiator would be a national sign on whatever legal basis, but that it would not be the new WIPO logo. A product could be put on the market supported by WIPO, and that would be the market differentiator, which would come close to Article 10 of the Paris Convention on Unfair Competition. The Delegation also understood that it was in order to develop the local legal system and local administration, whether it included GIs or not. Lastly, the Delegation referred to intervention of the Delegation of Brazil, which had wanted to know what was covered under ‘Other’ with regards to financing, and mentioned that in several papers, a large quantity of ‘Other’ was concerned with the financial aspects, and as Germany was also a member of the Program and Budget Committee, the Delegation said it would appreciate receiving more details on the type of activities concerned.
212. The Delegation of Italy shared the opinion voiced by the Delegation of Spain on behalf of the European Union (EU) and by Switzerland on behalf of Group B, and emphasizes that that was a very well defined project. The Delegation recommended that the project should strongly focus on the LDCs, and stressed the importance of clarity when speaking about the title concerning branding. It felt that it was important that the title was specified in the following pages by putting in brackets trademarks and GIs. It was important also to be clear as to what would be given to the LDCs in terms of opportunities. The Delegation shared fully the statement made by Senegal. The LDCs economic vocation was firstly agriculture and so an emphasis on GIs, in the agriculture sector was very important.
213. The Secretariat expressed its thanks for the expressions of support for the project. It was encouraged to see that the Secretariat’s interpretation of the proposal from the Republic of Korea had been adapted and developed into something that had gained the support of the delegations present. The Secretariat responded to the issue of the use of the term ‘branding’ and the breadth of the coverage that the

project should have. It was felt that what had been attempted to be expressed in the project itself when IP rights were spoken of, GIs, trademarks, certification marks and collective marks were mentioned. Therefore, it was a broad and inclusive form of IP that could be used more appropriately and the whole idea had been to provide coverage of the IP spectrum. The Secretariat added that for promoting a specific product, the options which were available, and in fact the assistance which would be given, was to determine from a range of options, on a case-by-case basis to see which were the most convenient and appropriate options. Perhaps the broad term branding could be left as all encompassing. On the very important issue of the selection of both the countries and the products, the Secretariat had mentioned a few criteria and took note of the concern and the interest that had been expressed to better define those criteria for the countries. One decision that had been made was to have at least one country per region and in the initial stage at least one LDC. The idea of the project was to initially test the methodology, therefore, in order to be able to test sufficiently, the Secretariat wished to limit the number of countries. The original proposal from Korea mentioned three countries, and the Secretariat wished to limit the number but not to exclude other countries. The thinking was to initially test how the approach worked in three countries but obviously the idea would be to make it available to as many countries as would be interested in participating. Concerning product selection, the Secretariat clarified that it was not going to take two products per community, but rather, it would be two very different products in the country itself. With regards to the range of products that could be considered, the Secretariat felt that those should vary in different sectors, certainly the agric-food sector was important and there would be more than one product from that sector. However, the Secretariat could look for specific products within other sectors, for example, handicrafts. The Secretariat said it would seek to make it as broad as possible in the initial phase. On the number of filings, the Secretariat stated that it simply put the figure, three countries, and two products per country, at the very least, as a starting point. It could go up to six filings if the project was successful. With regards to the suggestion from the Delegation of Spain concerning compiling guidelines that captured those experiences, the Secretariat informed that the document talked about awareness raising components and that case studies would be documented and presented at the conference, and project experience would also be published in conference documentation. Therefore there would be something that would remain beyond the conference itself, and lessons learned from the project. The Secretariat, after hearing that some countries had relevant experiences in that area, and that experts could be made available for collaboration on the project, expressed its appreciation for being able to draw on such experiences. With regard to the budget and the request for clarification on the broad term 'Others' under the project budget, the Secretariat informed that that was an item under which would be included, for example, the contractual services of the consultants and the experts who would assist in the implementation of the project. Also, it explained that other professional services may be included under that if the need arose to review registration procedures in the countries and the fees required by such services.

214. The Delegation of France expressed gratitude to the Republic of Korea for its proposal. The Delegation fully supported that type of initiative because it would enable the use IP effectively as a development tool. Like the Delegations of Spain and Switzerland, the Delegation of France expressed the wish to have further clarification about language. The Delegation proposed a solution by suggesting the use of the term "distinctive marks" which was the term used by the Secretariat in the project, as it was the same in English and French and could be more suitable to all.
215. The Chair thanked the delegations for their comments and observations concerning the project document CDIP/5/5 and noted that there had been

exceptional support across the board for the project and also some proposals for adjustments. He requested to proceed to the approval of the project document with the understanding that the Secretariat would ensure those propositions or modifications would be included in the document.

216. The Delegation of Azerbaijan wished to present a small modification which referred to what it had previously said about the end of section 3.2, stating that it was not sure if it was the case in other languages, but there was a reference to six in the Russian version and it felt therefore that a slight change was needed. It suggested removing the figures but leaving the wording as it was. The Delegation felt that that would not harm the project but it would be limiting to have the figure six as possibly farmers might prefer to have more than six. In the Russian version as it stood, it had up to six, which meant that six would be the upper limit. The Delegation requested to remove that upper limit as it did not feel that there would be any harm to the quality of the project.
217. The Delegation of the United States of America sought clarification from the Secretariat whether there was any agreement to change the phrase “product branding” in the title to “distinctive marks or signs”. The Delegation preferred to see something written which reflected the proposed amendments before adopting the project.
218. In response, the Secretariat informed that as far as the title was concerned, the wording “product branding” encompassed all the different options which were to be considered under the project.
219. The Delegation of the Republic of Korea, felt that the term “branding” in the title should be kept as when it made the proposal it had included “IP approach” in the marketing of products so it was not just confined to utilizing rights, it was the utilization of IP rights in the marketing of products so the term “branding” captured the ideas. Therefore, although the Delegation was not sure as to what would be the final solution, it felt that keeping “distinctive signs” would be confining the scope of the project.
220. The Delegation of the United States of America expressed its agreement with the word “branding” but understood that there was a translation problem with the word “branding” where it turned out that it was just restricted to trademarks. The Delegation looked for some flexible substitute that would be acceptable to everybody and suggested “product marketing” as an attempt to come up with a reasonable compromise.
221. The Delegation of Barbados gave the suggestion of leaving “product branding” in the English text, and in the Spanish and French texts, putting an asterisk with an explanation that it was equivalent to Product Branding, and giving an exact explanation of what was meant. The Delegation felt that if the words “distinctive signs” were used it would not convey the full meaning of what was intended by the proposal.
222. The Delegation of the Republic of Korea suggested including the term “IP strategy” which was the main part of the project, in the title of the project.

223. The Delegation of Switzerland felt that it would be possible to have clarification on the translation and get the appropriate term. It was only in the part of the document which contained the project description that the problem arose. If the terms were looked at in parallel perhaps a better translation into other languages could be found of the notion of “branding”. The Delegation felt that certainty was needed that that would not result in limitation only to marks and had found the suggestion of the Delegation of the United States of America helpful. The Delegation felt the need for clarity in what was being discussed, saying that once that was achieved then agreement could be reached on the project. It was important however to have full clarification with respect to the French and Spanish terms before reaching an agreement.
224. The Secretariat thanked all the delegations for their constructive suggestions and based on the suggestions, proposed the title of “The Project on Intellectual Property and Product Marketing Strategies for Business Development in Developing Countries and Least Developed Countries” as the new title for that project. The Secretariat believed that the wording “product marketing strategies”, captured the real essence of the project which was geared to business development and business plans of companies. The Secretariat reiterated that the word marketing embraced all the suggestions that had been put forward and that for the French and Spanish translations, the word “commercialization” could be utilized. The Secretariat remarked that the text referred to trademarks and GIs and that probably certification marks and collective marks should be included so as to encompass broader options.
225. The Delegation of Spain stated that it would agree to have the word “branding”, replaced by “marketing strategies” and that should follow throughout the project, particularly in point 2.3(a).
226. The Delegation of Mexico sought clarification stating that it had no problem with respect to the word commercialization but rather with the criteria for selection which needed to be established. The Delegation believed that more focus needed to be placed on the particular country and the related product with respect to the criteria for branding.
227. The Secretariat proposed that informal consultations might be convened to discuss the issue. The Secretariat also stated that an ideal time to address the issue at hand would be at the time of selecting the countries. It suggested that briefing and consultation sessions might be held with the regional group coordinators who would in turn discuss amongst their individual groups and come back with nominations. It added that if such an approach proved successful then the method of receiving nominations of countries from regional coordinators could be institutionalized.
228. The Delegation of Angola stated that it had no problem with the earlier title. However, given that marketing was tantamount to commercialization and that the word commercialization which had been proposed could cause confusion, due to the use of the word marketing in French, it believed that a bit of caution be exercised so as to make the distinction between commercialization and marketing. With that point of view the Delegation suggested that the word branding be left in the text and that a footnote be inserted to include all aspects of IP.
229. The Secretariat clarified that all legal aspects linked to IP would be captured in the word “intellectual property” and that all market related aspects would be captured in

the word commercialization. It added that it was the business component that complimented the legal aspects and as such, there would be protection on the one hand and commercialization on the other.

230. The Delegation of Angola underscored that if the word branding were to be left in the text, then it could be a source of problems for the interpretation. It believed that leaving in the word intellectual property could also be a source of confusion. The Delegation elaborated that the word branding went beyond the legal aspects of protection and referred more to the name and reputation that a product had. It added that branding was more linked to positioning the product in the market place as well as the public perception of the product and as such, the Delegation believed that the broader meaning with respect to branding could be suitably captured under the word marketing.
231. The Delegation of Canada reassured the Delegation of Angola that in Canada, the word commercialization was used in French, to refer to marketing. The Delegation believed therefore that the terms marketing or branding could be used to reflect the economic nature of the goods and to demonstrate the value of the project. The Delegation added that it had learned that WIPO translators in fact used the word "commercialization" in both the French and Spanish, to translate marketing into English.
232. The Delegation of Azerbaijan expressed its support for Angola's suggestion of a footnote to cover the explanation for branding. The Delegation then made reference to the project in question and stated that the document mentioned that a particular zone would be chosen to launch the project and those trademarks and GIs could be created. It added that in order to obtain a GI there needed to be strong linkages between the product and the region from which it originated. It therefore expressed concern as to whether a product could achieve the required reputation to obtain the GI status in the two to three year period mentioned in the document. The Delegation concluded that it might be a better idea just to name the geographical area rather than have a GI given that very few GIs were well acknowledged and reputed.
233. The Delegation of Barbados expressed its support for the statements made by the Delegations of Angola and Azerbaijan to have a footnote or asterisk inserted to clarify what branding referred to. It stated that for English speakers it was clear what product branding was and thus it would only be necessary to provide clarification for the Spanish and French texts. The Delegation hoped that the Committee could move forward on the project and underscored that it had a preference for the term product branding rather than product marketing.
234. The Secretariat confirmed the point made by the Delegation of Canada with respect to the translation of marketing into French and Spanish as commercialization. It further sought consensus with respect to leaving the term product branding with a footnote of the concept.
235. The Delegation of Spain took the floor to express its disagreement with just adding a footnote. It preferred to have the title in brackets, the words "product branding", after the words "product marketing and geographical indications".
236. The Delegation of Switzerland stated that it was satisfied with the product marketing solution that had been suggested. The Delegation believed that such

terminology would provide a clearer explanation of the concept as well as ensure that both the IP aspects and marketing aspects were properly integrated. It referred to its earlier intervention in which it stressed the importance of working with clear terms rather than having to insert footnotes. It added that the best solution would be to use concepts that could be understood in the languages involved, namely French, Spanish and English. It called for some flexibility by the delegates and suggested that based on the explanations heard so far, making reference to the product and marketing might be the simplest solution.

237. The Delegation of Barbados reiterated its flexibility and stated that it would be more interested in having a project implemented in Barbados rather than spending time considering the words marketing or branding. The Delegation stated that it had just consulted Google for the Spanish translation of marketing, and did not obtain the word commercialization. The Delegation agreed with suggestion that had been made by the Delegation of Azerbaijan and added that it was the kind of solution followed in every Organization. It underscored its belief that a footnote might have simplified the situation given that some of the suggestion made earlier could actually substantially change the nature of the project. The Delegation elaborated that the concerns of the French and Spanish speaking Delegations seemed to be more related to the use of the word branding in the body of the text rather than the actual title of the document. It added that the word “brand” is translated into French by the word mark which limited the scope of the word to IP rights related to trademarks only and could exclude collective marks and GIs. The Delegation believed that the use of the word marketing would provide a solution to the concerns related to the body of the text and as such, the Delegation would support the use of marketing in the title which could then be reflected throughout the text of the document.
238. The Delegation of Canada stated that if the wording were changed throughout the text then that would change the nature of the project. The Delegation stated that it did not have a problem with the title as it existed. Nevertheless, it believed that the use of the word marketing meant different things depending on the context and the people concerned, similar to the use of the term GIs. However, the Delegation was of the opinion that using the term GIs in a purely marketing setting could distort the project and thus be problematic.
239. The Chair suggested that some thought be given to the words marketing and branding so as to come to some sort of consensus.
240. The Delegation of the Republic of Korea requested some clarity with respect to the phrase in question.
241. The Secretariat responded to the Delegation of the Republic of Korea by reading out the title in full: “Project on IP, Product Branding and Marketing for Business Development for Developing Countries and Least Developed Countries”.
242. The Delegation of the Republic of Korea stated that the use of the terms branding and marketing was duplicative and that the best compromise solution would be to keep the title as IP and marketing as had been suggested by some Member States. It further stated that the word marketing should be maintained and that the scope of the project should remain as it was.

243. The Delegation of Angola speaking on behalf of the African Group, expressed its support for the proposal made by the original proponent of the project, with respect to the title remaining as it was.
244. The Delegation of Spain reiterated its request for the word branding to be removed from the Spanish document and to be replaced by “commercialization de producto (spanish spelling)”.
245. The Delegation of Barbados made a request to the Chair that the word product branding be maintained in English and that the word “commercialization” be maintained in the other texts. The Delegation believed that that might solve the apparent use of branding in English to mean “commercialization” in other languages.
246. The Chair expressed his approval of the proposal that had been made by the Delegation of Barbados.
247. The Delegation of Egypt raised a question with respect to the earlier request made by the Development Agenda Group for a working document containing the Group’s guiding principles to be produced. The Delegation further enquired as to when that document would be published.
248. The Chair suggested consideration of the document CDIP/5/6, and requested the delegations to be brief so as to allow some time for other substantive matters.
249. The Secretariat introduced the document CDIP/5/6, which was the project on “Capacity-Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution to Identify Development Challenges”. The Secretariat stated that the proposal had been based on a proposal from the Republic of Korea which was originally contained in Annex 2 of document CDIP/3/7. It added that at the fourth session of the CDIP, it had been decided that the Korean proposal should be transformed into a project document.
250. The Delegation of Angola requested clarification with respect to the change in the work program. The Delegation recalled that the Chair had indicated that the morning session would be used to discuss the coordination mechanism in the informal sessions. The Delegation did not understand as to why there was a change in the agreed work program.
251. The Chair acknowledged the observation made by the Delegation of Angola and suggested that the Committee rapidly reviewed the project in question and then proceeded to informal sessions on the coordination mechanisms.
252. The Secretariat explained that the project contained in document CDIP/5/6 had been prepared taking into account the proposal made by the Republic of Korea on appropriate technology, contained in document CDIP/3/7, as well as comments made during CDIP/4. It added that the project was geared towards building capacity at the national level through the use of appropriate technical and scientific information, in order to address the development challenges facing the least developing countries. The Secretariat stated that the document referred to, and addressed stage 2 of the Korean proposal in CDIP/3/7. The Secretariat believed

