

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

### **Eighth Session Geneva, November 14 to 18, 2011**

#### **REPORT**

*adopted by the Committee*

1. The eighth session of the CDIP was held from November 14 to 18, 2011.
2. The following States were represented: Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Barbados, Belgium, Bolivia (Plurinational State of), Bulgaria, Burkina Faso, Burundi, Cambodia, Canada, Chile, China, Colombia, Côte d'Ivoire, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Dominican Republic, Egypt, El Salvador, Ethiopia, France, Georgia, Germany, Ghana, Greece, Guinea, Haiti, Holy See, Honduras, Hungary, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Kenya, Latvia, Lebanon, Luxembourg, Madagascar, Malaysia, Mauritius, Mexico, Monaco, Montenegro, Morocco, Myanmar, Namibia, Nepal, Netherlands, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saint Kitts and Nevis, Saudi Arabia, Senegal, Singapore, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Zambia and Zimbabwe (97).
3. The following intergovernmental organizations (IGOs) took part as observers: United Nations Conference on Trade and Development (UNCTAD), Food and Agriculture Organization of the United Nations (FAO), European Union (EU), African Regional Intellectual Property Organization (ARIPO), European Patent Office (EPO), Patent Office of the Cooperation Council for the Arab States of the Gulf (GCC Patent Office), World Trade Organization (WTO), World Health Organization (WHO), South Centre, African Union (AU), Organization of Islamic Cooperation (OIC) and United Nations University (12).

4. Representatives of the following non-governmental organizations (NGOs) took part as observers: Association IQSensato, Centre for International Intellectual Property Studies (CEIPI), Civil Society Coalition (CSC), Creative Commons Corporation, CropLife International, Ibero-Latin-American Federation of Performers (FILAIE), *Ingénieurs du Monde (IdM)*, International Centre 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 Publishers Association (IPA), International Trademark Association (INTA), International Video Federation (IVF), Knowledge Ecology International (KEI), Library Copyright Alliance (LCA), *Médecins Sans Frontières (MSF)* and Medicines Patent Pool (19).

5. Ambassador Md. Abdul Hannan, Permanent Representative of Bangladesh chaired the session.

#### Agenda Item 1: Opening of the Meeting

6. The Chair welcomed all the delegations to the eighth session of the CDIP. He informed the meeting that the Director General, Dr. Francis Gurry, had personally wanted to be present, but due to unavoidable reasons, was unable to attend. Therefore, he would be represented by the Deputy Director General Development Sector, Mr. Geoffrey Onyeama. The Chair expressed appreciation for the continued support and cooperation shown to him during the last CDIP session. He expressed confidence that with the delegations' continued engagement, the CDIP would maintain the positive momentum in the present session. The Chair called upon the meeting to name a candidate for the position of a second Vice-Chair for the consideration of the Committee. It was noted that, during the 40th Session of the General Assembly of WIPO, Member States had expressed their firm commitment to advance the work of the CDIP. During the session and beyond, Member States should continue to work in an open and constructive manner in order to make further progress. There was a heavy agenda to be covered by the meeting within the time available. All delegates were urged to be brief and focused in their interventions. Members were invited to consider Agenda Item 2, and the adoption of the Draft Agenda contained in document CDIP/8/1/Prov 2.

#### Agenda Item 2: Adoption of the Agenda

7. The Delegation of the Republic of Korea with regard to Agenda Item 3, "Monitor, assess, discuss, report on implementation of all Development Agenda Recommendations", proposed that the Secretariat should brief the CDIP on the activities regarding the Development Agenda which utilized extra-budgetary resources when it discussed progress reports on projects implementation under the CDIP. The Delegation noted that at the present time, various projects of Development Agenda had been implemented through the regular budget. In addition, WIPO was carrying out many projects which were closely related to CDIP projects through extra-budgetary resources. For example, at the third session of the CDIP held in April 2009, Korea had proposed two projects namely: Capacity-building in the use of Appropriate Technology and IP, and Product Branding for Business Development in Developing and Least Developing Countries. Those projects proposals were ultimately approved at the fifth session of the CDIP and were being implemented by the Secretariat. In the meantime, given the significance of the Development Agenda and earlier mentioned projects, Korea supported the successful operation of the regular budget-funded projects of the Development Agenda by carrying out extra-budgetary programs, through the Korea Funds-in-Trust at WIPO. One project which fell under those extra-budgetary programs was the appropriate technology competition and workshop under the theme of Innovative solutions for every day life, held in June in Ethiopia and Malaysia. In addition, Korea launched the "One Village, One Brand" project in cooperation with Asia-Pacific Economic Cooperation (APEC) in line with the product branding project that it had

initiated with the CDIP. The Delegation was pleased to inform the Member States that those related projects that used extra-budgetary resources were a great success. Many developing countries had shown interest in participating in the projects and had requested more information. Accordingly, it would be most beneficial and useful to share the results of those related projects among Member States whilst discussing the progress of the projects funded through the regular budget as approved by the CDIP. The Delegation further noted that the study on External Review of WIPO's Technical Assistance in the Area of Cooperation for Development", document CDIP/8/INF/1, clearly stated in paragraph 2 of the summary that "WIPO should reduce duplication and overlap of activities within the Organization and with other providers to improve efficiency and sustainability". The Delegation stated that improvement in cost efficiency meant improving the transparency of the cost and the source of allocations associated with WIPO development activities. It fully agreed with overall approach of the study and believed that in order to effectively and transparently implement the Development Agenda, there was the need to coordinate all projects utilizing the regular budget as well as extra-budgetary resources by sharing information on related activities. The Delegation also believed that such practice would be conducive to the success of the Development Agenda projects by raising their visibility amongst Member States. The Secretariat requested to be provided the content and results of extra-budgetary allocations during the discussion on the progress report under Agenda Item 3. It requested the Secretariat to brief, for the first time, in the Committee on Capacity-Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges. Finally, the Delegation noted that after having taken that project into consideration as a solid model, the CDIP might consider other similar extra-budgetary projects at its next session. Similarly, the CDIP might discuss the possibility of inviting other relevant bodies like APEC, which was implementing similar projects, to share experiences and best practices.

8. The Delegation of South Africa drew the Committee's attention to the project proposal by the Delegation of Burkina Faso entitled "Project for Reinforcement and Development of the Audio Visual Sector in Africa", and requested that that project proposal be discussed under agenda item 4. It noted that the Delegation of Burkina Faso would elaborate further under that Agenda item.

9. The Delegation of Burkina Faso welcomed the untiring efforts of the Chair and the flexibility shown by other delegations in reaching an agreement on South-South cooperation project and concluding the seventh session of the Committee. The Delegation informed that it had sent a Note Verbale to WIPO about a project proposal for the development of the audio visuals sector in Africa with the request that the proposal be distributed as an official document to the eight session of the CDIP. The Delegation thanked the Secretariat for having done that and requested that the proposal be considered under item 4 of the agenda as pointed out by the African Group Coordinator.

10. The Delegation of Japan, referring to the proposal made by the Delegation of the Republic of Korea concerning the presentation by the Secretariat on the implementation of the projects financed by extra-budgetary resource, stated that Japan also was a contributor to the project on IP advantage which was to showcase successful stories of the utilization of intellectual property. In that sense the Delegation shared the idea to have the presentation by the Secretariat on projects funded from extra-budgetary resources. The Delegation was however flexible on the timing of having a presentation as the Committee had a lot to deal with during that particular session.

11. The Chair said that a number of countries contributed to the extra-budgetary activities and there were definitely some success stories but in view of the heavy agenda before the session he invited delegations to consider if the matter should be considered at the present session or at CDIP/9. The Chair then invited a response from the Delegation of the Republic of Korea.

12. The Delegation of the Republic of Korea agreed with the Chair in view of the time that might be required to receive the briefing from the Secretariat.
13. The Chair invited the Committee to comment if the proposal by Burkina Faso which was also presented by South Africa could be considered under agenda item 4.
14. The Delegation of the United States of America (USA) stated that while it was very eager to look at that proposal, in light of the very heavy schedule of activities during that week, it would prefer to consider it at the next session, CDIP/9.
15. The Delegation of Germany proposed that while the Committee could discuss the Burkina Faso proposal in CDIP/9, it should be included in the agenda for the current session so as to have an opportunity to prepare and learn.
16. The Delegation of South Africa stated that it was about to explain why it favored the introduction of the proposal at the eighth session but the Delegation of Germany had done so and that it supported what was said. The main thing was to familiarize the Committee with the project proposal and then consider it at the ninth session.
17. The Chair thanked South Africa who proposed the project proposal and gave the way forward. The Committee could take note of the project proposal and hold detailed discussion at CDIP/9.
18. The Delegation of Burkina Faso confirmed its agreement to what had been said by the African Group Coordinator that the document be distributed at that session and discussed at the next session.
19. The Chair, thanking Burkina Faso for the understanding declared the agenda adopted and informed the Committee that the Secretariat will circulate the revised agenda shortly. In view of the heavy agenda before the session, the Chair urged delegations to be focused and brief. He informed the Committee of his intention to take up the agenda items in sequence as they were mentioned in the agenda. The Chair then gave the floor to the Deputy Director General, Mr. Geoffrey Onyeama to address the Committee.

Address by the Deputy Director General, Mr. Geoffrey Onyeama

20. The Deputy Director General, Mr. Geoffrey Onyeama welcomed the delegations on behalf of the Director General, Mr. Francis Gurry, who had planned to be present at the opening but as the session did not start as planned, had to leave for another engagement. Mr. Onyeama extended a very warm welcome to the delegations and expressed his satisfaction at the agreement in respect of the seventh session of the Committee which highlighted the importance of consensus building and multilateralism. The Secretariat was particularly happy that it was not felt necessary to go to vote, and thanked all delegations for their flexibility in facilitating that agreement and for enabling that very important Committee to move forward with its agenda. Mr. Onyeama further stated that that session was presented with a number of documents relating to the Development Agenda implementation. There were project completion reports for two projects and progress report on 18 projects and a progress report with regards to the 19 recommendations for immediate implementation. In preparing the above reports, in particular on the implementation of the 19 recommendations, the Secretariat had made an effort to avoid duplication of reporting. Accordingly, appropriate references had been provided to the Organization's PPR of 2010, in order to avoid reproducing all that information. All the information could be found in the Performance Report for 2010, and hopefully that would not prove to be too inconvenient for delegations. Similarly, references had been provided to the information contained in the technical assistance database which contained all the information with respect to the technical assistance activities that had been carried out. Hence, as

compared to the past, the whole list of technical assistance activities in pursuance of the 19 recommendations was not reproduced. The session had also been provided with a number of studies and other outputs of the ongoing Development Agenda projects. Those outputs clearly demonstrated the nature of work undertaken in the implementation of the Development Agenda, and of course any agreed follow-up work might be integrated into the Organization's activities. The Committee also had before it an external review of WIPO's technical assistance in the area of cooperation for development which had attracted a lot of attention. The Secretariat looked forward to a meaningful and constructive discussion on that document and also to implement the agreed recommendations in a systematic manner following an engagement within the CDIP. The current session of the CDIP for the first time had also received the report of the various WIPO bodies on the implementation of the Development Agenda. That, of course, was forwarded to it by the WIPO General Assembly in the context of the Coordination Mechanism and Monitoring, Assessing and Reporting modalities. The next session of the CDIP would receive further project completion reports together with evaluation reports for consideration.

Mr. Onyeama concluded by wishing the Committee a successful session.

21. The Chair thanked Mr. Onyeama for his pertinent remarks and insight that would guide the discussion during the week. He then invited the Committee for general statements and requested Delegations to provide a copy of their statement to the Secretariat in written form so that those could be reflected in the report of the Committee.

#### General Statements

22. The Delegation of Pakistan, speaking on behalf of the Asian Group, expressed its pleasure to see the Chair to continuing presiding over the Committee. The Asian Group was pleased and encouraged to note that concrete progress was being made in the work of the Committee, the efforts to ensure greater development orientation in WIPO's work and the concrete progress being made towards meaningful and genuine mainstreaming of the Development Agenda. The Group commended the Director General and his team for laying the foundation of a sustained and meaningful organizational transformation where developmental considerations automatically became an integral part of WIPO's work. The Group appreciated the several important steps taken by WIPO Member States, the Director General and his team to ensure greater developmental orientation in WIPO's work through development-friendly norm-setting and other initiatives in WIPO's substantive committees, including the establishment of linkages between the Development Agenda recommendations and various WIPO programs in the Program and Budget and the Program Performance Reports, the integration of Development Agenda projects and activities in WIPO's Results-Based Management Framework, and the integration of the Development Agenda in the WIPO Academy's training modules. In the Group's view, those positive efforts would go a long way in shaping the development orientation of the Organization. While the Asian Group was greatly encouraged by those positive developments, there would always be more that needed to be done to realize a vision as large as that of the Development Agenda on which all WIPO Member States had agreed. The Group was happy to note that during the last session of the CDIP, discussions had advanced on some issues, especially the project proposal on IP and Brain Drain, and the second part of the study on flexibilities, and looked forward to a substantive progress during that session on all the agenda items. The Asian Group thanked the Secretariat for the well-prepared and updated documents for that session, and was particularly interested in the external review of WIPO technical assistance in the area of cooperation for development. That study needed to be given its due importance and the Committee needed to look into its recommendations to improve the Organization's technical assistance in the area of cooperation for development. It was the first time that such a review had been undertaken, and hence the Committee should make sure that sufficient time was allocated to discuss the report thoroughly and see how to advance the recommendations that were made in the report. Another important document was the future work program on flexibilities in the intellectual property system. Determining how