that developing the national policy and institutional framework needed to build capacity in the use of appropriate technology-based solutions was a key to facilitating LDCs integration into the global knowledge economy. It also believed that it was important to make such integration less stressful for their people. The Secretariat stressed the importance of making technology work for development in LDCs and as such, it was crucial that not only affordable solutions be found but also ones that were suitable to the needs and level of development of each country. It elaborated that firstly, the project aimed at facilitating greater use of appropriate technical and scientific information in addressing internationally identified needs for development goals. Secondly, it focused on building national institutional capacity in the use of technical and scientific information to address identified needs. That would allow for countries to progress towards the development of key national development targets or goals such as the MDGs or those identified in the Brussels Program of Action for LDCs, or goals set by individuals, organizations and communities. Thirdly, the project sought to coordinate the retrieval of appropriate technical and scientific information and the provision of appropriate know-how to implement appropriate technology in a practical and effective manner. The Secretariat added that in order to achieve those goals, the project, would first receive requests related to the identification of developmental needs where appropriate technology could be effectively utilized to provide solutions and improve living conditions. Secondly, three countries would be selected as pilot LDCs on the basis of the requests received. Thirdly, there would be the establishment of a national expert framework from existing stakeholders to coordinate and prepare with the support of WIPO, a business plan and a technical information report on patent documents, scientific and technical journals and publications in order to identify the appropriate technology in light of the needs that had been identified. That report on appropriate technology would include information from the relevant organizations, institutions, centers of excellence working in specialized areas of development at the national, regional and international level. Fourthly, the national expert group would plan and coordinate the necessary steps for the identification and mobilization of national and regional sources of funds to finance scientific projects. It would also provide know-how that would be useful to implement the appropriate technologies. Fifthly, outreach programs would be organized mainly focused on skills development in order to present and explain, at the grass-root level, the implementation of the appropriate technology. Those programs would be linked to the ongoing activities of WIPO for LDCs in that area; and lastly, a monitoring and evaluation mechanism would be established to assess the implementation of the project and achievement of the project objective as well as its expected outcomes. The Secretariat underscored that the project aimed at facilitating science and technology based solutions that could remedy developmental problems of LDCs. It stated that the project sought not only access to the relevant technical and scientific information but also endeavored to go a step further by focusing on capacity building needs at the receiving end and the effective delivery of appropriate technologies to the individuals, communities and organizations in LDCs which needed them. The Secretariat added that the project would attempt to achieve that by coordinating not only the retrieval of technical information but also through the effective and practical implementation of appropriate technology, knowledge know-how and skills. Turning to the key benefits expected of the project, the Secretariat pointed out that: Firstly, at the country level, the problem areas requiring technical solutions would be selected by the country concerned. The identification of the problem areas would be coordinated and managed by the national expert group so as to ensure that the most pressing development needs were identified in an inclusive manner with the participation of all stakeholders. The sustainability of technical and scientific information solutions would be taken into account for each country concerned. In addition, efforts would be made to identify information that was affordable, manageable and implementable in the context of the level of development and technical capacity of the country concerned and the sector for which the information was intended. Secondly, coverage beyond patent information systems would be supported by WIPO's development program for

access to information, which would give access to technical and scientific information available in technical and scientific journals outside of the patent database. Thirdly, a grassroots or sector level approach would be envisaged through outreach activities targeting sectors mainly focused on training and skills development. Such an approach would allow for an integrated capacity building initiative involving policy makers, middle level managers and those involved in implementation as well as those who would seek to maximize the benefit at the county level. Moreover, the outreach activities would facilitate the development of skills as well as the understanding and use of technical knowledge for problem solving at the grassroots level. One of the spillover effects of that approach would be the stimulation of local invention, innovation and creativity. With respect to the risks that the project might incur, the Secretariat stated that the project consisted of several stages and would need to be carefully monitored at each stage so as to avoid unnecessary risks. It elaborated that the risk involved in implementing projects in the LDCs usually included the possible lack of resources, skilled personnel, interoperability and a lack of sustainability. The Secretariat believed that all of those risk areas needed to be assessed and tackled in cooperation with the national expert groups in the country concerned, as well as with the specialized agencies involved. The Secretariat concluded by stating that the budget required was minimal and that upon consideration and approval by the Committee, implementation of the project would start soon thereafter.

253. The Chair thanked the Secretariat for the information on that project and reiterated to the Member States the need to be focused in their statements so as to allow for sufficient time for informal consultations.
254. The Delegation of the Republic of Korea stated that document CDIP/5/6 captured the ideas submitted in the initial proposal made by it at the third session of the CDIP and therefore supported the document. The Delegation indicated that it would merely make a few comments that might facilitate the understanding of the project and allow improvements to its design. It elaborated that at the third session of the CDIP, it had proposed that a technology implementation consultation group be formed to transfer technologies to countries that needed them. The Delegation stated that the proposal raised concerns from some Member States during the fourth session of the CDIP, as to where in WIPO's mandate was the provision for the formation of a group on technical assistance in the implementation of appropriate technologies. It added that upon the Secretariat's review of Korea's proposal, the Secretariat had indicated that the component of the proposal regarding direct technical assistance in the transfer of technologies could be implemented with the support of Member States. The Delegation expressed its hope that the Secretariat would devise a suitable framework for coordination with other international organizations and Member State governments. The Delegation referred to the second element of the project proposal CDIP/5/6, and stated that the national expert group would work as an appropriate framework to coordinate different stakeholders that were relevant to the implementation of appropriate technologies. It added that such a group would ensure that resources and expertise were effectively drawn from appropriate actors related to the implementation of appropriate technologies. The Delegation elaborated that national expert groups would establish plans for the implementation of technologies in the fourth element of the project and that other institutions and government bodies would implement such plans in a manner, that those technologies could be practically utilized to increase the quality of the lives of people in LDCs. The Delegation also noted that in the Director General's report on the implementation of the Development Agenda, a mention was made of the commitment and action required from Member States and a wide range of other stakeholders. The Delegation expressed the wish to align itself with those observations in particular, as they pertained to partnering with institutions and complimentary organs within national governments. The Delegation believed that partnerships would be crucial

not only for the project but also in order to address issues that were at the interface between development and IP. It added that the success of the project was an inclusive commitment and that the project should include actors who could participate in the implementation of technologies in accordance with the implementation plan that would be established in the project. In that regard, the Delegation made reference to the document which stated that the national expert group would represent government, business, industry diversity, international organizations and research and development institutions. The Delegation also believed that non-governmental organizations were very important actors and as such, they should be included in the group. It underlined that WIPO's role in the partnership should be to provide the relevant expertise and insight into utilizing IP in community development projects. In that regard the Delegation wished to propose a consultant who would consult a national expert group and guide their activities in using technology. The Delegation concluded by proposing the following changes to the order of activities described in the document and stated that there first needed to be consultants to guide the project and following that guidance, the country selection and related development issues should take place at the same time.

255. The Delegation of Kenya thanked the Secretariat for presenting the project document, and the Republic of Korea for the proposal. The Delegation expressed its support and approval for the project proposed under capacity-building as it related to use of appropriate technologies. The Delegation noted that, for LDCs, patent information was an under-utilized resource, and that the project would be able to go beyond merely providing access to knowledge to explore possibilities on effectively delivering appropriate technologies for the people in LDCs, as it moved to fruition. The Delegation noted that the proposal was inclusive and embraced a concept of business planning. It expressed the importance of such tools for LDCs and its belief that LDCs would be able to fully utilize intellectual property for their social and economic development, if the project was adequately implemented as proposed in the presented document.
256. The Delegation of Ethiopia thanked the Secretariat for the project document and thanked the Republic of Korea for proposing it. The Delegation congratulated the Chair on his election and hoped that the CDIP would achieve the goals set out under his chairmanship. The Delegation stated that building IP solutions was crucial for an LDC like Ethiopia, to integrate and benefit from today's knowledge-driven global economy. Considering the increasingly active role of intellectual property as a means of growth and development, the government of Ethiopia had undertaken to review its national intellectual property policy. It had undertaken reforms of its institutional framework for the promotion and protection of IP, and illustrated that by citing the establishment of a Science and Technology Ministry under which the Ethiopian Intellectual Property Office worked, as a clear manifestation of the country's resolve to protect and promote the acquisition of scientific knowledge to meet its development endeavors. The Delegation stated that the country had benefited significantly from WIPO's development cooperation activities in the area of IP, and thanked the Director General for his efforts to strengthen the development role of the organization to address the special needs of LDCs through allocating financial and human resources for programs aiming at those countries. The Delegation expressed its appreciation for a useful training program offered by WIPO in Ethiopia which provided intensive training on patent and the use of patent information for technology, capacity building, trademarks, copyrights focusing on collective management and corporate governance and traditional knowledge. The Delegation stated that the WIPO Development Agenda activities for LDCs were seen as a useful platform for partnership, and that the implementation of the Development Agenda proposals through appropriate undertakings could contribute significantly to addressing the efforts of LDC, to eradicate poverty. The Delegation noted that the present meeting would deliberate on project proposals, some of

which were very close to the country's development aspirations. A special mention was made by the Delegation of the project proposal contained in document CDIP/5/6, on Capacity-Building and the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution to Identify Development Challenges, which it noted had a number of useful elements, as it aimed not only to provide access to knowledge but also to explore the possibility of effectively delivering appropriate technologies to the people, communities and organizations in LDCs outlined in the project document. The Delegation welcomed that approach and hoped to see the said project adopted in the meeting.

257. The Delegation of Morocco thanked the Secretariat and the Republic of Korea, and expressed its support to, and endorsement of the said proposal, which the Delegation believed was excellent as it provided specific solutions for capacity-building, and indicated that Morocco always supported initiatives of such nature. The Delegation believed that the number of states to be selected, i.e. three, was little. Therefore, it supported the request made by the Republic of Korea for the creation of partnerships to expand the number of recipients.
258. The Delegation of Argentina thanked the Secretariat for presenting the aforementioned project, which it felt was very good. The Delegation then raised the question of the selection of three LDCs that would participate in the pilot project, as there were more than three requests already from countries wishing to participate. The Delegation asked for the criteria for the selection if other countries wished to participate in similar projects after the pilot project was finalized.
259. The Delegation of Nepal thanked the Republic of Korea for initiating such a useful proposal for LDCs and the Secretariat for preparing a very useful and implementable project. The Delegation stated that the development challenges of LDCs were more complex as their lack of capacity in the fields of technology and know-how had made them even more daunting, and the resource constraints had put enormous stress on the efforts to address development needs in terms of poverty, agriculture, health and environment. While the rest of the world community had already benefited from the use of science and technology in addressing similar difficulties, the LDCs were still endeavoring to benefit from knowledge and know-how available in the global knowledge system. The Delegation noted that developing nations should introduce policies and institutional frameworks to build capacity in the use of appropriate technology and knowledge, and that that solution was a key to facilitate the integration of LDCs in the pathway of knowledge-based development. The Delegation of Nepal opined that an appropriate and affordable solution suitable to the needs and level of development of a particular country was therefore crucial for appropriate technologies for development in the LDCs. It therefore welcomed the focus and thrust of the project, which aimed at building capacity at the national level with the use of appropriate technical and scientific information to address the identified development challenges facing LDCs. The Delegation extended its support for the adoption of the project proposal and its speedy implementation.
260. The Delegation of Spain, on behalf of the EU and its 27 Member States, thanked the Secretariat for the document that had been prepared, and provided general comments followed by specific comments under each section of the document. The Delegation remarked that the proposed project responded to Recommendations 19, 30, 31 mostly devoted to the capacity-building mandate of WIPO, particularly in the area of patent information, to facilitate the transfer of technology. The main goal of capacity-building was reflected in its title. However, further development may be needed in relation to the capacity-building activities as such. One of the major activities of the project targeted the deployment of

appropriate technologies identified in patent landscape reports. However, such deployment relied heavily or even entirely on additional funding not yet identified in the project, which was considered an element that could not be granted and could put the entire exercise at great risk. The Delegation also noted that the objectives of the implementation of appropriate technologies were identified in food and agriculture, health or environment and development of business plans for those purposes, which in its view should not be guided by the WIPO on its own. They could be implemented in full cooperation with agencies possessing long experience in the development and transfer of relevant technologies and with the required expertise to fulfill this role, in particular, WHO, FAO, UNEP, and UNCTAD, which would also be in line with Recommendation fortieth of the Development Agenda. The Delegation then proposed modifying the section that was drafted with the aim of identifying viable projects that responded to the technologies needed to include cooperation with experts in the relevant international organizations and agencies including foreseeing developing projects after organizing of a donors meeting in the relevant country, for evaluation of the proposals and for funding. Further implementation of those projects would necessarily fall outside the scope of that project. The Delegation also noted that the project included the development of a national outreach and skills program for which no terms of reference at least at a general level were described, and that that section would also need to reflect on what was actually needed for such a program. In summary, the Delegation of Spain suggested the revision of the project taking into consideration its comments and other comments that may come up in the discussion during that day, so that a new version could be prepared for consideration by the Committee.

261. The Delegation of El Salvador thanked the Secretariat for developing the report on technical assistance which it believed included not only LDCs but other developing countries, and expressed its support for the project, which had already been manifested during the fourth session of the Committee. The Delegation also encouraged other countries and LDCs to express to the Secretariat their wish to broaden the pilot phase to more than three countries, and stated that El Salvador would like to be considered for that selection.
262. The Delegation of Brazil expressed its appreciation for the efforts of the Secretariat and of the Republic of Korea to improve the document CDIP/5/6, and noted that the new text reflected the suggestions made by delegations in the fourth session of the Committee. As already pointed out by the Delegation about the document CDIP 5/5, Brazil believed the project did not provide details of the project budget under the item "Others", on page 8 item 5, and requested the Secretariat to clarify which expenditure was foreseen under that item.
263. The Delegation of the United States of America thanked the Secretariat for developing the project document and stated that it supported the project in principle, as had been manifested in the fourth session of the CDIP, and looked forward to future progress reports on the implementation of the said project.
264. The Delegation of Cambodia thanked the Republic of Korea for the project and strongly expressed its approval of the project. It stated that Cambodia would like to show, strongly, its approval of the project on Capacity-Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identifying Development Challenges. It believed that the project would help LDCs to utilize technology for economic growth and to serve others as a tool for poverty reduction, when introduced correctly.

265. The Delegation of Panama thanked the Secretariat for the excellent presentation of the document and welcomed the Project on Capacity-Building in the Use of Appropriate Technology-Specific Information, through which WIPO would, as a result of the proposed project, help three LDCs with a group of experts from the interested sectors. It suggested that international consultants be involved in the project so that those countries would have tools which would enable them to identify their current situation in the fields of technology which were indispensable for their development. The Delegation hoped that the Project would be successful and, once implemented in the pilot countries; the experience and methodology would be evaluated and utilized by other countries to solve specific problems at national levels. The Delegation ended by thanking the Republic of Korea for the proposal that it had put forward.
266. The Delegation of Angola, speaking on behalf of the African Group, thanked the Secretariat for the presentation of the project on Capacity-Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identifying Development Challenges for the LDCs, proposed by the Republic of Korea, and expressed the Group's full support to the Project. Nevertheless, as the Project aimed to benefit three LDCs, it suggested that the scope be broadened as to include more countries so that African countries could be part of the Project. The Group thought it was a good project and approved it without any reservation.
267. The Secretariat thanked the delegation that had taken the floor and those that supported the Project, and expressed its appreciation for the importance of the comments made during the meeting. It assured that all comments would be taken into account. As regards the question raised by the representative of Brazil concerning the budget item "Others" it stated the aforementioned item included many activities, such as, consultants or experts that would be hired for the preparation of the technical report, and the hiring of national experts for the preparation of the business plan. That would also include expenses for missions and seminars. The Secretariat noted that, on average, the calculated cost for the three pilot countries would arrive at the given figure, and stated that was the estimate was at a very minimal level, local experts would be employed for the preparation of some reports, which would effectively exclude a number of other expenses. As for the question raised by Argentina concerning the selection of countries, the Secretariat stated its belief that the project would, first and foremost, operate on demand basis. Secondly, as a pilot project, sufficient consultations would be undertaken before the final selection would be made. Addressing the comments made by Spain, the Secretariat expressed that one of the most important elements in the current document was the establishment of an expert group, which would try to prepare a number of reports including the business plan, mobilization of resources, the preparation of the technical information, the identified need of a specific country for which the information was required. The training and skills development would be envisaged as part of an outreach program. The Secretariat further stated that an outreach program would consist of raising awareness at policy level, training program dedicated to the need of the specific country and the identified need of that particular country. The outreach would include the organization of skills-development program at the level of local communities. It also emphasized that the outreach program was a component of the proposed project, as well as the establishment of the expert group, which was the most important area of the project. Referring to comments by Spain, the Secretariat confirmed that those would be incorporated with a view to further elaborating several elements, which would enrich the substance covered in the document.
268. The Delegation of Brazil thanked the Secretariat for the explanation of expenses which were under the item "Others," and suggested that the expenses be

described in the project. It further reminded the meeting that it was referring to specific items that made up each one of the descriptions, as seen in the budget document.

269. The Chair thanked Brazil and turned to Spain representing the EU to seek its flexibility to consider to approve the proposed document in that session.
270. The Delegation of Spain, on behalf of the European Union (EU), expressed that, in principle, it would like to see the changes in writing, if possible.
271. The Chair stated that in the present case, he would ask the Secretariat to be in touch with the Delegation of Spain, and raised the possibility of re-opening the discussion on the project the following day. The Chair thanked all present delegations for their engagement in the discussion related to the project and explained that additional time would be needed for the informal consultations.

Agenda Item 2: Election of Officers (continued)

272. The Chair opened the floor for nominations for the positions of the two Vice-Chairs for the Committee.
273. The Delegation of Angola reiterated its proposal made under that agenda item earlier to nominate Mr. Mohamed Abderraouf Bdioui of Tunisia, as one of the Vice-Chairs for the Committee.
274. The Delegation of Pakistan supported the nomination of Mr. Mohamed Abderraouf Bdioui of Tunisia as Vice-Chair for the CDIP.
275. The Delegation of El Salvador said it wished to propose, for Vice-Chair, Dr. Luis Vayas of Ecuador.
276. The Delegation of Barbados expressed its support for the nomination of Mr. Luis Vayas as Vice-Chair, stating that the Delegation had full confidence in his ability to discharge his functions.
277. The Delegation of Angola asked the floor again to announce that the Africa Group supported both candidates, namely one of its members, the delegate of Tunisia, and Mr. Luis Vayas of Ecuador.
278. The Delegation of Panama supported the nomination of Dr. Luis Vayas of Ecuador as Vice-Chair of the Committee.
279. The Delegation of Peru supported the candidate from Ecuador, Mr. Luis Vayas to be Vice-Chair.

280. The Delegation of Barbados reiterated its support to the nomination of the candidate from Ecuador and equally supported the nomination of the candidate from Tunisia.
281. The Delegation of Chile supported Mr. Luis Vayas for Vice-Chair.
282. The Delegation of Venezuela supported the candidature of Mr. Luis Vayas for the post of Vice-Chair.
283. The Chair, noting that he saw no objection to the proposals, confirmed Mr. Mohamed Abderraouf Bdioui of Tunisia, and Dr. Luis Vayas of Ecuador as elected to the position of the Vice-Chairs of the Committee. He further stated that he looked forward to working with them and congratulated them upon their election.

Agenda Item 8 (continued)

284. The Chair proposed to turn to Agenda Item 8 to consider document CDIP/5/6, and stated that there had been a broad convergence on the capacity-building project which needed some consultations. He then invited the Secretariat to report to the Committee on the progress of consultations, which he felt convinced would be on a positive note.
285. The Secretariat confirmed that the report was indeed very positive, and that as a result of consultations among the interested delegations, a text which included the agreed language had been provided to the Secretariat. The Secretariat read out the text as follows; "The project requires further development in relation to the capacity-building activities. To this end, the national outreach and skills development programs should be further defined by the national expert group; capacity-building should include a training and skills development program. Implementation of the appropriate technologies identified through the project, be those, inter alia, in food, agriculture, health or environment, as well as the development of business plans for this purpose should be implemented in full cooperation with the relevant specialized cooperation agencies with a long experience in development cooperation and transfer of relevant technologies and with the required experience to fulfill this role; in particular, WHO, FAO, UNEP, where relevant, the International Trade Center (ITC) and other relevant organizations. This would also be in the recommendations of the Development Agenda. Projects that respond to technology needs should be prepared in cooperation with experts of relevant international organizations and agencies. The organization of a donor meeting in selected countries for evaluation of relevant proposals for funding can be considered. Further implementation of those projects will fall outside the scope of this initial project". The Secretariat concluded by informing the Committee that that text had been communicated to the Secretariat by Member States after holding consultations.
286. The Chair thanked the Secretariat for informing the Committee on the outcome of the consultations and thanked all the delegations for the constructive engagement and the speed it had demonstrated.
287. The Delegation of Korea thanked Member States for their inputs and affirmed that the additional text made the project much clearer.

288. The Chair appreciated the wonderful spirit demonstrated by everyone and considered the project adopted.

Agenda Item 9: Review of Progress on Recommendations under Implementation

289. The Chair, stating that documents CDIP/4/3 and CDIP/4/7 still needed some consultations, wished to invite consideration of Agenda Item 9, on progress review on recommendations and their implementation. Referring to document CDIP/5/3, the report on WIPO's Contribution to the United Nations Millennium Development Goals (MDGs) he invited the Secretariat to introduce the document.
290. The Secretariat made reference to document CDIP/5/3, entitled "Report on WIPO's Contribution to the United Nations Millennium Development Goals (MDGs)". The Secretariat informed the Committee that the document responded to a request made by the Africa Group at the second session of the CDIP in the framework of discussions on the application of Recommendation 22, during which it had been agreed that the Secretariat would draft a document on WIPO's contribution to the Millennium Development Goals. The Secretariat informed that the report contained in document CDIP/5/3, offered a summary of how WIPO's activities and programs contributed to the Millennium Development Goals. It stated that, as mentioned in the document, it was important to highlight that the exercise was not an empirical evaluation of the results of the programs, projects and activities but it was a description of those activities. So the activities mentioned in the report were, well-known to Member States because they were being carried out under the regular Program and Budget of WIPO. The Secretariat stated that the report was divided into five parts; there was first an introduction explaining the background to the documents. In the second section on the Millennium Development Goals, there was an introduction to the MDGs and their relationship to intellectual property. The third section described the Development Agenda of WIPO and the MDGs, and the fourth section, the longest and possibly most important part was a table that summed up WIPO's activities that contributed to the MDGs and that those activities were explained in detail later on in the document. Finally, the fifth section gave some general guidelines as to how WIPO could consolidate its work on the MDGs. In conclusion, the Secretariat informed the Committee that it was available to answer any questions from the Committee.
291. The Chair thanked the Secretariat for introducing the document and opened the floor for comments while requesting the delegations to be focused, and if possible brief.
292. The Delegation of Spain said it wished to make a statement in English, and began by thanking the Secretariat, on behalf of the European Union (EU) and its 27 Member States, for its valuable report which the Delegation felt, provided a thorough overview of WIPO's activities and programs contributing to the United Nations MDGs and stated that the report complemented document CDIP/5/2 on WIPO's activities for the implementation of the Development Agenda. The Delegation further stated that the European Union (EU) and its Member States wished to propose that the Secretariat continued to provide a periodic review on how WIPO contributed to the realization of the MDGs so that the Committee could provide advice when appropriate. The Delegation acknowledged that the effective implementation of the Development Agenda was central to WIPO's contribution to the MDGs and that in that context, the European Union (EU) and its 27 Member States supported the development and periodical updating of a website on WIPO and the MDGs as proposed by the Secretariat as it would increase visibility of WIPO's work in that area within the UN family provided that it would not have future

budget implications. The Delegation wished to end its statement by highlighting the importance of continuing collaboration between WIPO and other Intergovernmental Organizations and their role to ensure a coordinated response to member countries' needs for development, a coordinated implementation of activities of the Development Agenda as well as ensuring that appropriate expertise was present when dealing with intellectual property aspects in other relevant fora.

293. The Delegation of Angola on behalf of the Africa Group thanked the WIPO Secretariat for presenting the study, in response to the African Group request made at the second session of the CDIP. Commenting on the document CDIP/5/3, the Delegation stated that Members of the African Group considered with attention the report on the contribution of WIPO to the UN MDGs. The Group noted with deep concern that the report did not assess the impact of WIPO's works on the MDGs but rather provided an overview of how some aspects of the Organization's work could contribute to the attainment of the MDGs. The Delegation stated that the Group believed that it was important for that kind of report to focus on WIPO's contribution to the MDGs by making an empirical evaluation of the actual impact of activities on the MDGs or on the work more generally. In conclusion, the Delegation said that the Group requested WIPO to revise the report so as to realistically assess the contribution of WIPO to the UN MDGs and asked that the report should come out with concrete activities with measurable indicators to help achieve the MDGs.
294. The Delegation of Egypt, on behalf of the Development Agenda Group, welcomed the Secretariat's report on WIPO's contribution to the United Nations MDGs as a timely contribution in anticipation of the September discussions on that important issue in New York. The Delegation noted that the report did not assess or make an empirical evaluation of WIPO's work on the MDGs but that nonetheless, it reminded the Committee that intellectual property ultimately aimed to provide for a better quality of life as stipulated under the MDGs and that WIPO was part of the broader mission of the United Nations. The Delegation pointed at paragraph 14 of the report which made reference to the 2009 High-Level Task Force on the Implementation of the Right to Development and its review of the WIPO Development Agenda which viewed the Development Agenda as a significant process in the context of MDG 8, Target F on transfer of technology. The review concluded that the WIPO Development Agenda was "one of the most, and arguably the most, important of the current global initiatives in advancing the realization of the right to development". As such the Delegation proposed that the High-Level Task Force be invited to the upcoming sixth session of CDIP to present its important findings in that regard. While the Delegation had the floor, on behalf of the Development Agenda Group, it wished to make a general observation with regard to that Agenda Item. The Delegation noted that since the third and fourth sessions of the CDIP, the Agenda Item on the review of progress and recommendations under implementation had been an opportunity for a review of the state of progress of the implementation of approved activities under specific Development Agenda recommendations. The Delegation observed however, that in the fifth session, there had been no status updates on such recommendations under implementation. Likewise, the Delegation noted that two new documents were being presented under that Agenda Item that had not been considered before and felt therefore that they did not qualify as approved activities. The Delegation therefore, requested the Secretariat to revert back to the approach that was taken during CDIP 3 and CDIP 4 for consideration of already approved activities and requested that periodical reports on the status of implementation be presented under that Agenda Item in CDIP sessions.

295. The Delegation of Mexico noted that the document began with a reflection and thoughts on all of the recommendations, particularly in relation to the MDGs and expressed the wish that the report be updated for presentation to the CDIP, so that Member States could see WIPO's contribution to the MDGs. The Delegation also wished to see that proposal reflected in the relevant webpage of WIPO concerning the MDGs and asked that it be fleshed out in cooperation and engagement with NGOs and other Intergovernmental Organizations. The Delegation reiterated its support to continue to work alongside WIPO and Member States in order to achieve the MDGs by the target date.
296. The Delegation of the United States of America stated that it was appreciative of the detailed information provided by the Secretariat in CDIP/5/3 and looked forward to future reporting on WIPO's continued progress in making substantive contributions to the MDGs. In particular, the Delegation noted the lengthy section in the report regarding MDG 8, on Developing a Global Partnership for Development. The Delegation, with the view to highlighting one area, expressed appreciation for the substantial efforts of WIPO to enhance access to patent and scientific information through several of its projects, which included the highly successful PatentScope, the technology innovation support centers which were under development, and access to Research for Development and Innovation or the aRD_i project which had created links to similar programs across the UN and with several other public and private sector entities. The Delegation wished to place on record that WIPO's project on a Results-Based Management (RBM) framework intended to provide WIPO with the additional capacity to undertake objective assessments of its development-related work. The Delegation looked forward to further information in the future about the progress of that project.
297. The Delegation of China appreciated WIPO's contribution to the realization of UN MDGs and stated that as a specialized UN body responsible for IP matters through the Development Agenda, WIPO tried to contribute to the economic and social development in various countries and to make those countries benefit from the IP system. The Delegation stated that it appreciated those efforts and would, as usual, continue to support the realization and implementation of the Development Agenda activities within WIPO.
298. The Delegation of Brazil wished to support the statement made by Egypt on behalf of the Development Agenda Group. The Delegation stated that Brazil welcomed the report on WIPO's Contribution to the United Nations MDGs and emphasized that, as part of the UN system, WIPO should play a fundamental role in making intellectual property rules and regulations more in support of development goals, including those contained in the Millennium Declaration. For that reason, the Delegation felt that while there had been efforts to design initiatives with a view to achieving those goals, more work still needed to be done. The Delegation said that it took note, with interest, of some initiatives conducted in other fora of the UN system that may significantly contribute to WIPO's development objectives. The Delegation referred to paragraph 14 of the report, which mentioned that in 2009 a High-Level Task Force on the Implementation of the Right to Development carried out a review of WIPO's Development Agenda. The Delegation said that it considered that members could benefit from a dedicated discussion on the findings of that task force in the following session of the CDIP. The Delegation mentioned paragraph 28, an analysis of the MDGs related to public health, where the engagement between WHO and WIPO in the context of the adoption of the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property was mentioned. The Delegation underscored its interest to find out more in detail about WIPO's role on those initiatives and its contribution towards achieving the MDGs. To conclude, the Delegation of Brazil considered that the documents

should also include activities conducted at UNCTAD, especially under the program on the development dimensions of intellectual property rights.

299. The Delegation of Iran supported the intervention made by Egypt on behalf of the Development Agenda Group and stated that it took note, with appreciation, of the timely report on WIPO's contribution to the UN MDGs. The Delegation noted that the report emphasized inter alia, that at the heart of WIPO's Development Agenda was the notion that IP rights would not be seen as an end in themselves, but as means to promote social and cultural development. The Delegation also appreciated the statement in the report that the mainstreaming of development dimensions into all relevant WIPO programs and ensuring that WIPO contributed to achieving international development goals and targets, including the MDGs, had been some of the pillars of the process that led to the establishment of the WIPO Development Agenda in October 2007 by WIPO's General Assemblies. The Delegation stressed that effective implementation of the Development Agenda was therefore central to WIPO's contribution to the MDGs and would continue to guide the Organization to strengthen the development dimensions of its entire work. The Delegation stated that in its view, the report was a good description of the ways that WIPO could contribute to the achievement of the MDGs and felt that its description could certainly be improved if it were accompanied by practical measures suggested or initiated by CDIP members and the Secretariat. The Delegation noted that at the same time the report stated that it had not assessed the impact of WIPO's work on the MDGs but merely provided an overview of how different aspects of WIPO's work could contribute to the achievement of the MDGs. Furthermore, the Delegation noted that lack of progress in realizing the MDGs was stated as being a result of the global economic downturn, which, the Delegation stated, assumed that before the global economy downturn, progress in realizing the MDGs had been sufficient. The Delegation noted however, that it was known how that process had been insufficient. The Delegation stressed that under Goal 1, on the eradication of extreme poverty and hunger, there were some other important areas other than agriculture and SMEs which should have been covered too. The Delegation considered that lack of health and education were important factors in relation to impoverishment which in turn contributed to hunger. The Delegation stated that in regard to those factors as well, IP played a crucial role. The Delegation said that indeed, as acknowledged in the UN Millennium Project report, particularly in relation to access to medicine, there was a need to revisit IP rules from the perspective of developing countries and that in light of which, the extent to which WIPO's activities contributed positively to achieving MDGs was unclear. The Delegation noted further that with respect to Goal 2, the report referred to IP education and access to knowledge as the only relevant IP interface with that Goal; the Delegation stated that while it recognized that IP was certainly relevant, other forms of IP interface also impacted on access to universal knowledge and education. The Delegation noted that under Goals 4, 5 and 6, the report globally listed a set of initiatives and activities without actually reporting on any of them. The Delegation also observed that paragraph 28 mentioned WIPO's contribution and dialogue with international partners and how WIPO was engaged in actively working closely with the WHO, particularly in the context of the Global Strategy and Plan of Action on Public Health, Innovation and Intellectual Property but that no details had been provided on the nature of such cooperation. The Delegation said that more information was needed under the activities conducted with the World Health Organization (WHO), on the public health implications of IP. The Delegation requested WIPO to explain how its legislative advice on the use of flexibilities and its input to the WHO process adhered to the Development Agenda and the MDGs. With regard to Goal 7, on ensuring environmental sustainability, the Delegation noted that the report stated that the IP system was a mechanism to promote innovation and creativity, and facilitate the transfer and dissemination of technology, and that as such, it potentially contributed to the successful solution to a number of global challenges in the environmental field. According to paragraph 13, which the Delegation noted, reflected a priority approach to access to clean

technology for meeting environmental challenges but could not acknowledge that IPRs had been barriers to access ICTs for firms in developing countries in many instances. On Goal 8, Developing a Global Partnership for Development, apparently the entire range of activities undertaken by WIPO on the Development Agenda, seemed to be contributing to MDG 8. However, while the Delegation appreciated that there was great potential for such contributions, a meaningful contribution to MDGs, would require WIPO to address the barriers imposed by inappropriate standards of IPR protection towards addressing development challenges. Finally, the Delegation supported the proposal for revising the report in a way that can truly contribute in achieving the MDGs.