IP-related flexibilities could be fully and effectively used in accordance with the development and public policy objectives was a key challenge faced by most developing countries and LDCs. That key challenge must be addressed by WIPO in accordance with the Development Agenda recommendations. The Asian Group believed that the current work in that area was insufficient and Member States must advance a work plan on IP flexibilities. For the better progress of the IP system, a balance was pivotal and that balance lied in understanding the available flexibilities. All IP policies and work hinged on that balance. The work program on that issue should build upon the conceptual understanding of various already available IP flexibilities and examining how those flexibilities were actually implemented in practice in key areas of public policy. The Delegation added that the legal, institutional and administrative constraints in making full use of the flexibilities and how to build a facilitative environment for making full use of the flexibilities to promote development and public policy objectives should also be addressed. The work program could lead to the development of a technical the legislative assistance toolkit which could address the challenges faced by countries in making full use of the flexibilities and means of overcoming those challenges. The Group was hopeful that that session would see an agreement in that critical area. The Asian Group noted with satisfaction that most of the ongoing projects were proceeding apace and appreciated the contribution being made by those projects. A number of projects were expected to be completed in 2012. However, some projects might not be completed during the planned period. The delayed projects needed to be expedited with adequate financial and human resources allocated to them in a timely manner. While noting that some of the projects were reaching completion, the Group wished to reiterate that the termination of a project did not translate into implementation of specific Development Agenda recommendations. As agreed earlier while adopting the project based approach, the Development Agenda was a long-term work-in-progress and Member States should be free to propose new or additional projects for consideration of the Committee if considered necessary. Currently, various Development Agenda projects were being implemented through the regular budget. Apart from those, WIPO was also carrying out several projects which were closely related to the CDIP projects through extra-budgetary resources. The Group believed that it would be most beneficial to share the results of those related projects which utilized extra-budgetary resources among Member States while addressing the progress of the regular budget projects approved by the CDIP. Another important document in front of the Committee was the description of the contribution of the relevant WIPO bodies to the implementation of the respective Development Agenda recommendations. Since that was the first time that such a document had been forwarded by the General Assembly to the CDIP, it would be important to look into that description and to see what improvements could be made and how the Committee could ameliorate the implementation of the Development Agenda Recommendations in the work of the various WIPO committees. The members of the Asian Group also hoped that a new agenda item which allowed for discussions on the important linkages between IP and development would be inscribed in the future CDIP agenda. The Group noted that out of the three elements of the mandate given to the CDIP by the WIPO General Assembly in 2007, two of the elements were currently reflected in the CDIP's agenda. However, the third element that was "to discuss IP and development-related issues" was yet to be addressed in the Committee, even though it had been mandated to do so by the General Assembly. In the Asian Groups' view, the Committee would be amiss in complying with the Assembly's mandate if it did not address the key issue of IP and development. Finally, the members of the Asian Group expressed their sincere appreciation to the Director General and the Secretariat for the well-prepared, useful and encouraging documentation and their work. The Group believed that all should be proud of what had been collectively achieved in implementing the Development Agenda in the last few years and looked forward to a continuing commitment and political will in consolidating and building further on what had been achieved. The Group, for its part, remained committed to engaging constructively in the forthcoming discussions in the Committee and looked forward to a rejuvenated and substantive progress.

23. The Delegation of South Africa, speaking on behalf of the African Group, stated that the Group attached great importance to the work of the Committee. The Group was pleased for the

fact that the Committee had adopted the project on enhancing South-South cooperation on intellectual property and development among developing countries and least-developed countries. It was without a doubt that the project would add immense value in WIPO and further strengthen the mainstreaming of development within the Organization. The Group looked forward to elaborating on the terms of reference of the inter-regional meetings and the annual conference outlined in the project. The Delegation conveyed its special thanks to the Chair for demonstrating his leadership in resolving the impasse that led to the suspension of the seventh session of the Committee and expressed confidence that he would lead the Committee to another successful session. The African Group was encouraged by the quality of the documents under consideration in that session. The study on the external review of the WIPO technical assistance in the area of cooperation for development merited special mention. The African Group was of the view that the document was well-researched and the analysis and recommendations were well presented. The document touched upon the key aspects of the Development Agenda in general. Issues of definitions were well articulated as well as relevant matters pertaining to management of programs were well analyzed. The Delegation highlighted that the Group welcomed the criteria used in the document to define technical assistance activities for development and welcomed the recommendation that greater attention to development cooperation activities that enabled South-South cooperation should be a priority in WIPO. That recommendation augured well with the project by the African Group on enhancing South-South cooperation which was adopted that day. Since it was the first time a study of that nature was conducted in WIPO, the Group believed that sufficient time should be allocated to discussing the recommendations made by the experts. It was the Group's view that the study marked a number of useful recommendations that might be taken up by a working group to deliberate on them further. Similarly, the external study entitled *Assessing WIPO's Contribution to the Achievement of the Millennium Development Goals* prepared by Mr. Sisule Musungu was of interest to the Group. The findings of the report necessitated WIPO to implement them urgently considering that the review of the MDGs implementation was in four years' time. The African Group welcomed the report on the description of the contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations and noted, however, that some bodies such as the Program and Budget Committee, and the Committee on WIPO Standards did not provide their reports, primarily because the Committee had not agreed on the modalities to implement the decision of the WIPO General Assembly. The Group reiterated its support to the paper prepared by the Delegation of India entitled "draft texts proposed by India on modalities of the coordination, monitoring, assessing and reporting mechanism for the Development Agenda". That paper already comprised the modalities currently being implemented, albeit, on an *ad hoc* basis, to execute the decision of the General Assembly. The Committee must approve the modalities during the session, paying special attention to identify the relevant WIPO bodies that must report to the General Assembly on their contribution to implementing the Development Agenda recommendations. The African Group was also concerned that the third pillar of the mandate of the CDIP on discussing IP and development was yet to be included in its work program. As suggested in previous sessions of the Committee, the Group proposed that an agenda item entitled "Intellectual Property and development" be added to the agenda of the CDIP. That agenda item should ensure the complete implementation of the three pillars of the Committee. The Group reiterated its position that the agenda item would, *inter alia*, discuss how WIPO would address Development Agenda recommendation 40 which instructed WIPO to intensify its cooperation on IP related issues with other United Nations specialized agencies such as with the World Trade Organization (WTO), World Health Organization (WHO), United Nations Environment Program (UNEP) and the United Nations Conference on Trade and Development (UNCTAD), and others in order to strengthen coordination for maximum efficiency in undertaking development programs. The African Group believed that the agenda item on IP and development could facilitate discussion on the contribution of WIPO in the MDGs. The inclusion of that item was even more important in light of the recommendations made in the study on assessing WIPO's contribution to the achievement of the MDGs. The activities of WIPO could be discussed under that agenda item and would be easier to document the consolidated report of WIPO in 2015, when the review of