300. The Delegation of Nigeria commended the Director General and his team for the wonderful initiative of linking the activities of WIPO, particularly of Development Agenda, to the UN MDGs. The Delegation wished to acknowledge and commend the Secretariat for providing the excellent documentation on the contribution of WIPO's activities to the MDGs in response to the request made by Member States at the second session of the CDIP. The Delegation noted that document CDIP/5/3 pointed to facts that IPRs could play very significant roles in enabling Member States reach the stated objectives of the MDGs. It stated that the matrix contained in the Annex on page 6, was a simplified roadmap for Member States to use in explaining the way to their political leaderships at national levels. The Delegation pointed out that the report also linked WIPO Programs, Committees and various Development Agenda recommendations to the MDGs. The Delegation stated that, as one of the developing countries, it attached particular significance to the document because it made it possible for national development planners to link specific goals and targets to relevant IPRs and public policy objectives, such as food security, access to medicine, access to knowledge, trade development, SMEs, innovations in the pharmaceutical industry, climate change and environment. The Delegation wished to refer to paragraph 11 of the Director General's report which discussed national IP strategies and suggested that the new initiative by WIPO included a matrix on how IPR relates to different aspects of national development policies. The Delegation concluded by calling on WIPO to seek to become a member of the United Nations Development Group (UNDG) in view of the clear evidence of its contribution to global development.
301. The Delegation of Angola wished to add to the previous statements made on that issue and stated that the Africa Group wished to see if possible to have the Rapporteurs of the United Nations on Human Rights attend WIPO discussions, particularly the Rapporteurs on the right to health and the right to education so that the Committee could have interactive dialogue with them.
302. The Secretariat thanked all the delegations that had taken the floor and stated that the initiative was the first effort on the part of the Secretariat and that it was not intended as an exhaustive report. The Secretariat reassured the Committee that it would take on board comments made by all the delegations in future revisions of the report and hoped that it would gradually be in a position to integrate assessments of how those programs, projects and activities were contributing to the MDGs. The Secretariat further acknowledged that there was still work to be done and that many of the projects were still ongoing. The Secretariat informed the Committee that indicators were introduced within those projects and other Development Agenda projects, likewise for projects such as the Results-Based Management (RBM) Framework and other activities that were being carried out by the Internal Audit and Oversight Division (IAOD) within WIPO. The Secretariat was hopeful that all those tools would contribute to eventually integrate an element of assessment within the MDGs report and wished to thank delegations for their comments which would be taken on board in future revisions of the document.

303. The Chair said that the comments expressed were useful and thanked the delegates for their keen interest in the topic. He said that he was sure that all the delegates, in particular, the African Group, which had requested for the report initially, were appreciative of the work and requested the Secretariat to take note of all the comments, in particular the African Group's request for an assessment of the work done by WIPO's contribution to the MDGs.

Agenda Item 8 (continued)

304. Following an informal session on coordination mechanisms and monitoring, assessing and reporting modalities, the Chair called the session to order and stated he was in a position to submit a comprehensive proposal. The proposal, the Chair said, would be available shortly. In the mean time, he suggested consideration of Agenda Item 8, document CDIP/4/7, on the project on technology transfer. He said it was his understanding that delegations were in agreement to task the Secretariat to prepare a revised project proposal taking into consideration the discussions held on the matter as well as agreed elements from the non-paper to be submitted for contribution of the sixth session of the CDIP. The Chair then asked the meeting to turn to the project on IP and Public Domain contained in CDIP/4/3 Rev, and also announced that it was his understanding that on the outstanding issue of trademarks, there had not been an agreement. Thereafter, the Chair asked for comments from the floor.
305. The Delegation of Brazil requested time to conclude the negotiation on the trademark component of the project on IP and Public Domain.
306. The Chair stated that he would give more time to the Delegation and keep the issue aside. He then proposed to turn to Agenda Item 9, document CDIP/5/4 and gave the floor to the Secretariat to introduce the document.

Agenda Item 9 (continued)

307. The Secretariat stated that document CDIP/5/4 was on "Patent-related Flexibilities in a Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels". It said the document stemmed from the work by the Secretariat responding to requests made by the CDIP during its fourth session, that took place between November 16 and 20, 2009. Work was carried out as part of the measures undertaken to implement Recommendation 14 of the WIPO Development Agenda. That particular recommendation made reference to WIPO's work in support of developing countries particularly to least-developed countries (LDCs) so that they could understand and use flexibilities contained in the multilateral legal framework. As a result, the Secretariat drew up the preliminary study which, as was apparent from its title, sought to provide a non-exhaustive list of existing flexibilities so that Member States could give feedback to the Secretariat on the way in which those flexibilities had been approached and described and they could also comment on the way forward to continue other work related to the flexibilities and give advice to the Secretariat on how it should deal with that issue. On the structure of the document CDIP/5/4, the Secretariat explained that it was a draft or an initial document which presented a non-exhaustive list of the flexibilities, introducing the five main flexibilities with additional annexes that referred to the legal or legislative provisions by which those flexibilities had been incorporated in the legislation. A number of States were consulted when drawing up a description of the five flexibilities to be included in the annexes. A table which categorized the flexibilities and gave a brief and simple overview of how those legislations could be

categorized had also been incorporated. The document therefore referred to the legislative implementation of flexibilities, and the Secretariat noted that it chose to take that approach because according to its understanding, flexibilities stemming from the multilateral legal frameworks were effective to the extent in which they were implemented or applied in national legislations. Accordingly, the Secretariat stated that it looked at the pre implementation stage as well as the legal basis for the flexibilities, noting that the types of flexibilities in question were those that existed in the multilateral legal framework but focusing mainly on the TRIPS Agreement as explained in the document. The Secretariat said it chose to adopt that approach for several reasons. Firstly, TRIPS was the main international agreement which made reference to flexibilities and which was of great interest for the developing countries and LDCs especially because it was of interest to those countries to have an idea of the public policy spaces contained in the Agreement, and to see how those could be expanded to include TRIPS for developed and developing countries. The Secretariat stated that in part two of the document, the multilateral legal framework of patent was discussed, as well as the relevance of the flexibilities after the drawing up of the TRIPS Agreement. It stated further that in part 3, it looked at the implementation of these multilateral treatments of TRIPS in different legislations and in different regions, looking at the differences between the different regions. In part four, it tried to give a classification and a meaning of flexibilities from an academic perspective. While in part five, a list of five specific flexibilities which formed a good starting point as examples in a multilateral context of flexibilities, and how they had been used, what their scope was and how they had been rolled out in the countries that were studied. At the end, there was a fairly lengthy document by way of an Annex, in which the relevant provisions and articles of these national laws were cited.

308. The Delegation of El Salvador speaking on behalf of GRULAC, noted that it was an analysis document which in the context of the fourth session of the CDIP, the Member States including various members of GRULAC, requested to be drawn up. It said it had wanted to see a document on flexibilities in the field of patents as part of the measures to be undertaken to implement Recommendation 14 of WIPO's Development Agenda which stipulated that "WIPO shall make available advice to developing countries and LDCs, on the implementation and operation of the rights and obligations and the understanding and use of flexibilities contained in the TRIPS Agreement." The Delegation said GRULAC would like to express its gratitude and its satisfaction with the document which it viewed as a starting point for a lengthy process which would allow for the effective use of the flexibilities in the field of intellectual property taking into account the different realities and the different situations in the Member States of WIPO. The Delegation also noted that GRULAC believed the flexibilities included in the international agreements gained importance at the moment when those agreements were implemented and applied to social, economic, political and legal realities as well as at the time when governments were drawing up guidelines for their respective trade policies. They therefore formed a good basis for supporting those measures. On the other hand, the Delegation had seen an added value in the project submitted in document CDIP/5/4 because it could be used for the program for cooperation and capacity-building of WIPO particularly in the work which had been carried out by various national offices to date as part of the dissemination of intellectual property. Despite the satisfaction it had expressed, the Delegation said it had some comments on that preliminary document which it would like to share with other delegations. It suggested first of all that it should be maintained as an open ended document that could be updated periodically. Secondly, it said it would like to see further study done on the flexibilities contained in the TRIPS Agreement. It also suggested that the scope of that document which was a preliminary document should be extended to the study of other categories of intellectual property rights. Finally, the Delegation indicated that the objective of the document on flexibilities and the use of patents should be consistent with the United Nations Millennium Development Goal No. 8.

309. The Delegation of Spain speaking on behalf of the European Union (EU) and its 27 Member States, thanked the Secretariat for the thorough review and analysis of available flexibilities in the area of patents. The document, it noted, responded to the implementation of Recommendation 14 of the WIPO Development Agenda as requested by CDIP and described mainly measures as available flexibilities in the implementation of the TRIPS Agreement, particularly in four main areas: compulsory licenses, exhaustion of rights, research exemption and regulatory review exception. It also discussed the utility model system as a policy instrument that might allow some flexibility to some countries when drafting their patent law. Finally, it also included in annexes 1 and 2 a compilation of relevant provisions as examples of implementation of the mentioned flexibilities in a number of countries. The Delegation also noted that the use of the various options would be an important exercise for countries with the implementation of the TRIPS Agreement still in progress. In doing that, the Delegation said it would like to support discussions at the regional level as a useful tool for examining how flexibilities worked in practice. The exchange of experiences in the use of flexibilities could assist countries when facing their own policy choices. Finally, the Delegation said it would like to stress that one of the roles of WIPO was to provide legal and technical assistance to countries for the establishment of national development plans that best suited their needs within the framework of the international obligations as provided in particular in the TRIPS Agreement. The document under review therefore, showed the great flexibilities of various systems and provided an excellent tool in that regard. The EU therefore, supported its wide distribution and use by the Secretariat in the implementation of its activities and hoped that further updated versions of the document would be prepared in the future. The Delegation also reminded the meeting that satisfactory compliance with the TRIPS Agreement would finally be decided only at the WTO. It concluded by stating that individual European Union (EU) countries may intervene to comment on specific issues later in the discussion.
310. The Delegation of Angola speaking on behalf of the African Group thanked the WIPO Secretariat for the document on flexibilities in the area of patents contained in document CDIP/5/4 and developed in response to the implementation of Recommendation 14 of the Development Agenda. The Delegation said that as noted in the Group's opening statement, it would like to see in the development of the study issues related to the implementation of flexibilities under the TRIPS Agreement particularly in the area of public health, food security and agriculture. The flexibilities should not only be in the area of patents but also in other fields of IP, it noted. The Delegation also said it would like to see flexibilities included in the technical assistance to developing countries in implementing their national IP strategies. The Delegation also stated that the study presented a list of flexibilities on patents and that it would enable countries to learn and to implement some flexibilities themselves in the intellectual property area, but noting the Secretariat's presentation, those flexibilities and their implementation were important because they would enable Member States including LDCs most of which were in Africa to implement their policy for public development. The Delegation thanked the Secretariat for its efforts and reiterated its requests for deepening of the study along the lines expressed.
311. The Delegation of Brazil associated itself fully with the statement made by El Salvador on behalf of the Latin American and Caribbean countries. It also thanked the Secretariat for the preliminary study of patent-related flexibilities. The Delegation noted that it was an initial input to what would necessarily be a long process in what would hopefully enable countries, to make effective use of flexibilities existing in the international intellectual property rights system. In the view of the Delegation, such studies were not only necessary to deepen the understanding of the modality of flexibilities that were available but also, in

understanding the concrete difficulties countries faced while using them. Regarding the last point pertaining to the concrete difficulties, the Delegation stated that as it was widely known, Brazil used compulsory licenses under the TRIPS Agreement to manufacture internally some anti-retroviral drugs used to combat HIV/AIDS. It took Brazil's leading public health institutions almost two years to start production of the drugs and to supply the internal market. As regards the preliminary study, the Delegation mentioned that in paragraph 32, reference was made to the fact that at the back of flexibility there was a political dimension, according to the study on one extreme and it quoted the following: "it is common to see references to flexibilities characterized as a pretext to legitimize a refusal to comply with clear TRIPS obligations." On the other extreme, flexibilities may be seen again according to the study; as a solution for all problems in the field of intellectual property. The Delegation said in avoiding those political stereotypes, Brazil believed that flexibilities were simply an objective tool to shape national policies on IP. How to make good use of them in compliance with international obligation should be the goal of the Secretariat in preparing the document before the Committee for discussing it. The Delegation also noted that the study defined in paragraph 37, disclosure requirements in patent applications as one of the flexibilities, even though the disclosure requirements did provide states with flexible choice to calibrate the level of detailed and sufficiency of information contained in patent applications. Disclosure requirements were a mandatory condition for granting patents. They were necessary for conferring exclusive rights to the patent holder. Disclosure requirements were in a nutshell, an obligation for patent applicants to comply with. Paragraph 39 mentioned flexibilities related to the use and enforcement of patent rights especially the possibility for countries to take steps to prevent abusive and anti-competitive practices in licensing contracts. The Delegation considered that to be a very important measure that could be used by developing countries and might share their experiences in preventing abusive and anti-competitive practices in licensing contracts. Paragraph 51 contained a footnote no. 54 on the flexibility available in the United States of America where a third party could use a patented invention in the performance of a government contract in effect to obtain immunity to liability for patent infringement of that particular patent. The Delegation said it would like to seek clarification from either the Secretariat or the US Delegation on what specific TRIPS provision that flexibility was based on. Considering exhaustion of rights as a flexibility was better in the Delegation's opinion, as the rights of the patent holder were fully protected in any case, perhaps exhaustion of rights was more a driver of competition in a market economy than a flexibility of intellectual property rights *strictus senso*? And maybe the Secretariat could elaborate further on that matter. The association between utility models and flexibilities was likewise a question of interest in the Delegation's view. Utility models were an altogether different modality of IP rights rather than a flexibility of patents. In addition, the high number of utility models filed by residents did not imply that those could have access to non-residents to the system as utility models were also subject to the most favored nation (MFN) clause of the TRIPS. By the same token still it did not fully grasp the implications of the alleged inter-connectivity between regulatory review exceptions and flexibilities, apart from the non-case of the so-called Bolar-type exception. The Delegation said it would like to ask the Secretariat to correct factual information regarding footnote no. 24 in page 9, which stated that "Brazil and Argentina used the 2005 transition period for the granting of product patent protection for pharmaceuticals." According to the Delegation, that information was incorrect, patents for pharmaceuticals were recognized by the industrial property law of Brazil which was enacted in 1996 and incorporated the results of the Uruguay Round into the Brazilian domestic law.

312. The Delegation of Panama welcomed the important study which was presented on the topic of patent-related flexibilities. It said the topic of flexibilities was very important for development and therefore supported fully the statement made by El Salvador on behalf of GRULAC. The Delegation also noted that as stated in the study itself, it was a preliminary study and it reflected the fact that flexibilities were

legal instruments that countries could apply to their own national development plans and in the fulfillment of their international obligations. The Delegation further stated that it felt that the study was at the right point in time because the flexibilities were in the areas where developing countries required support and it gave additional value to national plans for intellectual property. It also said it was important to note that such flexibilities were vital to national development and obviously, they should take into account the specificities and individual needs of Member States and also, countries should be able to request assistance from WIPO for implementation if necessary. The Delegation observed that there were five flexibilities noted in the document in addition to a global mapping and that should enable countries to appreciate such policies, and also present the opportunity in future studies for progressively analyzing new flexibilities. The Delegation observed that for policy-makers, the study was really a fundamental topic because the information it contained would enable them to take better decisions and be able to understand and evaluate the laws in which those flexibilities had been implemented into legislation. Member States would therefore, have the ability to see where flexibilities were already, and how they could be improved and request assistance when required in accordance with their individual needs. Given the importance of the topic for certain Member States, the Delegation announced that it would like to take the opportunity of mentioning a meeting in Panama to discuss flexibilities and that the government was already pleased to suggest it would like to co-finance such an event.