the MDGs took place. The Committee was also supposed to have already discussed the convening of a conference on IP and development in the last biennium and sufficient time should be allocated during the present session to avoid further delays and to hold the conference in the next biennium. At the last session of the Committee, the African Group had pronounced its support to the Scoping Study on Copyright and Public Domain by Professor Mrs. Séverine Dusollier. It believed that the recommendations contained in pages 70 and 71 were worthy of forming future work not only of that Committee but in the SCCR. The Group also looked forward to discussing the project on Intellectual Property and the Informal Sector. It was always important to remind the Committee of the position of the African Group that that project should be confined to assisting developing countries to utilize IP in the informal sector and not to promote enforcement measures related to counterfeit and pirated goods. The Group believed that such work should be left into the hands of the Advisory Committee on Enforcement. The Delegation further stated that there were a number of projects that needed to make meaningful progress including the projects on Patents and the Public Domain and the Future Work Program on Flexibilities in the Intellectual Property System. The Group believed that the Committee should make progress in those areas as the projects had been under discussion for quite some time. The African Group had in the past made suggestions under the item future work program on flexibilities in the intellectual property system, particularly mentioning the practical implementation and full use of patent flexibilities in critical areas of development such as public health, food security and agriculture. The Group looked forward to the constructive engagement and solution of moving forward on those two issues. The African Group also wished to bring to the attention of the Committee the project proposal by the Delegation of Burkina Faso entitled "Project for the Reinforcement and Development of the Audio-visual Sector in Africa". The proposal would be introduced by the Delegation of Burkina Faso under the agenda item 4. The Committee was requested to consider the project favorably with a view to discussing it further at the ninth session. During the course of the week, the African Group urged the Committee to aim at reaching agreements on the following: (1) the modalities of reporting by WIPO committees to the General Assembly, (2) new agenda item in the CDIP to discuss the interface between IP and development, (3) work program on flexibilities in the IP system, and (4) establishing a working group to examine the recommendations made by the external review of WIPO's technical assistance.

24. The Delegation of the USA speaking on behalf of Group B, thanked the Chair for the efforts to resolve some of the outstanding issues and the Secretariat for making available all the documents for the session. That week the CDIP would take up a number of important projects and studies. Unfortunately, because of the result of the seventh session, the Committee lost valuable time in bringing closure to that session, which included the studies and projects that were tentatively agreed to but not formally adopted. Therefore, the Committee must strive to move through the agenda in a well-organized manner whilst ensuring a balanced discussion. Group B was eager to see the results of the external review of WIPO technical assistance. As the Committee would recall, the review was expected to be released prior to the seventh session in May, but due to extraneous events, it was not released to Member States until early September. With the finalization of the 2012/2013 Program and Budget, and the General Assembly taking up most of the collective effort and time of delegates, the Delegation thought it fair to say that few delegates had had the opportunity to fully digest the contents of the paper. In fact, the review was 280 pages long with a 35-page summary. There were many interesting points raised and recommendations offered but Group B considered it wise to allow for a detailed review and analysis of the paper before undertaking discussions and that included any decision on creating a working group. The Delegation assured the Chair of its constructive spirit and the support of the delegations of Group B during that session of the CDIP, adding that from the recent adoption of the South-South project one saw that differences could be resolved for the common good.

25. The Delegation of Slovenia speaking on behalf of the regional group of Central European and Baltic States (CBBS) expressed the Group's commitment to the ongoing work in the



Committee and assured the Chair of its continuing support. It thanked all the regional groups, the WIPO Secretariat and the Chair for the flexibility, constructive spirit and intensive work which enabled the Committee to overcome the impasse which was unfortunately created at the seventh session of the CDIP. The Delegation was confident that a successful outcome was achievable. The CEBS Group had been supporting the South-South cooperation project and would continue to underpin the efforts which lead towards developing and strengthening the essence of that project. That was in line with the agreement reached at the resumed seventh session earlier that day. The agenda for the eighth session included several very important issues, among others, the coordination mechanism and monitoring, assessing and reporting modalities for the Development Agenda recommendations. After more than a year of comprehensive discussions, Member States had a better understanding of how the Development Agenda was mainstreamed in the work of WIPO and how its recommendations were being implemented. At the eighth session, the Committee had the opportunity to assess the current situation which would facilitate the way towards finalizing any outstanding issues. The Group reassured the Chair of its constructive participation in tackling each agenda item.

26. The Delegation of Nepal, speaking on behalf of the LDCs Group recalled the resolution adopted by the General Assembly on the integration of the Istanbul Program of Action for LDCs for 2011-2020. The Istanbul Program of Action identified a number of priority areas for action by the LDCs, development partners, multilateral organizations and other stakeholders. There were a number of key areas which were relevant to WIPO's expertise and for which the Organization's contributions were crucial. That included enhancing productive capacity, agriculture, food security, rural and social development, trade development, technology, addressing multiple crises and emerging challenges. Technical assistance and capacity building for LDCs were vital in that regard. Needs assessments should reflect national needs and priorities. The strengthening of human, institutional, technological and physical infrastructure was required to harness the innovative and creative potential of LDC nationals and to provide for a fair, equitable and efficient IP regime. The Group expressed its satisfaction with progress in the implementation of LDCs-related Development Agenda projects. It was also encouraged to learn that the budget allocated to development cooperation activities and the implementation of the Development Agenda projects had been increased. However, it was concerned that the external review had identified significant shortcomings in the distribution of WIPO's budget and expenditure for development cooperation activities. It was essential for those to be addressed. On the feasibility study on the establishment of national patent register databases and linkages to Patentscope, the creation of a global portal with links to national databases was important in the dissemination of patent information. The study also identified the necessary requirements for implementation. There was a need to extend adequate assistance to LDCs in that regard, particularly in relation to digitization and infrastructure pre-requisites. Document CDIP/8/6, Description of the contribution of the relevant WIPO Bodies to the implementation of the respective Development Agenda Recommendations, required detailed consideration to ensure that the Development Agenda was mainstreamed in all relevant WIPO bodies. On document CDIP/8/4, Assessing WIPO's contributions to the achievement of the MDGs, the Group concurred with the author's observation that more could be done to enhance WIPO's contribution to the MDGs. The strengthening of technological capability in production, investment and innovation were crucial to the accumulation of knowledge and wealth creation. A new set of tools was also required to address issues not previously foreseen. There was an urgent need for technology transfer and dissemination of information to assist in the creation of a sound and viable technological base to promote knowledge, creativity and innovation for economic and social development.