313. The Delegation of Egypt on behalf of the Development Agenda Group thanked the Secretariat for the document entitled "Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels"; document CDIP/5/4. The document and its annexes were quite elaborate and insightful for the further reference of Member States particularly on their legislative implementation at the national and regional levels. One of the important points that needed further elaboration in the document in the Delegation's view, was with regard to the implementation processes of the provisions both at the national and international levels. For example, the implementation complexity of flexibilities in the TRIPS Agreement and public health issues which remained a matter of high importance to many developing countries was not addressed. Other important issues included the practical difficulties encountered by Member States in applying a number of flexibility mechanisms. The Delegation therefore, requested that the document CDIP/5/4 be further developed by incorporating the issues that it had raised. It also said it believed that the important work done in that undertaking should be appropriately reflected in WIPO's work by incorporating it in WIPO's legislative assistance toolkit, its advisories on evolving national IP strategies, its technical assistance and capacity-building activities, including seminars, conferences and training programs conducted by WIPO. The Delegation also noted that the document addressed only flexibilities in the field of patents whereas it should also be improved and expanded as originally mandated to include all forms of intellectual property. According to the Delegation, the Development Agenda Group viewed the study as an evolving document that would interlink with ongoing work on exceptions and limitations in all fields of IP. Finally, it noted that the annexes to the document were currently available only in English and requested those to be made available in all working languages of CDIP.
314. The Delegation of Ecuador expressed its support for the statement made by El Salvador and Egypt on behalf of GRULAC and the Development Agenda Group respectively, and conveyed its gratitude to the Secretariat for drawing up the document CDIP/5/4 called "Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels". The Delegation considered it of vital importance since it was made up of an academic, pragmatic and objective study and additionally, the Delegation

adequately looked at the flexibilities in TRIPS in a way that constituted a mechanism through which nations could develop without contradicting intellectual property rights or avoiding their legal obligations. The Delegation said it was important to highlight the versatility, the depth and the clarity with which the background, the classification and the development of each of those flexibilities in the TRIPS were found in the document, also the methodology which was consistent with the recommendations adopted in the framework of the implementation of the Development Agenda. The Delegation recommended to the Secretariat to continue the work, because the study was a work in progress and there were a plethora of additional flexibilities stemming from the TRIPS Agreement. It therefore urged the Secretariat to continue with the work started and to incorporate the entire range of flexibilities which derive from the TRIPS and broadly include other intellectual property areas such as non-exclusive copyright and enforcement. The Delegation of Ecuador also felt that it was necessary to search for alternative mechanisms to tackle infringements of intellectual property rights such as campaigns for creating a culture of respect for intellectual property rights and using additional tools such as the use of freeware which had achieved positive results in Ecuador as part of a campaign which it called "Stay Legal, Use Freeware". The Delegation said it was pleased to inform that Ecuador, in fulfillment of the aim in the Ecuadorian constitution adopted in the city of Montecristi in 2008, and consistent with public policy on how legislation on intellectual property as a system of protection of intellectual creation could be used as a mechanism and tool for development that country had put into practice the use of the flexibilities in the various international agreements. That was particularly applicable to the flexibilities in TRIPS pertaining to provisions of obligatory or compulsory licenses related to pharmaceutical patents for medicines used in diseases considered as priorities for public health. The Delegation further stated that the government of Ecuador was also pushing forward a legal reform to reformulate and invigorate the intellectual property system in that country adopting the minimum levels in international instruments in order to fully aligns itself with the standards acceptable for developing countries. The Delegation added that in perfect harmony with the implementation of the recommendations of the Development Agenda and the flexibilities on inclusion of limitations and exceptions to intellectual property rights, the Ecuadorian State, together with Brazil, Mexico and Paraguay, were pushing for the adoption of an international treaty which would enable them to establish a global exception to copyright for visually impaired persons (VIPs) and persons with reading difficulties. Finally, the Delegation announced that Ecuador was already using projects sponsored by WIPO in the framework of the Development Agenda, thus, during the fifth session of the CDIP on April 30, 2010, an agreement was signed between the Ecuadorian Institute for Intellectual Property and WIPO, related to the implementation and consolidation of systems for supportive technology and innovation. The Delegation said that it was pleased and satisfied with the agreement as it demonstrated a real example of carrying out the Development Agenda. Once again, the Delegation thanked the Secretariat for the efforts it had made, noting that the results which would be obtained would be satisfactory for the development of the various peoples.

315. The Delegation of Bolivia aligned itself with the statement by El Salvador on behalf of GRULAC, and also the statement by Egypt on behalf of the Development Agenda Group. The Delegation stated that it was pleased with the document CDIP/5/4 under Recommendation 14 of the Development Agenda because it provided the possibility of opening up discussions on the use of flexibilities. It welcomed the preliminary nature of the study and obviously expected that it would mean that the document would be updated and improved in the future. The Delegation of Bolivia noted that flexibilities were a substantive issue in intellectual property and that like many other developing countries; Bolivia assigned great importance to that issue. It noted further that in the document, a preliminary analysis of national and international mechanisms in the area had been undertaken. It stated that there were certain lacunae of information which needed

to be filled up, for instance on how free trade agreements and economic association agreements could include the flexibilities under TRIPS. The document with CDIP/5/4 would not be complete particularly within the context of WIPO, if that kind of information was not taken into consideration in such an analysis. Along the same lines, as stated by many other delegations, the Delegation said that the work on flexibilities needed to be extended to copyright and trademarks among others. It also stated that in the preliminary report that WIPO had produced, it was stated that the Organization was carrying out facilitation and technical assistance on policies for intellectual property and flexibilities. It requested to be informed about how those had been carried out, whether in workshops or training courses etc. as already demanded by GRULAC and the Development Agenda Group. The Delegation of Bolivia further stated that there was the need for a strategy for dissemination of information on the use of flexibilities as part of technical assistance to countries and asked whether the Secretariat had actually thought of a strategy for the dissemination of those flexibilities. Finally, it stated that it required more information on all the points that had been made and felt that it would be of value to all Member States to know as to what the Secretariat planned to do for actually broadening the scope of the report.

316. The Delegation of Chile expressed its support for the statement made by El Salvador on behalf of GRULAC and thanked the Secretariat for the document on "Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels" as part of the measures for implementation of Recommendation 14 of the Development Agenda. The Delegation was of the view that flexibilities were really an essential part of the intellectual property system and the bilateral agreements of WIPO, the Paris Convention and various regional bilateral agreements which incorporated intellectual property elements. The Delegation stated that it proposed and supported initiatives on dissemination of IP through analysis of flexibilities in copyright and related rights in the APAGO Forum of intellectual property experts, and in that context, Chile considered the document CDIP/5/4 as an important initial element to the discussion on Recommendation 14 as it gave some analysis and concrete examples on topics of great interest to developing and least developed countries. The Delegation felt that the document needed to be complemented because it only spoke about five types of flexibilities related to patents while there were other flexibilities in the area of patents and in other areas of intellectual property. It added that the implementation of Recommendation 14 would be broader and the study presented to the CDIP was not comprehensive enough and that it needed to incorporate some specific elements to help developing countries to get assistance to the extent that they requested and putting into practice the flexibilities in their national systems. Therefore, the Delegation supported document CDIP/5/4 as the basis for a study that should go further and include among other elements an analysis of the qualitative benefits associated with the use of flexibilities not only in the area of patents but also in other areas of intellectual property such as copyright.
317. The Delegation of Algeria supported the statement made by Angola on behalf of the African Group as well as by Egypt on behalf of the Development Agenda Group and welcomed the report of the Secretariat on the "Patent Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels"; document CDIP/5/4. It said that the aforementioned report was an excellent empirical study which enhanced the literature that existed in that field. The Delegation also said it would suggest in the context of the revision of the report, the following: (i) extend the scope of the study to include the flexibilities in the field of intellectual property including copyright, trademarks, industrial designs and geographical indications; (ii) analyze the use of other flexibilities such as transition periods, definition of patentability criteria and the opposition system; (iii) identify constraints which hamper the efforts of

numerous countries in making practical use of the asymmetries and flexibilities enshrined in international instruments; (iv) put together a manual or practical guide on the use of flexibilities in the field of intellectual property; (v) carry out case studies on the contribution of the flexibilities system to the achievement of the UN MDGs and public policies such as access to health or to food. Furthermore, in order to implement Recommendation 14, the Delegation invited the Secretariat to help those countries which might make a request within the context of the implementation of their national intellectual property strategies, to make better use of the various existing flexibilities. It also suggested the creation of a web page on WIPO's website dedicated to the various reports and case studies carried out on flexibilities, and to involve the WIPO Academy in the training of intellectual property officials in developing countries in the use of flexibilities. The Delegation also suggested that WIPO should organize seminars and national and regional workshops for an exchange of experience on the difficulties and advantages linked to the use of flexibilities at the country level. Finally, it invited the Secretariat to translate Annexes I and II of the report CDIP/5/4 into all of the official languages of the Organization.

318. The Delegation of Uruguay endorsed the statement made by El Salvador on behalf of GRULAC, as well as the statement made by Egypt on behalf of the Development Agenda Group. The Delegation stated that one of its deep concerns related to the inclusion of the use of models of flexibilities. The mandate given in Recommendation 14 established the fact that WIPO shall make available advice to developing countries on flexibilities contained in the TRIPS agreement, as well as helping them with the understanding and the use of the same. In view of that, the Delegation understood that the models suggested were one way of proposing protection of the different patents used by many countries and that they were not specifically always flexibilities. The Delegation further noted that it was important that such a distinction on TRIPS was made. It stated that the discussion might stray into dangerous territory when it approached the subject in such a manner in particular, if it was carried out in the field of pharmaceutical products where TRIPS established the obligation to protect pharmaceutical products but only through product patents and that those had to have absolute novelty, industrial application and inventive step and that all three of those needed to be in depth. The Delegation felt that the field of protection for products was being extended by a back door route without the required inventive step or novelty. It saw that as a TRIPS-plus measure which was contrary to what it had hoped to see as a result of Recommendation 14.
319. The Delegation of Japan appreciated the work done by the Secretariat on the issue and noted that the advice on the implementation and operation of the rights and obligations and the understanding and use of flexibilities contained in the TRIPS Agreement mentioned in Recommendation 14, should be practical and concrete so that developing countries and LDCs could easily implement them where appropriate. From that standpoint, the Delegation stated that compilation of relevant provisions of national laws was more practical and useful for developing countries and LDCs to consider for implementation and as a conceptual and general analysis to make reference to academic papers on the subject. It noted that flexibilities contained in the TRIPS Agreement were alternatives which could be used where appropriate and not obligatory as such. In that respect, materials prepared by the Secretariat in respect of Recommendation 14 should be objective and neutral. Finally, the Delegation said it believed the document and especially its Annex 2, formed a good basis to realize Recommendation 14.
320. The Delegation of Indonesia aligned itself with the statement of Egypt on behalf of the Development Agenda Group, on the agenda item under consideration. It also conveyed its appreciation to the Secretariat for the document entitled "Patent-

related Flexibilities in the Multilateral Legal Framework, and its Implementation at the National and Regional Levels"; document CDIP/5/4. As an initial opinion, the Delegation saw the document and its annexes as quite comprehensive for further reference of Member States, particularly in the area of legislative implementation at the national and regional levels. In its view, the subject matter that needed further development in the document was the issue that concerned the implementation processes of the provisions, both at the national and international levels. As an example, it cited one of the flexibilities in the areas of international IP regimes on public health-related issues, and said that it believed that the area was of the utmost importance to many developing countries. The Delegation therefore, stated that it expected that that important area could be further elaborated in the document, including on the complexities and difficulties faced by countries in their implementation processes. It said that it would also like to recall that one of the legitimate requests from developing countries to WIPO on IP flexibilities was to develop a sort of guidelines on their implementation. Those guidelines, in the Delegation's view, would be of great benefit to interested countries, both in choosing the appropriate policies for their needs and in exploring the implementable options based on their capacities and different levels of development.

321. The Delegation of Morocco aligned itself with the statement made by Angola on behalf of the African Group and stated that the study under consideration was very important and also very interesting particularly for developing countries. It noted that the study was but a first step that provided information to officials and leaders in developing countries on the importance of flexibilities as a tool. The Delegation noted however that there was still the second step that was needed to be taken in order to complete the study, which was to identify the problems and the difficulties involved. It noted that the issue confronting developing countries was not only that they needed to be aware that there were flexibilities, but that they also needed to be aware of how they could implement the said flexibilities and benefit from them. That, the Delegation noted, was where the real problem was. It also proposed that a diagnosis of the difficulties faced by developing countries in the use of flexibilities should be conducted and felt that it would be very interesting. It noted that that suggestion had already been made by other delegations that had spoken previously. The Delegation also noted that identifying difficulties alone was not sufficient, and that it was important to provide options for overcoming those difficulties and obstacles.

322. The Delegation of India aligned itself with the statement made by Egypt on behalf of the Development Agenda Group and thanked the Secretariat for the very high quality study that it had produced, and also for presenting a document to initiate discussions in the CDIP on the important issue of flexibility. Like others who spoke before it, the Delegation said it viewed the study as a preliminary step that should be followed up by more focused and outcome-oriented work. It noted that while the study provided a good academic and theoretical basis for discussions, it did not follow the practical hands-on approach of the working document prepared by the Secretariat for a regional seminar in Singapore in 2008 which was later distributed in two national seminars, and also approved in the previous CDIP sessions. In its view, the study should go beyond a mere factual recounting of the flexibilities available, since those had been established in several other studies. Rather, the focus should be on what was the appropriate flexibility that a country should use in a particular circumstance, and how the flexibility should be used. The study, and similar studies in the future, should be designed to facilitate action for implementing Recommendation 14 in a meaningful and effective manner, and should be seen in the context of the overall objective of the Development Agenda. The Delegation further noted that the starting point of the exercise should be an exploration of the impact of the deduction of flexibilities as a consequence of TRIPS in the first place. It said that it was important to understand whether the existing flexibilities were

sufficient or needed to be expanded further. It referred to Section 2 of the study which started its analysis from the Paris Convention suggesting that the inadequate protection of foreign inventors was sought to be addressed through the Paris Convention. The Delegation stated that indeed the inadequate protection of foreign inventions was a policy choice that was being followed, at that time, by developed countries. Today, the Delegation observed, generally, such policies could be followed as exceptions to the principle of national treatment under certain conditions. That, in effect, meant that countries which were at similar levels of development as the developed countries were during the nineteenth century, did not have the same kind of policy autonomy to discriminate between local and foreign patent applications. In that context, the Delegation stated that it would be pertinent if the study addressed the impact of the diversity of patent systems that prevailed during the nineteenth century, and how that contributed to development. That would be necessary to establish the relationship between flexibilities in policies based on IP and levels of development. It would also be useful to understand at which turn of the development road it was found suitable by the developed countries to provide adequate protection to foreigners. The Delegation said that was because diversity in patent laws in itself had been an important flexibility that had been available to developed countries before the Paris Convention. Apart from those elements, the Delegation proposed some specific suggestions for inclusion in the follow-up study, many of which had already been proposed by other delegations. The Delegation suggested that firstly, the study should address, in accordance with the real purpose of Recommendation 14, how the flexibilities could be used by developing countries and LDCs in keeping with the development and public policy objectives. Secondly, in furtherance of Recommendation 14, WIPO should create a database of literature available on flexibilities. Thirdly, the focus of the studies should not be limited to the five flexibilities indicated in the present study but also address issues like transition periods, pre-grant and post-grant opposition, patentability criteria, etc., and include IPRs other than patents. Fourthly, without disclosing the names of the countries and what specific advice was provided by WIPO on flexibilities, WIPO should outline in general the nature of its advice on flexibilities to countries in specific levels of development, especially in relation to areas such as health, food, etc. The study should also address the constraints for developing countries and LDCs in implementing the flexibilities and the options that were available to them. That should also address constraints of a systemic nature created through other international agreements which may limit or erode flexibilities. Lastly, a thorough analysis of how flexibilities could be better used in different contexts by developing countries and LDCs should also be used to formulate a manual for WIPO's technical assistance and capacity-building activities.

323. The Delegation of Canada thanked the Secretariat for preparing the document on flexibilities and referred to page 274 of Annex 1 where a reference to Canada's Patent Act, more specifically to article 55.2, sub-sections 1, 5 and 6 of the said Act was made, and noted that the text underneath only contained sub-section 1. The Delegation said it could give the Secretariat a new language for sub-sections 5 and 6. The Delegation further said that while it had more information to provide, it would just mention that Canada implemented the August 2003 decision of WTO on access to medicines regime and that if any delegation was interested in receiving any information on that regime which allowed for the export of generic medicines to developing countries or least-developed countries, it would be most welcome.
324. The Delegation of Argentina thanked the Secretariat for drafting document CDIP/5/4 and supported the statement made by El Salvador on behalf of GRULAC. It requested that the study on the analysis of other flexibilities of the TRIPS Agreement be expanded. Under that Agreement, there were many "may clause" provisions, that is, clauses in which the text of the Agreement indicated that "Members may", in provisions consisting of flexibilities. The Delegation also

requested that a further study including an analysis of a greater number of flexibilities be done. The Delegation did not believe that “TRIPS Plus” type provisions should be included within the concept of flexibilities. It was of the view that, within the scope of WIPO, there should be no attempt to define the term “flexibilities”, since that might result in a restriction of its use. The Delegation said that the delimitation of the scope of the “flexibilities” concept contained in Paragraph 34(i) (IV) was incomplete and restrictive and it could not therefore support it. The Delegation concluded by reiterating its thanks to the Secretariat for the analysis submitted on flexibilities and hoped that future studies would be prepared on the subject within the context of implementing Recommendation 14 of the Development Agenda.

325. The Delegation of Switzerland took the floor in its national capacity and thanked the Secretariat for the excellent study which provided a very useful overview of exceptions and limitations, as well as included some national solutions. The Delegation highlighted an error in footnote 68, on page 23 of the document in French, and page 20 in English. The Delegation said the footnote indicated those countries that had an exception in favor of research in their national legislation and given that Switzerland had such an exception, it needed to be included in the list of countries mentioned. The Delegation concluded by highlighting that the meeting needed to pay attention to the issue of duplication of studies and efforts being carried out by different committees in WIPO. Accordingly, the Delegation suggested that all those studies needed to be discussed in the relevant technical committees to avoid such duplication. It noted that another study was being carried out for the next meeting of CDIP and that it would like to see that placed on the agenda.
326. The Delegation of the United States of America noted that it would respond to only two points. Firstly, it thanked the Delegation of Brazil for its question regarding footnote 54 of the study. The brief answer was Article 31 of TRIPS, “Other uses without the authorization of the right-holder”. The Delegation stated if a more detailed answer was needed, it would be happy to provide a written response at a later time. The Delegation also responded to comments made during the discussions, in which suggestions were made for an extension of the project to other areas, including exceptions and limitations of intellectual property. The Delegation noted that the project was specifically designed to address patent flexibilities and that other committees, such as the Standing Committee on Copyright and Related Rights, were devoted to work on exceptions and limitations and the US was fully engaged in that work, including supporting the goal of improving access to copyrighted works for the blind and visually impaired. However, the Delegation noted that addressing the same issues in the CDIP would be duplicative and would use up resources needed for other CDIP projects. Finally, the Delegation stated that new projects related to the present one or to Recommendation 14 could be considered by the CDIP but it should be presented with a clear additional proposed program of work which should carefully examine any proposals received to avoid duplication with the work of other WIPO committees.
327. The Delegation of Australia welcomed discussion of that document and believed that some useful contributions had been made to understanding the application of international obligations to national needs. It stated that further work would be useful and the document should continue to be balanced, and should not prejudice outcomes nor exceed the mandate of WIPO. The Delegation said it welcomed the suggestion for discussions at the regional level in examining how flexibilities worked in practice, as practical experiences often provided useful input into policy development. It also echoed the comments of some other Member States in respect of the current activity in the SCP on exclusions, exceptions and limitations

especially the information contained in document SCP/14/INF/2. The Delegation urged Member States to be conscious of the broad range of work being undertaken in that area and be mindful of ensuring that work was complementary rather than overlapping.

328. The Delegation of Nigeria endorsed the statement of the African Group delivered by Angola and noted the excellent presentation on flexibility prepared by the Secretariat. The Delegation noted that the study offered a lot of opportunity and an insight into how flexibility could impact a number of activities, especially in respect to patents. It said that while it commended the tremendous work that was done in respect of patents, the effort in finding out how it would affect other policy questions such as access to health, food security, issues of development of policy etc. should also be considered as equally very important. The Delegation said it took note of the fact that while there were other activities taking place with respect to the issue of flexibility in some areas related to development, it believed the present study offered clear indications and clear policy frameworks that would help many developing countries. The Delegation said that it was important that a database be created in respect of flexibilities and issues of dealing with exceptions. Cost concerns for countries, as regards their development, should be a foremost factor especially for developing countries in order to establish to what extent they could maximize the overall benefits. The Delegation noted that it remained very positive about the report and that it believed that there was still much work to be done in practical context, to put it to work in reality.
329. The Delegation of China thanked the Secretariat for preparing document CDIP/5/4 and believed that the document would provide a good reference for Member States to know the flexibility concerning patents and their multilateral legislative framework. Meanwhile, as mentioned by several delegations, the Delegation also hoped that the Secretariat would prepare that kind of document for other aspects of IP, making good use of materials already existing, such as trademarks, copyright, etc.
330. The Secretariat responded to the several remarks and suggestions offered and said it would respect all those and take them into account in future work. It assured that the document was not meant to be exhaustive or final, but only a first step. It said that it was always approaching issues in that way, by presenting a certain approach that was as objective as possible, and if the Committee agreed to that approach, the Secretariat would continue its work on further flexibilities both patent related and in other IP areas. In that context, the Secretariat stated that subject to agreement, it would elaborate further flexibilities that would present a number of other options on flexibilities not only in the patent area but also in other IP areas in general looking into specific areas like public health, food security or others that had been mentioned during interventions by Member States. The Secretariat also stated that it had noted the query from certain countries on practical and effective use of flexibilities which was, of course, very important and could be further explored in national and regional meetings where government officials and local experts could exchange their practical experiences in their countries. Finally, the Secretariat requested that if any delegations had corrections or additions that they wished to make to the Annexes of the report regarding their national laws, they could send such amendments to the Secretariat by e-mail or on paper for further necessary action.
331. The Delegation of Morocco said that it would avoid any particular comments on the document, and wanted simply to make three specific comments. First, it noted that the document was related to legislative implementation and that was why the work of the Secretariat was focused on the identification of how flexibilities have been

legally implemented at the national level. The Delegation noted that in fact, the possibility of analyzing the effective use of the flexibility was something that could be done in different ways. The options already mentioned today, for example, the possibility of providing legislative assistance to developing countries and least-developed countries in order to implement, at the national level, flexibilities to get the benefit from them was an option that was available and the Secretariat was ready to cooperate as had been done for many years on a bilateral basis. Second, the possibility of regional and national meetings, or the possibility to include flexibilities in training materials and training activities undertaken by the Secretariat was also an option that could be considered carefully as suggested by several delegations in order to establish a list of already existing material on flexibility and to create a kind of database. The Delegation said it would like to make a very simple comment with regard to the statement by Uruguay. The Delegation was of the view that the use of flexibility was an important challenge and what it would like to do was to try to identify flexibilities in which it was quite clear that multilateral treaties left space for countries to interpret and implement them in different ways such as clearly in the case of utility models, where policy-makers considered it is a useful method for promoting innovation in developing countries. The Delegation said there was space for countries to either adopt it or not to adopt it, and those who decided to adopt it could do so on the basis of their requirements, or their modalities. It further said that it considered that as a good example of flexibility associated with public policy. It said that there was no commitment to that position but statistics showed that it was effectively used in developing countries and also in developed countries as a stimulating mechanism. Therefore, the Delegation of Morocco felt that there seemed to be difficulty with that and that it liked that to be taken into account in future work in order to clarify whether it would be useful so that the requests made by Uruguay on that could be satisfied.

332. The Delegation of the United States of America expressed appreciation for the Secretariat's remarks and stated that it was its understanding that the project that was approved was related to patent flexibilities. Therefore, before the Secretariat would move into examining flexibilities in other areas, the Member States should be presented with a proposed scope of work and terms of reference for whatever work will be done in future, so that they could consider and discuss such work and look at some of the issues that some delegations had raised in their comments earlier about potential duplication with the work of other committees. The Delegation stated that it very much hoped that before the Secretariat moved beyond the area of patents, it would give the Member States the opportunity to consider the specific projects further.
333. The Delegation of Uruguay thanked the Delegation the United States of America for its intervention and stated that it was appropriate to make it clear that in using that instrument in developing countries, it would be limited to specific areas in which it should be used such as electronic areas and metallurgy. But obviously it could be extended to pharmaceutical areas as well, and so forth.
334. The Secretariat replying to the intervention of the United States of America noted that the project was work that was in progress and that it understood the Delegation's intervention absolutely and would work on the issues that it raised. Furthermore, the Secretariat said it would continue to work on patent related flexibilities at that point, but could not exclude the possibility that such work would be enlarged in the future. That would of course, be done with the consent of the Committee.
335. The Chair thanked the Secretariat for that assurance and believed that the explanation had satisfied the delegations concerned. He said he was also positive

that the Secretariat took note of all the issues raised by the delegations and therefore, wished to close discussions on the matters. The Chair then proposed to consider Agenda Item 10 concerning future work, and recalled his statement at the beginning of the meeting, that there was the need to give clear guidance to the Secretariat about the Committee's work as far as the sixth Session of the Committee was concerned and opened the floor for comments.

Agenda Item 10: Future Work

336. The Delegation of India stated that many issues had been discussed in that session and many of the documents that were considered highlighted the inter-linkage between IP and public policy issues, such as food and health more prominently, especially in the reports on the MDGs and patent flexibilities which also brought out that inter-linkage in different ways. In the Delegation's view, the High-Level Task Force on the Implementation of the Right to Development should be invited to the next session to present its findings, and also, the UN Special Rapporteurs on food and health be invited to present their reports and address the Committee. That was a request made by some delegations in the course of the discussions at that session under relevant agenda items, and the Delegation said it would like to request that that be reflected under the future work program for the Committee. Also, the Delegation had some very useful discussions and tremendous progress on the coordination and monitoring mechanism. It said that it would be useful to have discussions on the terms of reference of the external review included for the next session so that the process could be taken to its next logical level.
337. The Delegation of Sri Lanka said it would like the Secretariat to provide the Committee with an update on the already approved projects and the direction that those projects had taken and the countries which were involved as well as how far those projects had progressed. The Delegation suggested that just an oral brief would be fine at that stage.
338. The Delegation of Nigeria, endorsing the proposal made by India stated that it wanted to point out that in respect of the High-Level Task Force on the Right to Development, it would like first to see the outcome of the meeting in the Working Group on the Right to Development. The outcome of its work has been quite controversial, so it wanted to see how things developed.
339. The Delegation of Angola stated that the African Group would like to emphasize the importance of presentation of a revised study on the contribution of WIPO to MDGs as it had requested and also to have the revised projects that had been approved particularly the Korean project to see whether the various comments and recommendations had been taken into account and to look at the follow-up of those projects. It also noted that the study on the use of flexibilities would need to be resubmitted to ascertain whether its views have been taken into account.
340. The Delegation of France noted that since deliberations on all the items on the Agenda which preceded Item 10 had not been exhausted, the meeting should in fact conclude the other points first, particularly Item 7 before looking at future work.
341. The Delegation of Switzerland also noted that the meeting had moved on to consider future work when the issue of coordination mechanism had not yet been

decided. It therefore suggested that the meeting should come back to that item if possible before proceeding to future work.

342. The Delegation of Angola suggested that for the sake of efficiency and in view of the lateness of the time, what had been said already regarding future work be taken into account while progress was made in discussing the other items without forgetting the future work.
343. The Chair, accepting the point of view expressed by some delegation, decided to suspend discussions on future work, assuring that that particular Agenda Item was not exhausted and that the meeting would revert to it. He further added that all the issues raised had been duly noted.

Agenda Item 7: Coordination Mechanism and Monitoring, Assessing and Reporting Modalities (continued)

344. The Chair then opened Agenda Item 7, stating that as he mentioned earlier, throughout most of that afternoon, the Committee had worked to find an agreement on the issue of coordination mechanism and monitoring, assessing and reporting modalities. In that connection, the Chair thanked all delegations for their engagement and flexibility, and noted that the spirit of compromise prevailed throughout which he tried to capture in the text that he believed was circulated to all delegations. He understood that all delegations were in a position to accept the draft text so that the meeting could move to its adoption and opened the floor for comments. With no request for the floor, the Chair declared the document adopted. The Chair thanked all the delegations and mentioned that the efforts put by Member States that day would go a long way in ensuring effective implementation of the Development Agenda. He also thanked the delegations for the spirit of compromise. For him, he observed, it showed that progress could be made by using the strength of multilateralism and resolution of differences in order to take forward the work of this Organization. On that note, he suggested that the meeting returned to Agenda 8, document CDIP/4/3Rev.

Agenda Item 8 (continued)

345. The Secretariat informed the Committee of understanding that had been reached between the two delegations that were not comfortable with the original text. It noted that it had distributed the new text, but that it was not in track changes, therefore it stated that it would guide the Committee by indicating where the new changes appeared. Firstly, concerning the trademark component of the project on IP and Public Domain, the change was indicated on page 4, on the fourth line, which stated "After "patrimony", "of any Member States" was inserted. That was the first change. The second change was on page 5, no.2 trademarks, the name of the study would be "Study on the misappropriation of signs". The first paragraph of the trademark component was changed, and the new formulation was "The proposed study would involve a fact-based comparative analysis of the trademark laws of a representative of Member States to examine how they make the determination to define and apply misappropriation and the abusive use of signs under those laws". That was the new formulation of the first part of the component. The second sentence remained the same as in the original document, with the exception of the last two lines: "the findings of the study could form the basis for further consideration and deliberation. The study would be coordinated with the Standing Committee on Trademarks". The Secretariat further noted that there was a new paragraph which had been inserted in the study and would be considered

final once Member States had an opportunity to review and provide amendments to the study to be incorporated into the overall draft. The other part that was dropped was the last paragraph on the trademark component, contained on page 3 of the original document. The Secretariat proposed to submit for the Committee's consideration the following: That when the document was approved in the fourth session of the CDIP, the budget was approved without taking into account the trademark component. The budget for the trademark component would consist of CHF105,000 for contractual services and non-personnel resources. The proposed budget would take into account the modifications indicated. Concerning the copyright component which had been approved, the Secretariat noted that the scoping study on copyrights and related rights under the public domain which was approved at the fourth session had already been completed. It informed that according to the project schedule, it was due for the first quarter of 2010, and it would be published very shortly. The Secretariat would invite comments from Member States and the study would be presented at the sixth session of the CDIP and on that occasion, discussions would take place on the basis of the study itself and the comments received from Member States. The Secretariat also informed the meeting that there was a second survey on voluntary registration and deposit system that was also approved by CDIP 4 and the deadline for the responses to the questionnaire was April 13, 2010. Therefore, in order to allow for a greater number of responses from Member States, the Secretariat would extend the deadline for presentation of responses to the questionnaire to June 30, 2010.

346. The Delegation of Brazil said it wanted to refer to the title of the study which was a study on the misappropriation of signs and the possibilities to prevent such practices, and suggested that it should remain the same.
347. The Delegation of the United States of America said that since that was not in the text that it initially agreed to, it would not accept the proposed change.
348. The Delegation of Chile observed that since the document was still being printed and was not ready, it suggested that all delegations should be provided with copies before making any comments.
349. The Chair proposed that the meeting should move to consideration of Agenda Item 10, future work.

Agenda Item 10 (continued)

350. The Delegation of Angola stated that in regard to future work, it would like to add two points to that item. Firstly, it proposed that at the next session of the CDIP, there should be an item related to the presentation of a report on the discussion and the state of play of those recommendations and projects which had already been approved under the Development Agenda by way of updates. Secondly, Recommendation 29 called for the discussion on transfer of technology and intellectual property within an appropriate body of WIPO so perhaps that could fit into the work of the CDIP and figure in its agenda for future work.
351. The Delegation of Uruguay noted that in general terms, and in the interest of transparency, the Committee should ensure that there was follow up of each of the issues discussed under the umbrella of WIPO, including all the projects so as to know what was happening and where things stood so as to enable the delegations to ensure that there was adequate oversight of the implementation of all the

recommendations. Secondly, the Delegation suggested looking at the external funding aspect and see how the funds were assigned to Member States, and to know what funds were available and how they had been assigned and to which projects. Those were the two oversight issues according to the Delegation that it wished to highlight.