27. The Delegation of Panama, speaking on behalf of GRULAC, recalled the objectives for the establishment of Committee. The Committee played an important role in the implementation of programs to promote development in developing countries. As such, outstanding issues must be resolved to allow for the continuation of work. The Delegation recalled that paragraph 2 of document CDIP/1/2, Procedural and Organizational Matters, stated that the Committee

would consist of all WIPO Member States. Observer status would be extended to intergovernmental and non-governmental organizations with permanent observer status in WIPO, and to intergovernmental and non-governmental organizations admitted by the Committee on an *ad hoc* basis. Thus, participation in the Committee was based on the principle of inclusion and not on exclusion.

28. The Delegation of Poland, speaking on behalf of the European Union and its Member States, expressed its readiness to agree on modalities for coordinating, monitoring, assessing and reporting on the implementation of the Development Agenda. An agreement should include a list of relevant WIPO bodies expected to report annually to the General Assembly on the manner in which the Development Agenda was being mainstreamed in its work and how it was contributing to the implementation of relevant recommendations. It was important that bodies which related to the internal functioning of the Organization, and those which did not deliver IP related functions, were not distracted from their work. It also understood that any formal decision would require adoption by the General Assembly.

29. The Delegation of Algeria, speaking on behalf of the Development Agenda Group noted that there had been good progress in the integration of development aspects in key areas, particularly in relation to technical assistance and the budget. It was important for development to remain a strategic priority for WIPO in the next biennium as that could only assist in the implementation of the Development Agenda. In that context, it was essential for work to continue on the definition of objectives and activities pertaining to development and the related costs. That was required for the establishment of budget lines and projects for the next biennium. It also noted that activities aimed at making IP a tool for economic development were already underway in various countries. It was encouraged by progress in the implementation of the Development Agenda in WIPO's work, in particular, developments in the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC). The balanced approach of the committee ensured that limitations and exceptions were fully taken into account in their work. It was important that work on the implementation of the Development Agenda should continue in all relevant WIPO bodies. Concerning document CDIP/8/2, there was a need for greater transparency with regard to project beneficiaries and other information which could assist in understanding the value of those projects. It also noted that some projects were significantly delayed. Those required the allocation of additional resources, both human and financial, for implementation. Concerning document CDIP/8/4, the Delegation believed that the indicators used to assess WIPO's contribution to the achievement of the MDGs were insufficient and a link should be established between the IP aspects of the MDGs and the implementation of Development Agenda recommendations. That would allow for a parallel to be drawn between the Development Agenda and WIPO's contribution to the achievement of the MDGs.

30. The Delegation of Iran associated itself with the statements made by the Delegation of Pakistan on behalf of the Asian Group and the Delegation of Algeria on behalf of the Development Agenda Group. The implementation of the coordination mechanism was problematic due to ambiguities in the modalities for reporting. As such, there was a need to agree on modalities for committees to report to the General Assembly. The first set of reports submitted by various WIPO bodies to the General Assembly would be reviewed at the present session of the Committee. That was important as it was through that Committee that Member States were able to evaluate the extent to which the Development Agenda had been mainstreamed into WIPO's work. The Delegation stressed the need for all WIPO committees to assess and provide a description of their contribution to the implementation of Development Agenda recommendations relevant to their work. As regards the South-South cooperation the Delegation stated that it was an established practice within the UN system. The adoption of the proposal from the African Group on enhancing South-South cooperation on IP could provide an additional platform for WIPO to assist developing countries in improving their cooperation in facing common IP-related challenges. As regards the future work on IP flexibilities, the

Delegation stated that the work program proposed by the Secretariat could be useful in promoting development and public policy objectives and in addressing the challenges faced by many developing countries. On the work of the Committee, its approved mandate was broad and included discussion of IP and development-related issues. The discussions had not taken place due to the adoption of a project-based approach to the Committee's work. However, that was an important element of its mandate and should not be neglected any further. Those discussions were essential in establishing pro-development norms and in addressing IP-related challenges which were impediments to development. It was unfortunate that the proposal made by the Development Agenda Group in the sixth session for the inclusion of an agenda item to discuss IP and development had not yet been adopted by the Committee. The Committee should also be in a position to monitor all WIPO activities that had development implications in order for shortcomings to be rectified. WIPO's involvement and contribution to IP-related work in other international bodies was a sensitive issue and should be carefully discussed by the Committee. In that context, the Delegation strongly believed that the technical advice given by WIPO should represent the consensus view of its Member States.

31. The Delegation of Brazil observed that important challenges remained in the implementation of the Development Agenda. Implementation was a work in progress. It was dependent on the commitment by Member States as well as on the cultural change in the Organization's approach to its work. The process for change had begun but much remained to be done. There was, in particular, a need to rethink the IP system so as to reflect the interests and demands of all countries, and to examine the interaction between IP and development. In that context, the Delegation recalled the proposal made by the Development Agenda Group at the sixth session, for the Committee to discuss the interface between IP and development. That discussion was required to provide guidance on how international IP regime should be developed to reflect the needs of countries at varying stages of development. As regards document CDIP/8/2, Progress Reports, although the document had undergone revision, there was still room for improvement. For example, the report could include an analysis of the impact of activities on the implementation of recommendations. Concerning document CDIP/8/6, on the Description of the contribution of the relevant WIPO Bodies to the implementation of the respective Development Agenda recommendations, that required close examination as it was the first time, following the adoption of the coordination mechanism, that the Committee was given a report on the contribution of the relevant WIPO bodies.

32. The Delegation of Chile endorsed the statement made by the Delegation of Panama on behalf of GRULAC. It had mixed feelings with regard to the work of the Committee. Although it was satisfied with progress and the manner in which development was being dealt with throughout WIPO, particularly in relation to the Organization's budget, it was concerned that discussions in the Committee had broken down in the previous session. It was important that that did not recur as it was crucial for work to continue on the implementation of the 45 recommendations.

33. The Delegation of Egypt believed that South-South cooperation should be included as a permanent discussion item for the Committee so as to benefit from the accumulated experiences of developing countries and LDCs. It noted that several projects were delayed and a decision on the proposal by the Development Agenda Group to discuss the interface between IP and development. The Delegation believed that discussion on the interface should be viewed as a permanent feature of the Committee's work. On progress reports, those should provide an indication of the extent to which the objectives of the Development Agenda were being met through the implementation of activities. As regards the external review of WIPO's technical assistance, the Delegation felt that the report required detailed discussion to properly assess WIPO's efforts in supporting national development and whether there was scope for improvement.

34. The Delegation of Cuba believed that the current budget was necessary for the implementation of Development Agenda projects. It was also essential to improve the mechanism for monitoring and assessing the implementation of the Development Agenda. As regards the South-South cooperation, the Delegation fully supported the project and the proposal that it should also be included as a permanent item for discussion.