352. The Delegation of India said that it only requested the floor to clarify a certain pertinent issue raised by the Delegation of Nigeria earlier. The Delegation said it agreed with Nigeria that the report of the High-Level Task Force on the Right to Development was currently under debate in a different body and perhaps it should have been clear and more elaborate when it made that proposal. The Delegation stated that what it meant was that there had been a report by one expert on the High-Level Task Force on WIPO's Development Agenda analyzing its contribution to the right to development. It was only that expert that the Delegation had in mind to invite and not the whole Task Force. The Delegation further stated that, of course, the UN special rapporteurs for food and health were being referred to by WIPO studies and it thought that it would be a logical thing to do and in the right context to have them come to the CDIP and have a discussion on some of those issues.
353. The Delegation of Switzerland said it would like to come back to the proposals by India on the future work of the Committee and the need to discuss during the next meeting the terms of reference for the external evaluation or assessment, which had just been agreed to in the draft coordination mechanism. The Delegation stated that as it had been just decided, the proposed evaluation would take place at the end of the 2012 and 2013 Program and Budget Biennia. The Delegation said it did not therefore see the usefulness of making pronouncements on the terms of reference during the next session, given that a decision on the process for the coordination mechanism had just been taken. It suggested that the Committee instead concentrated on launching new projects so that when the evaluation was implemented, it could carry out a more critical analysis of the projects stemming from the recommendations of the Development Agenda. The Delegation therefore preferred that the assessment and evaluation took place later when there would be enough data to analyze. It also suggested that it would be more critical for the time being and the next session would need to concentrate on launching projects rather than getting through with the evaluation.
354. The Delegation of Nigeria expressed a tremendous thanks to the Delegation of India for the clarification and informed that it entirely supported the proposal made on the High-Level Task Force.
355. The Delegation of Bolivia noted that during the discussions on public domain and specific to that project, the Secretariat was asked to draw up a new draft project on public domain and patents and asked whether that project will be considered in the next session or what the timetable would be for that work.
356. The Secretariat thanked the delegations for the very useful inputs to the Committee's future work, which consisted of a long list of activities. The Secretariat wondered whether it would be possible for it to produce that work and respond to the high expectations between that time and November, in other words, in two and a half months before November when the documents would need to be produced and delivered. From an expectation management point of view, the Secretariat emphasized the need for a realistic agenda, and suggested that a list of priorities, from most important to least important, could be drawn up in order to meet the expectations of what could be achieved. The Secretariat ran through the

list of proposals by the Member States for the next CDIP as follows: The Delegation of India suggested inviting the High-Level Task Force on the Right to Development to the next CDIP meeting. The Secretariat said it was not clear from that if a specific outcome was expected from it. However, if all the delegations approved the proposal, the Secretariat would be happy to execute it. The Delegation of India had also mentioned inviting the Special Rapporteurs on Food and Health from the Human Rights Council. The Secretariat explained that it faced the same situation as in the case of the first invitation. Also, it asked if the objective was to get specific targeted inputs from those experts or just general brainstorming and linkage between IP and those issues. As regards the terms of reference on the group of experts for the newly adopted coordination mechanism, the Secretariat said it was not clear on that issue as it believed that it heard two different opinions about it. Likewise, the Delegation of Sri Lanka had wanted an update on the approved projects and it added that it would be happy to even receive oral reports. The Delegation of Nigeria had however, made the point that the report in the High-Level Task Force was under discussion in another body and whether the CDIP should consider an issue that was already under consideration elsewhere. The Delegation of Angola had mentioned that it wanted a discussion on Recommendation 29 of the Development Agenda which leads to discussions on IP and technology transfer issues within the mandate of the appropriate WIPO body. The Secretariat understood that that recommendation be discussed within the CDIP. The Delegation of Angola had also requested reports on all the projects and reports on the 19 Recommendations, update on the Millennium Developing Goals (MDGs) report and also supported India's proposal to invite the Rapporteurs on Food and Health as well as members of the High Level Task Force on the Right to Development. The Delegation of Angola had also wanted work to continue on flexibilities. The Delegation of Uruguay had wanted a follow-up on all the work being done in the implementation of the Development Agenda and wanted to know how the money was being spent, that is to say, perhaps giving a clear presentation of the financial information on all the Development Agenda activities. The Secretariat also noted that the Delegation of Bolivia had made reference to the discussions on the project on Public Domain where certain delegations had wanted to add some ideas to the Patent component of that project and that during those discussions perhaps the additional topics could form the subject of a project. Finally, the Secretariat stated that it would endeavor to achieve all of those proposals although it remained concerned about the long list of requests.

357. The Delegation of the United States thanked the Chair and expressed its concern about inviting two UN experts to the Committee to describe work on food security and health issues and the right to development. The Delegation stated that, as mentioned by the Secretariat, those topics were not the subject of the CDIP's current projects and the Delegation was of the view that the Committee should be careful not to limit its work time on presentations especially with topics that have not been subject of its projects. Those topics might be appropriate for side presentations during the meeting, but at the moment, the Delegation was not ready to put them on the formal agenda of the Committee. The Delegation said it would welcome the opportunity to consider those topics by viewing the relevant background documents or project proposals related to those topics in the future.
358. The Delegation of India said it was glad that it took the floor after the Delegation of the United States of America as that gave it the opportunity to clarify what it had proposed. Indeed, the Delegation noted, Special Rapporteurs on food and health had not only spoken about food and health, but had spoken directly on the inter-linkages between food security, access to medicines and healthcare and IP. The Delegation noted that it had been the topic of discussion in the CDIP over the last few sessions and especially in that session with the MDG report and the report on flexibility. It therefore said it wished to clarify that it was not after any outcome as inquired earlier by the Secretariat, but the idea was simply to ask the Special

Rapporteurs to come and report as they had done elsewhere. They were UN Rapporteurs and WIPO was a specialized agency, so there should be no contradiction there. According to the Delegation, they would simply come, present their report, to be probably followed by discussions. The Delegation also stated that already, those linkages had been looked at in the SCP under the global challenges and patents, therefore it could not understand why there should be any difficulty in inviting the Special Rapporteurs to come and talk about their reports and having a brainstorming session as the Secretariat had called it. The Delegation assured that it was not looking for any concrete follow-up to those discussions, and requested the indulgence of delegations that that be allowed to take place, noting that it was not a very strange practice which was done in UN committees and bodies where people outside the body had done work that was immediately relevant to the work of that particular body.

359. The Delegation of Egypt thanked the Secretariat for noting the long list of activities under future work and stated that it empathized with it. The Delegation also noted that the request to have the High-Level Task Force to attend CDIP 6 and share the results of their findings was actually a Development Agenda Group request supported by other delegations. It also said that it wanted to clarify the issues pointed out by the Delegation of the United States of America that the subject matter did not pertain to the projects of the Development Agenda that were being discussed in CDIP. The Delegation stated that first of all, the report of the High-Level Task Force discussed the WIPO Development Agenda and as such it had direct relevance to the projects, which ultimately were the mechanisms through which the Development Agenda was being implemented. The Delegation said it would like to also note an important aspect of the mandate of CDIP that seemed to have been missed over the previous sessions and that was in sub-paragraph "C" of the mandate of CDIP which instructed the Committee to look into issues of IP and development which was a separate sub-item of the implementation of the 45 Recommendations and as such, it was within the Committee's mandate to have the High-Level Task Force to report on its findings and squarely within relevance of the implementation of the recommendations. The Delegation further noted that sub-item "C" also pertained to discussions on any issues on IP and development, so it believed there was ground for inviting the experts and appealed to the fact that it was a report about the Development Agenda which was at the core of the work of the CDIP. The Delegation also noted that the report mentioned was one of the successful examples of development in the UN system. Therefore, it did not think that the Committee should deny itself the chance to listen to a UN body reporting on its work.
360. The Delegation of Canada thanked the Delegations of Egypt and India for providing further details on their proposal for future work. The Delegation said it believed the two delegations and that of the United States of America made an interesting proposal that might be a middle ground solution, which was to have a side event to report or invite those Special Rapporteurs and the High-Level Task Force to come in lunchtime and then present the results of their report. The Delegation stated that considering the lateness of the hour which was well past the time of the normal sessions of the CDIP, the meeting should make efficient use of the time available and adopt as many recommendations and projects as possible, and to make sure it had enough projects to look at when the time comes for the independent review that was included in the coordination mechanism in 2012 and 2013. The Delegation therefore stressed that Members States could consider the proposal made by the United States of America that the presentation by the Special Rapporteurs and the High-Level Task Force be done as a side event.

361. The Chair said that he would be in touch with the Secretariat to see how much could be achieved and then proposed to close the agenda but gave the floor to India.
362. The Delegation of India thanked the Chair and said it just wanted to respond to Canada's very constructive proposal in case the Chair wanted to wind up the agenda item so that its reaction would also be recorded. The Delegation said it did not think that the discussion was a waste of time of the CDIP nor it thought that the Committee should focus on producing and generating more and more projects so that the external evaluators have a lot of work to do. The Delegation said it did not think that was the idea really, and that if the High-Level Task Force report was studied, it was the only UN report directly treating the issue of WIPO Development Agenda and how that Agenda contributed to the right to development. According to the Delegation, IP and development were at the heart of CDIP's work so it believed that any time spent discussing those very useful contributions would only enrich the discussions in the CDIP. It therefore reiterated that it would like to see the presentations by the experts made in the CDIP sessions.
363. The Chair closed the agenda item and invited the meeting to proceed to Agenda Item 7 and consideration of document CDIP/4/3rev. The Chair said that he understood that all delegations had copies of the revised document with the changes as agreed by the concerned delegations and as explained by the Secretariat, so that the Committee would be ready to approve the project.

Agenda Item 8 (continued)

364. The Delegation of Brazil stated that as it had noted earlier, it would like the original title of the project amended, so that it read as follows: "Study on bad faith appropriation of distinctive signs and possibilities to prevent malpractices." The Delegation said that it understood that the United States of America wanted to suppress the second part of the report. It said that that suppression was never discussed but the Delegation was willing to show flexibility and given that the project was important to many delegations not only to Brazil, it was willing to reach compromise a decision.
365. The Chair thanked the Delegation of Brazil for its flexibility and thought that there was an emerging compromise, unless the Delegation of the United States of America wished to take the floor.
366. The Delegation of the United States of America thanked the Chair, and stated that its recollection was that the meeting did discuss that matter perhaps indirectly and that there was an agreed text which it thought was binding. The Delegation insisted on keeping that text as presently drafted, and could not accept the change proposed by Brazil. The Delegation noted that one of the sentences in the description of the study stated that the findings of the study could form the basis for further consideration and deliberation. Therefore, the Delegation said that the agreed language would not close the door to possible additional steps.
367. The Chair thanked the Delegation of the United States of America and noted that Brazil had already expressed its flexibility. The Chair declared the document approved and then gave the floor to the Delegation of Nigeria.

368. The Delegation of Nigeria stated that what it wanted to say was not related to the matter at hand, but if the Chair permitted, it would continue with its intervention. The Delegation said it would like to know the status of document CDIP/5/9, in respect of Development Agenda Group guiding principles paper because it seemed to be an official document and it clearly listed the countries that were members of the Development Agenda Group. The Delegation said it wanted to know the status of that document particularly noting that any document that would have such clear message and substance should come procedurally within the agenda of the meeting for action to be taken on it. How would that document be regarded, inquired the Delegation? The Delegation also said that it believed that in reality, that document did not meet the requirements for reflecting it in the meeting's agenda and demanded it to be withdrawn at that particular point in time. The Delegation further observed that as a matter of fact the Secretariat should not have produced that document in the first place and asked who empowered it to do so? The Delegation of Nigeria also believed that any group of members or individual countries had the right to produce proposals for the meetings, but even so it becomes either an information paper or proposal that they would be putting forward but should not be given official title and sanction because it did not have any precedence. The Delegation said it was aware that there was claim that the Friends of Development at the beginning of that process produced proposals and that those proposals helped tremendously in the working of the group. The Delegation noted that those were just proposals, and that they did not engage in the negotiation of those proposals as any group or regional group. The Delegation further said as it existed now, Nigeria belonged to the African Group, and for all intents and purposes the Coordinator of the African Group spoke for the Group, and it was important that those inner groups that were authorized to adopt positions en bloc within WIPO meetings have to be known clearly as regional groups in that sense. The Delegation concluded by stating that it regarded the situation not just as exceptional circumstances, but in reality, the document did not belong to what the Committee was doing and as such, requested the Chair to explain the status of the document or alternatively have it withdrawn.
369. The Chair thanked the Delegation of Nigeria and said he believed that the issue be addressed as part of the practice and the precedence of the Committee.
370. The Delegation of Egypt thanked the Chair and the Delegation of Nigeria for its questions. The Delegation hoped first of all, that one day Nigeria would be part of the Development Agenda Group, and explained that it was an open-ended group and that all Member States were welcome. The Delegation said in fact it would like to formally announce that Zimbabwe had become the twentieth member of the Development Agenda Group and looked forward to working with that Delegation constructively. The Delegation explained that the Development Agenda Group was essentially a bridge-building group and not a regional group in the customary sense of WIPO practice. The group sought to build cohesion and bridges among the various groups. The Delegation said that throughout CDIP 5 the spirit that had been exhibited by that group had taken the Committee a very long way forward and that it was sure that the Delegation of Nigeria would acknowledge that fact. As to the particular document, it was presented by the Delegation of Egypt along with eighteen other delegations. Therefore as far as those delegations were concerned, the document came under Agenda Item 6 – General Statements, and in that regard, it was a numbered document as the Secretariat had proceeded to issue it as such to give it the numbers CDIP/5/9. The Delegation further explained that because it appended the document as the general statement delivered by Egypt under Agenda Item 6 in the name of the Development Agenda Group, it should be considered a document of the fifth session of the CDIP, and should remain so but would be happy to listen to the Legal Counsel if there was the need to tell the meeting about the status of WIPO documents.

371. The Delegation of Switzerland thanked the Delegation of Egypt for its statement and pointed out that Switzerland and Group B shared the question raised by Nigeria and the information that was received from the Delegation of Egypt did not provide more reasons why the document was a working document of the meeting. The Delegation noted that the document was not a proposal or study and therefore, did not see any reason why it should be considered as a working document. Obviously every Delegation had the right to make statements and even Switzerland had made statements but those did not become working documents of the CDIP. Therefore, the issue was about the status and aim of the document in question and as such it was preferable to have it removed as a working document.
372. The Delegation of Nigeria said it was always impressed with the Delegate of Egypt for his good knowledge and intellectual abilities that could not be faulted. It noted that the Delegation of Egypt was very frank to say that the Development Agenda Group was not a formal WIPO group. The Delegation of Egypt had also said the document was a general statement, and questioned as to since when had the CDIP started making working documents of the WIPO from general statements. The Delegation reiterated that it should not be a working document.
373. The Delegation of Egypt thanked the Chair and noted that the delegate from Nigeria was also eloquent and though was not seen often but came at the right time to WIPO and at important junctures, and so the Delegation was really happy to see him at such critical junctures. The Delegation of Egypt also thanked the delegate from Switzerland and Group B who had referred to working documents and the Delegation inquired if there were any indications in WIPO rules of procedure to differentiate between working documents and other documents. The Delegation said it would be very willing to accept a decision according to WIPO procedures the category under which the Development Agenda Group document should come as long as it was guided by the procedures. The Delegation of Egypt further stated that if there was anything to say that the documents should be included under a particular category, it would be willing to accept that. It therefore requested the presence of the Legal Counsel.
374. In view of the lateness of the hour, the Secretariat requested a break of a few minutes, allowing it to check the availability of the Legal Council.
375. The Chair stated that in view of the imminent departure of the interpreters, he would suggest that the Committee addressed Agenda Item 11.
376. The Secretariat proposed that it would read out the draft Summary by the Chair at a dictation speed so as to compensate for the absence of interpretation facilities at that hour.
377. The Delegation of Egypt on a point of order sought clarity regarding the status of document CDIP/5/9, before the Committee could proceed to the draft Summary of the Chair.
378. The Chair stated that it was already late and that the matter raised by Egypt should be addressed in the following CDIP session.
379. The Delegation of Nigeria stated that the point in question was a rather simple one, adding that a document had been presented and a specific request for a decision

had been made. The Delegation stated that once such a decision was adopted or agreed to, then the document in question had no relevance. The Delegation reiterated that the Committee had been invited to take note of the document and as such, there could be no conclusive outcome to that document.