35. The Delegation of Japan endorsed the statement made by the Delegation of the USA on behalf of Group B. It referred to assistance rendered through the WIPO Japan Funds in Trust (FIT). Those consisted of funds for Africa and LDCs and a separate fund for the Asia Pacific region. The activities included the Policy Forum on Partnership between WIPO, Japan Patent Office and the African Regional Economic Communities on Leveraging IP for Economic Development, held in Zambia last May. Forthcoming events included the Study Program on Innovation and Transfer of Technology soon to be held in Tunisia and the Sub-regional Workshop on the Utilization of Patent Examination Results to Enhance Patent Examination Capacities which would be held in Malaysia at the end of the month.

36. The Delegation of Argentina agreed with the statement made by the Delegation of Panama on behalf of GRULAC. It referred to the regional seminar on the Development Agenda organized by WIPO, in cooperation with the Argentinean Institute of Intellectual Property, the previous month. The Delegation felt that the Committee's work was crucial to support the use of IP for socio-economic development.

37. The Delegation of Pakistan aligned itself with the statements made by the Asian Group and the Development Agenda Group. The Delegation stated that development considerations were central to the formulation of national IP policies. IP systems must be balanced and should promote innovation and access to knowledge. There was a need to create and maintain that balance at all levels and the Development Agenda was crucial in that regard. On the future work program on IP flexibilities-determining how flexibilities could be fully and effectively implemented in support of development and public policy objectives was a key challenge experienced by most developing countries. That should be addressed by WIPO in accordance with the Development Agenda recommendations. On the coordination mechanism, the forwarded report should be carefully examined to assess the implementation of the Development Agenda and its recommendations in the work of other WIPO bodies and whether that could be improved. As regards the ongoing projects, the Delegation noted that a few were delayed and required immediate attention. On the implementation status of activities under the 19 recommendations, the Delegation agreed with the approach of relying on the technical assistance database. It, however, considered it important that the information available in the database should be comprehensive and accurate.

38. The Delegation of China welcomed the flexibility demonstrated by the delegations that morning to achieve a constructive agreement. The Delegation thanked the Director General and his team to promote the implementation of the Development Agenda recommendations. However, it felt that there was much to be done to assist countries to use IP as a tool for economic and social development. The Delegation looked forward to discussing CDIP/8/INF/1 which it considered was a very important document.

39. The Delegation of the Republic of Korea was pleased with progress on the implementation of the Development Agenda in WIPO's work, and in the integration of Development Agenda projects and activities in the Organization's RBM framework. On the external review of WIPO's technical assistance, it agreed with the report that to improve efficiency and sustainability, it was necessary for WIPO to avoid duplication of activities within the Organization and in relation to other providers. Improvements in cost efficiency also required greater transparency with regard to the costs and resources allocated to WIPO's development activities. It was also vital for the Committee to recognize the competence of WIPO's other committees, such as the SCP and the SCT, to allow for the effective

implementation of the Development Agenda through the efficient use of limited resources. There was also a need to coordinate activities implemented through the regular budget with those undertaken through extra-budgetary resources. The Delegation requested information in that respect.

40. The Delegation of Burkina Faso endorsed the statement made by the Delegation of South Africa on behalf of the African Group. The effective implementation of the Development Agenda required the involvement of all WIPO bodies. In that regard, the contribution of other WIPO bodies should be carefully scrutinized by the Committee. The Delegation recalled that the Director General's Report on Implementation of the Development Agenda for the fifth session of the Committee emphasized the need for Member States proposals to contribute to the implementation of the Development Agenda. In that regard, reference was made to the Delegation's proposal to strengthen the audio visual sector in Africa. The project related to the implementation of recommendations 1, 2, 3, 4, 10, 11, 12, 13, 35, 39, 41 and 45.

41. The Representative of the Creative Commons expressed support for the Committee's work on IP flexibilities, and in particular, its work on educating stakeholders through national and regional workshops, as well as the development of a web page dedicated to flexibilities. On the Scoping Study on Copyright and Related Rights and the Public Domain, and the Taxonomy-Analytical Study for the Project on Open Collaborative Projects and IP-Based Models, those studies indicated that open source and Creative Commons licenses provided effective means for owners to use the IP system to allow users to build, modify and redistribute their works to various degrees. As regards technology transfer, enabling technology transfer to developing countries was a priority for international IP systems and it was essential for work to continue in that respect. The Representative also urged the Committee to continue its work to address the interests of developing countries.

### Agenda Item 3: Monitor, assess, discuss, report on implementation of all Development Agenda recommendations

#### Consideration of Document CDIP/8/2 Annex I

42. The Chair opened discussions on document CDIP/8/2, Progress Reports, and invited the Secretariat introduce the first project listed in Part A of the document, Intellectual Property Technical Assistance Database (IP-TAD).

43. The Secretariat (Mr. Baloch) explained that the format of document CDIP/8/2 had been revised to take into account observations made by the Committee. Part A contained completion and self-evaluation reports on two concluded projects while Part B covered progress reports on ongoing projects. Some of those projects would be completed by the next session of the Committee. Completion and self-evaluation reports would be submitted at that time. Part C contained a progress report on the implementation of the 19 recommendations. The Secretariat (Mr. Bajoe Wibowo) drew attention to the fact that IP-TAD was now fully operational. Details of all technical assistance activities and WIPO consultants were included in the database. It informed the Committee that since January 2010, WIPO's Cooperation for Development Sector had organized 1500 technical assistance activities and assigned 1324 consultants to undertake various IP related development projects through the Organization.

44. The Delegation of Brazil believed that IP-TAD would allow for greater transparency and accountability with regard to WIPO's technical assistance activities. The database could also be expanded to include additional information on the activities, for example, lists of speakers, background materials, presentations and teaching modules. The WIPO Roster of Consultants (ROC), the Delegation understood that information could only be published with the consent of the respective individuals. In that context, the Delegation requested for clarification on the number of consultants listed in the roster and the %age they represented. In a random search,

it appeared that there was currently limited information on the professional backgrounds of listed consultants. As such, it was proposed that full CVs be published and potential conflicts of interests disclosed on the database. The Delegation requested that each and every consultant should be invited to provide such information. The Delegation also noted that that matter was also highlighted in the report on the external review of WIPO's technical assistance.

45. The Delegation of Pakistan requested for clarification on the updating of information provided on the Development Sector System (DSS). It also requested for information on the measures being taken to increase awareness among Member States on the availability and use of the system.

46. The Delegation of the USA noted the information provided on the measures undertaken by the Secretariat to implement IP-TAD in an efficient and cost effective manner. Those were worthwhile despite the slight delay in the completion of the project. The Delegation found the database to be exceptionally well-designed and functional. It also fulfilled the requirements of Recommendation 5 of the Development Agenda on the provision of general information on WIPO's technical assistance activities. Recommendation 5 also permitted Member States to request details of specific activities with the consent of Member States and other recipients concerned. Clarification was requested on the procedure for making such a request. On the IP Development Match-making Database (IP-DMD), the database was exceptionally well-designed. Information was requested on the current status of the development of business rules and procedures required to underpin the system.

47. The Secretariat emphasized that it was not allowed to publish certain information without the prior consent of the respective consultants. As mentioned, since January 2010, WIPO had assigned 1324 consultants to undertake IP-related development projects. On the %age represented on the roster, a check would be required to ascertain the exact number of consultants currently on the roster. On the publication of information such as background documents and lists of speakers, the Secretariat would soon be able to publish those on IP-TAD. On the maintenance of the DSS, that would be undertaken by the Development Sector prior to the conclusion of the Enterprise Resource Project (ERP). A further decision would be taken when the ERP was completed. Concerning raising awareness, the Secretariat intended to issue a press release and joint communiqué to Member States on IP-TAD, IP-DMD and the ROC. The databases would also be promoted through the Bureaus and other relevant sectors within WIPO. On the procedure for requesting information on consultants, the request could be directed to the project team. It would then be passed to the relevant colleagues within the Organization. The Secretariat further informed that the matter of developing business rules and procedures was still under consideration.

48. The Delegation of South Africa noted that a key lesson learnt in the implementation of IP-TAD was the importance to fully take note of data already available within the Organization in order to avoid duplication. It enquired as to efforts undertaken prior to the implementation of the project to address that issue, particularly as the report had mentioned that there was currently duplication in some of the captured data and that that would be addressed in the implementation of the ERP. In addition, the report also stated that as a result of the project, some Member States had expressed interest in developing similar databases and those would be considered within the context of the Program and Budget for 2012/13. Clarification was sought on the nature of these considerations. On the project implementation rate, further information was requested on the meaning of the indicated rate of 96%.

49. The Delegation of Pakistan reiterated its request for clarification on the method for updating information provided on the DSS. On measures for raising awareness, the Delegation felt that more innovative initiatives were required in addition to the press release and joint communiqué.

50. The Secretariat explained that the DSS was able to also capture financial information related to activities. However, as a separate module had already been developed for WIPO's financial system, the intention was to merge those so as to avoid duplication. However, that could only be done after the completion of the ERP. On the development of similar databases by Member States, that was possible as the software developed by WIPO could also be deployed and adapted to meet national requirements. For that reason, and as WIPO was a member-driven organization, it was included in the report as a possible follow-up. As regards the project implementation rate, the Secretariat informed that 96% was applicable when the report was prepared in July. However, the funds were now completely exhausted. On the question of updating of the DSS, an internal mechanism was in place in the Development Sector since July to ensure that all activities carried out would be captured in the system. As regards raising awareness, the Secretariat noted the suggestion for the introduction of more innovative tools to promote awareness.

#### Consideration of Document CDIP/8/2 Annex II

51. The Delegation of Pakistan referred to the outcome indicators for the match-making and clearing house mechanism. The report stated that manual match-making was currently available and the Delegation enquired as to whether that was the intended end-result or were efforts still underway to develop the system further.

52. The Delegation of Egypt observed that the project should have concluded in April 2010. However, the report stated that some outcome indicators were still pending. The Delegation sought clarification on the status of the project as well as the reasons behind any delays. On the outcome indicators, those could be improved to reflect the objective behind the initiative which was to assist Member States to find potential donors. For example, it would be useful to provide an indication of the number of IP offices who were successful in their efforts to find donors through the database.

53. The Secretariat clarified that the match-making process was still manual even though the database was officially launched in August that year. That was due to the fact that the business rules and procedures for the system were still under consideration. When those were finalized, IP-DMD would provide a platform for IP offices to form partnerships with potential donors. The project was delayed as the team responsible for developing IP-DMD, was also in charge of implementing IP-TAD and the ROC. Although IP-DMD was the last in line, the database was now fully operational.

#### Consideration of Document CDIP/8/2 Annex III

54. The Chair invited the Secretariat to present the progress made on the project Specialized Databases' Access and Support referred to in Annex III.

55. The Secretariat informed the Committee that that was the third progress report on that project submitted to the CDIP. The first two were submitted to the CDIP/4 and CDIP/6. The main outputs of that project were the study paper and the review of the existing patent and non patent literature databases and its use by patent offices and local users in different countries. The second output was to provide access to specialized patent and non patent databases for use by intellectual property office and by the public. The third was to enable and support the effective use of the databases by assisting countries in establishing technology and innovation support centers together with the corresponding network for which training and awareness raising support for the staff of those centers, the Intellectual Property Office as well as for the general public was to be provided. The Secretariat reported that since the last Progress Report in the CDIP/6, as from July of that year, aRDI, the WIPO program established as a public private partnership with the publishers of scientific and technical journals in July 2009, foresaw the provision of access to scientific and technical journals free of charge to LDCs and for certain

other developing countries at low cost. It became a full partner in the Research for Life Partnership which included the World Health Organization's HINARI program, the Food and Agriculture Organization, AGORA and the United Nations Environment Program's OARE. The research for life partners also agreed that as from January of the following year, an increased number of countries would be eligible for free of charge access to their program, as well as access at a very low cost for non-profit government institutions including technology innovation support centers. Since the last progress report, 100 scientific and engineering journals had been added to aRDI which was also one of the objectives of the project to increase the number of journals for access by developing countries and least developed countries. The Secretariat continued that the second public private partnership was ASPI, Access to Specialized Patent Information Program. It was launched in September of that year and the main purpose of that program was to provide access to commercial patent databases; to LDCs for free and to certain developing countries at a sharply reduced cost, including also the technology innovation support centers. Since the last program, the establishment of national networks of technology innovations support centers continued to be implemented. During the previous year 17 assessment missions were undertaken and 12 Service Level Agreements were signed between WIPO and national partners for the establishment of those networks in all regions. Fifteen (15) national trainings were also implemented with the launching of TISCs. Trainings were also conducted for six countries that had established TISC networks. By April the following year the final report would be presented to the CDIP.

56. The Delegation of the Dominican Republic expressed its support for the implementation of the project and stated that it had improved and encouraged the use of the patent information system. It further stated that following that project, the Dominican Republic had established a Center for support for technology and innovation in June that year. That center had facilitated interaction with Universities and Research Centers as well as with individual researchers, given its capacity to train on making effective use of the intellectual property system. The Delegation informed the Committee that it had signed a Convention to create a Support Center in one of its national Universities, which would further strengthen capacity in that regard. Specialized training in that area had also been provided by WIPO. Therefore, the Delegation reiterated its commitment to the project and well as funding for that project.