380. The Delegation of the United States of America apologized for taking the floor at that late hour and raised a follow-up question as to whether the document CDIP/5/9 was going to be discussed at the next meeting and if so, what would be the status of that document given the lack of clarity with respect to the document's status in the current session. The Delegation believed that if discussions about the document were still pending, then it should not continue to be listed as a working document of the current meeting. The Delegation added that such an action would not be consistent.
381. The Delegation of India pointed out that the coordinator of the Development Agenda Group had raised an important question as to what were the procedural rules in WIPO regarding what should or should not be a working document. The Delegation stated that it had not heard any response to the question. The Delegation of India expressed its desire to have a response to the question posed by the Delegation of Egypt, stating its belief that the document in question should be included as a working document.
382. The Delegation of Brazil expressed its support for the inclusion of the document, which had been circulated by the delegations comprising the Development Agenda Group, as a working document. The Delegation was of the understanding that any delegation had the right to present documents and if such was not the case, the Delegation wished to be informed of the rule pointing to such prohibition.
383. The Delegation of Bolivia (Plurinational State of) stated that it was not formally part of the Development Agenda Group, but nevertheless, it also firmly believed that it was the right of all countries to present documents they deemed relevant to any meeting. The Delegation underscored that the Development Agenda Group was insisting on upholding that right and the Delegation fully defended such a right. The Delegation added that it also believed that the Delegation of Nigeria had put forward a very constructive position and had raised a relevant point with respect to the right of all states to forward documents that they deemed relevant in the work of meetings of international organizations. The Delegation of Bolivia (Plurinational State of) concluded by stating that it expected to join the Development Agenda Group in the coming days.
384. The Delegation of Iran expressed its support for the inclusion of the document containing the Development Agenda Group principles, as a working document of CDIP.
385. The Delegation of Switzerland referred to the document under discussion and stated that given the nature and content of the document, it was apparent that the authors of the document were providing a general declaration and principles to Member States. In that context, the Delegation of Switzerland expressed its difficulty in accepting that the Committee should take note of that document as a working document, when the said document had not even been discussed. The Delegation acknowledged the right of any Member State to freely circulate documents and make concrete proposals. However, it believed that the paper before the meeting was not a concrete proposal. It added that in general, documents were based on collective reflection, studies or agreements and as such,

it saw neither the point in making that document a working document nor in it requiring an active decision from the Committee. The Delegation suggested that the document be considered as another kind of document, such as an information document.

386. In the absence of the Legal Counsel, the representative of the Secretariat stated that the General Rules of Procedure of WIPO were silent when it came to the situation in question. He summarized the events leading to the situation at hand, and stated that a request in the form of a Note Verbale had been received, requesting on behalf of eighteen countries that the information contained therein be brought to the attention of the Committee. The Secretariat stated that upon receipt of such requests from Member States, the Secretariat systematically made available the information to the relevant Committee in WIPO. Whilst the representative of the Secretariat was not in a position to comment on whether the document should have been an information document or a working document, he referred to earlier practice at the beginning of the discussions on the Development Agenda, where the Friends of Development had made a similar request. He stated that in fact, the information contained in that document had actually been brought to the knowledge of the Committee. He added that it was with such earlier practice in mind, that the Secretariat had brought the present information to the Committee. The Secretariat further added that it was up to the membership of the Committee to decide whether or not that practice should be continued, whether it was correct and what action, potentially, should be taken with respect to similar documents.
387. The Chair thanked the representative of the Secretariat for the clarification.
388. The Delegation of Egypt thanked the Secretariat for its remarks. The Delegation stated that what the Committee then had before it was a very serious issue. It added that a sovereign Member State, in fact 19 sovereign Member States were in a United Nations body and were being denied the right to present a document in a formal UN meeting.
389. The Delegation of Nigeria stated that nobody would ever deny anybody anything in the UN system and that was simply because agreement was always reached by consensus. It added that the matter was not about the Legal Counsel. The Delegation underlined that on several occasions the Legal Counsel had been called to clarify matters, and on each occasion the Legal Counsel had asked the membership to adhere to one element, essentially that the inter-governmental process was the master of its process. The Delegation stated therefore, the issue at hand was neither about the Legal Counsel nor the Secretariat. The Delegation elaborated that the Secretariat had referred to the document as an information document and that its most distinguished colleague and friend from Egypt had referred to it as a general statement. It pointed out that if what the Member States wanted was for the document to be an information document then, that is what it should be. The Delegation further stated that every country had a right to make a proposal. However, the proposal was never interpreted as a decision. The Delegation therefore insisted that due process be followed and that the document remained merely as information for Member States. It added that the information contained in the document should remain in the minds of Member States until the next meeting and maybe by that time, Nigeria would have become a member of the Development Agenda Group and thus there would no longer be a need for its Delegation to contest the document.
390. The Delegation of Switzerland expressed its full support for the statement made by Nigeria and stated that it had perfectly summed up the situation. The Delegation

added that the intention was not to deny any country the right to provide information on their activities. However, the fact that a document which contained no specific proposal had been submitted, the Delegation was not in a position to accept the document as a working document. The Delegation added that it would not have difficulty accepting the document as an information note, in particular as every delegation had the right to submit a proposal in the context of the Development Agenda. The Delegation made reference to the case of the Friends of Development, which had been mentioned by the Secretariat. The Delegation of Switzerland highlighted that the Group of Friends of Development had put forward specific recommendations and a means of incorporating those recommendations was found. The Delegation underscored that the rules surrounding the practice of the Committee were very clear and that they were understood by all. The Delegation reaffirmed its position that the document in question could not, in its opinion, be viewed as a working document and that it could only be considered as an 'information document'.

391. The Delegation of Iran stated that in the UN system, any country had the right to register a paper with official numbering. It added that there was no need for others to agree on that. The Delegation referred to the Secretariat's statement that the Rules of Procedure were silent on the subject. However, the Delegation mentioned that there were some documents which had been registered as working documents and were never discussed in committees. It further added that if there were no clear rules of procedure on the matter, then there was at least a precedent and as such, the document in question could in fact be registered as an official document.
392. The Delegation of India stated that the situation was becoming clearer and clearer to it. The Delegation elaborated that the Secretariat had indicated that there were no rules governing the issue in the Rules of Procedure but there were precedents on the issue given that the Group of Friends for Development had presented a similar paper, including those from Ecuador, Paraguay, and one other GRULAC country, and that the decision was up to the Member States. The Delegation of India reiterated that the reasoning behind the Development Agenda Group's request to have that paper included as an official document was simply so as to be an open and inclusive group. The Delegation then made reference to the paragraph under section 3 of the document, which openly invited Member States that shared the Development Agenda Group's vision of mainstreaming the Development Agenda, to join the group. It added that the document in question was merely an introduction to the Development Agenda Group and its vision. The Delegation concluded that in terms of substance and procedure the document had every right to be included as an official document of the Committee and it implored that its request be granted.
393. The Delegation of Egypt stated that after having had very productive discussions, as well as a fairly consensual and positive atmosphere throughout the previous days, it was truly disappointed that the Committee had suddenly reached a negative level of discussion. The Delegation underscored that the document before the Committee was a call for bridge-building, cooperation, and for others to join in the undertaking of building a consensus within WIPO. It added that it did not expect that a call of that nature would have been met by such hostility, isolation and denial with respect to making the document in question an official document of the fifth session of the CDIP. The Delegation then referred to a precedent in which a document, SCCR/19/13 of the Standing Committee on Copyright, had not been discussed but yet had acquired the status of an official document. The Delegation stated that the said document had been presented by Brazil, Ecuador and Paraguay, on a WIPO Treaty for the visually-impaired and that there was no such discussion about that document. The Delegation therefore requested that the document CDIP/5/9 be treated in the same manner.

394. The Chair stated that the interpreters could no longer continue and therefore thanked them enormously for their patience and good work. The Chair indicated that discussions would proceed in English only and that he would recommend a break for a couple minutes.
395. The Chair resumed the session and stated that after long consultations, he was happy to report that an agreement had been reached to proceed on the matter, with the following changes being made to the document CDIP/5/9: (i) the title would consequently read as “Information on the Development Agenda Group Guiding Principles”; The sub-heading to the title that said “document prepared by the Secretariat”, would be deleted. (ii) In paragraph 1, line 3, the words “while referring to a newly constituted Development Agenda Group”, would be deleted; and finally, paragraph 3 would be deleted. The Chair suggested that if there were no objections, the changes should be incorporated. The Chair then proceeded to the Agenda Item 11, Summary by the Chair.

Agenda Item 11: Summary by the Chair

396. The Chair stated that a few delegations had indicated that without interpretation in other languages, they would not be in a position to adopt the Chair’s Summary. The Chair therefore requested the Secretariat to post the existing draft Summary on WIPO’s website in all languages. He stated that delegations would be requested to make comments within a certain time period, and that after the necessary iterations, the Summary would be adopted. The Chair then closed Agenda Item 11.

Agenda Item 12: Closing of the Session

397. In closing the meeting, the Chair expressed his contentment with the very productive session of the Committee and thanked all delegations for their cooperation. He thanked the Secretariat for its extensive support to the work of the Committee as well as the Interpreters, in spite of their absence at that time of night, for a wonderful job and for having stayed with the Committee for such a long time. The Chair then pronounced the Session closed.

[Annex follows]

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PALESTINE

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III. ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES/
INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

CONFÉRENCE DES NATIONS UNIES SUR LE COMMERCE ET LE DÉVELOPPEMENT
(CNUCED)/UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT
(UNCTAD)

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ORGANISATION DES NATIONS UNIES POUR L'ALIMENTATION ET L'AGRICULTURE
(FAO)/FOOD AND AGRICULTURE ORGANIZATION OF THE UNITED NATIONS (FAO)

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ORGANISATION MONDIALE DE LA SANTÉ (OMS)/WORLD HEALTH ORGANIZATION (WHO)

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COMMISSION DES COMMUNAUTÉS EUROPÉENNES (CCE)/COMMISSION OF THE EUROPEAN COMMUNITIES (CEC)

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ORGANISATION RÉGIONALE AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (ARIPO)/AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)

C. J. KIIGE, Director Technical, Harare

OFFICE EUROPÉEN DES BREVETS (OEB)/EUROPEAN PATENT OFFICE (EPO)

Johan AMAND, Consultant, Munich

OFFICE DES BREVETS DU CONSEIL DE COOPÉRATION DES ÉTATS ARABES DU GOLFE (CCG)/PATENT OFFICE OF THE COOPERATION COUNCIL FOR THE ARAB STATES OF THE GULF (GCC PATENT OFFICE)

Abdullah S. ALMAZROA, Director, Substantive Examination Department, Riyadh

ORGANISATION EURASIENNE DES BREVETS (OEAB)/EURASIAN PATENT ORGANIZATION (EAPO)

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ORGANISATION MONDIALE DU COMMERCE (OMC)/WORLD TRADE ORGANIZATION (WTO)

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GROUPE DES ÉTATS D'AFRIQUE, DES CARAÏBES ET DU PACIFIQUE (GROUPE DES ÉTATS ACP)/AFRICAN, CARIBBEAN AND PACIFIC GROUP OF STATES (ACP GROUP)

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ORGANISATION INTERNATIONALE DE LA FRANCOPHONIE (OIF)

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Nirmalya SYAM, Program Officer, Innovation and Access to Knowledge Program, Geneva

Heba WANIS (Ms.), Intern, Innovation and Access to Knowledge Program, Geneva

ORGANISATION DES ÉTATS DES ANTILLES ORIENTALES (OEAO)/ ORGANIZATION OF EASTERN CARIBBEAN STATES (OECS)

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IV. ORGANISATIONS INTERNATIONALES NON GOUVERNEMENTALES/ INTERNATIONAL NON-GOVERNMENTAL ORGANIZATIONS

3→ Trade - Human Rights - Equitable Economy (3D)

Violette RUPPANNER (Ms.) (directrice, Genève); Claudio BRENNI (assistant de programme, Genève); Geoffrey TANSEY (membre, Hebden Bridge, Royaume-Uni)

Association IQSensato (IQSensato)

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Association pour la promotion de la propriété intellectuelle en Afrique (APPIA)/Association for the Promotion of Intellectual Property in Africa (APPIA)

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Centre international de commerce et de développement durable (ICTSD)/International Center for Trade and Sustainable Development (ICTSD)

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Centre pour le droit international de l'environnement (CIEL)/Centre for International Environmental Law (CIEL)

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Chambre de commerce des États Unis d'Amérique (CCUSA)/Chamber of Commerce of the United States of America (CCUSA)

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Chambre de commerce internationale (CCI)/International Chamber of Commerce (ICC)

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Civil Society Coalition (CSC)

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Creative Commons International (CCI)

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CropLife International

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Electronic Frontier Foundation (EFF)

Markku RÄSÄNEN (Member of the Board, Electronic Frontier Finland)

Electronic Information for Libraries (eIFL)

Teresa HACKETT (Ms.) (Project Manager eIFL-IP, Rome)

European Digital Rights (EDRI)

Markku RÄSÄNEN (Member of the Board, Electronic Frontier Finland)

European Information and Communications Technology Industry Association (EICTA)

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Fédération ibéro-latino-américaine des artistes interprètes ou exécutants (FILAIE)/

Ibero-Latin-American Federation of Performers (FILAIÉ)

Luis COBOS (Presidente, Madrid); Miguel PÉREZ SOLÍS (Asesor Jurídico, Madrid); Carlos LÓPEZ SÁNCHEZ (Asesor Jurídico, Madrid); Paloma LÓPEZ PELÁEZ (Sra.) (Asesor Jurídico, Madrid); José Luis SEVILLANO (Asesor Jurídico, Madrid)

Fédération internationale de l'industrie du médicament (FIIM)/International Federation of Pharmaceutical Manufacturers Associations (IFPMA)

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Fédération internationale de l'industrie phonographique (IFPI)/International Federation of the Phonographic Industry (IFPI)

Gadi ORON (Senior Legal Advisor, London)

Fédération internationale des associations de producteurs de films (FIAPF)/International Federation of Film Producers Associations (FIAPF)

Bertrand MOULLIER (Senior Expert, International Affairs, Paris)

Fédération internationale de la vidéo (IVF)/International Video Federation (IVF)

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Fédération internationale des associations de distributeurs de films (FIAD)/International Federation of Associations of Film Distributors (FIAD)

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Friedrich Ebert Stiftung (FES)

Türkan KARAKURT (Ms.) (Director, Geneva); Phillip WINTER (Representative, Geneva)

Fundação Getulio Vargas (FGV)

Joana VARON FERRAZ (Miss) (Project Manager, Center for Technology and Society, Rio de Janeiro)

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International Organization of Performing Artists (GIART)

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Ingénieurs du Monde (IdM)

François ULLMANN (président, Genève); Raymond ULLMANN (directeur, Genève)

International Trademark Association (INTA)

Bruno MACHADO (Geneva Representative, Rolle)

Knowledge Ecology International (KEI)

Thiru BALASUBRAMANIAM (Representative, Geneva)

Library Copyright Alliance (LCA)

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Médecins Sans Frontières (MSF)

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Third World Network (TWN)

Sangeeta SHASHIKANT (Miss) (Legal Advisor, Geneva); Dina ISKANDER (Ms.) (Researcher, Cairo)

Union internationale des éditeurs (UIE)/International Publishers Association (IPA)

Jens BAMMEL (Secretary General, Geneva)

V. BUREAU/OFFICERS

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Secrétaire/Secretary: Irfan BALOCH (OMPI/WIPO)

VI. SECRÉTARIAT DE L'ORGANISATION MONDIALE DE LA
PROPRIÉTÉ INTELLECTUELLE (OMPI)/
SECRETARIAT OF THE WORLD INTELLECTUAL
PROPERTY ORGANIZATION (WIPO)

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Geoffrey ONYEAMA, vice-directeur général, Secteur de la coopération pour le
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(CDIP) and Acting Director, Development Agenda Coordination Division

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