57. The Delegation of Costa Rica believed that the project relating to the TICS was crucial for developing countries because it allowed those countries to benefit from assistance which was particularly useful for SMEs. It also provided access to training to universities on innovation and on creating and protecting intellectual property rights. That project had given national offices in developing countries access to specialized data bases, and that had strengthened the capacity of businesses, trained local users, the provided information and disseminated best practices. In light of that, the Delegation stated that it believed that that project should be renewed and benefit from the necessary human and financial resources.

58. The Delegation of Pakistan expressed its pleasure to note that the project was running on schedule and delivering results. The Delegation also noted that the three components, especially with regard to the aRDI and the TICS, were operationalized and were making substantive progress. The Delegation requested clarification on how the database was reviewed and updated so that it was constantly up to the mark for the users. On aRDI it was heartened to know that it had already become part a broader framework in which there were also other organizations participating like WHO and FAO. The Delegation sought further clarification on how the Secretariat envisaged increasing the participation of additional countries. It understood that it provided access to various countries free of charge and on a reduced cost basis but queried whether there was a mechanism through which that base could be further expanded to countries who wished to benefit. Referring to the to the number of participating institutions being low as indicated in the report, the Delegation requested clarification as to what that number was. The Delegation further requested clarification from the



Secretariat whether it was seeking to increase the participation and to improve the user base for both of these components.

59. The Delegation of Algeria stated that the exercise allowed the countries to assess better on how technical assistance could be improved and how it could serve better the development needs of the countries. Algeria was involved with that project and was implementing some of the activities that were within that project. Referring to the issue of enabling and supporting effective use of databases through technology and innovation support Centers together with the corresponding networks, the Delegation requested clarification from the Secretariat whether it envisaged assessing the capacity of countries in that regard. The Delegation added that it was giving access to users in the country, mainly universities and research centers but those universities and centers were having difficulties in utilizing those databases. The Delegation wished to know whether the Secretariat had the intention or had already started doing an assessment as to what the difficulties were.

60. The Delegation of Cuba stressed the importance it attached to the TICS and stated that it had carried out the first training seminar where intellectual property officials from across the country were introduced to that project. It believed that with the financial assistance of WIPO it could carry out the second phase of advanced training which would allow it to strengthen its national TICS network.

61. The Delegation of the USA noted that the report indicated significant progress since the previous report. Thirty four assessment missions had been carried out to establish technology and innovation support centers. That number was 25 the previous year and 5 the year before that and it was a remarkable progress. More than 50 countries had requested to benefit from the project as compared to 30 requests during the previous year. Those numbers showed that the project continued to meet a hitherto un-met need in many countries. The Delegation inquired that while aRDI had become a full member of the Research for Life Partnership, why the number of institutions participating in the program remained low. The Delegation of Pakistan had raised the same question and the problem had also been identified in the previous year. The Delegation further requested information about staffing needs for the project given that the report indicated that additional project personnel would be required. The Delegation recalled that in the previous year the Committee was informed that there were four people working on the project and whether that remained the current number, and if so, how many additional staff would be required to meet the strong Member State demand for services under that project.

62. The Delegation of South Africa raised the query which had already been raised by the Delegation of the USA as to the number of additional staff required for meeting the increasing demand for TISCs and also how many additional TICS were planned to be created in the remaining months. The Delegation supported the statement of Algeria regarding the training needs in the African Continent and to what extent it was possible to renew the project given the demand from Member States.

63. The Delegation of the Russian Federation believed that the project was important and reflected some very positive activities including the implementation of the TICS, which facilitated broader use of the Intellectual Property system.

64. The Secretariat responded to the observations raised by the various delegations. On the question raised by Pakistan, it informed that the ASPI program provided access to specialized commercial patent databases and had six leading patent database providers, namely, Lexis Nexis, Minesoft, Proquest, Questel, Thomson Reuters, and WIPS which made available their respective database products and the revision of those products were guaranteed by the commercial providers. Developing countries were provided free access or at a very low cost. Concerning the participation of various countries in the aRDI program and how that level of

participation could be improved, the Secretariat informed that at the time of the launch of the program it provided access to only IP offices and other governmental institutions were not included. As from July of that year aRDI became a full partner and a fourth program in the research for Life Partnership. It had been foreseen that as from January of the following year the number of countries eligible for free of charge access to that program would increase as well as access would be provided at a low cost for all not-for-profit government institutions. That would mean that there would be an increase in the use of that program. In joining and becoming a full partner of the Research for Life Program, aRDI would benefit from the joint marketing strategy implemented by other UN Specialized Agencies which were part of that program. The Secretariat would also try to increase the awareness raising and training. In time that element could be improved and discussions would be held with other partners of the Research for Life Program on how to increase the use of aRDI. Regarding assessment of the utilization of the databases of the project in general, the Secretariat informed that it had already started to work on the assessment and utilization of those two programs by the national networks in the countries where the agreement for the creation of those network had been signed. It hoped to present some figures on the impact of the establishment of those networks in the different countries and the assessment of the utilization by the technology innovation support centers that had been established. On the comments regarding project personnel, the Secretariat stated that the four people working on the project had been secured in the next biennium but in view of the increased interest of member states, human resource would be a bottleneck. Twenty-nine Service Level Agreements for the creation of those networks had been signed and, 36 more Service Level Agreements were expected to be signed in the following year which would be a significant increase in the number of projects to be implemented. Given the existing number of project staff the project would be limited in its ability to provide the necessary training. The training that was foreseen included training provided by other Divisions of WIPO in the field of innovation and technology support. The Secretariat added that it referred specifically to the training provided by the Innovation Division, for example, in the field of patent drafting, technology transfer and management of IP assets. In other words it referred not only to the training provided and foreseen under that project, but complementary training from other WIPO's programs as well. To that extent, the Secretariat submitted that internal coordination was very crucial and the larger the number of countries the more complex implementation of such training became.

#### Consideration of Document CDIP/8/2 Annex IV

65. The Chair called for a discussion on the Pilot Project for the Establishment of "Start-Up" National IP Academies contained in Annex IV.

66. The Secretariat stated that the project foresaw assistance to developing and least developed countries for the creation of national specialized IP training institutions during a period of two years. After that period, the national centers should be able to run at least two programs of good quality on a permanent and ongoing basis. According to the project document the identification of pilot countries would be based on a preliminary needs assessment. It had been decided to take requests from Member States wishing to participate in that project in order to be able to eventually have one IP academy per region at the end of the project term. Since the approval of the project in November 2009, requests from 17 countries and one regional office had been received. Needs assessment missions had been undertaken in thirteen countries and one regional office and cooperation agreements had been signed with six countries. Three national IP academies had been launched. In terms of training and activities, they were essentially linked to the needs assessment missions and training of trainer programs which focused on medium and long-term training of people that would then become trainers in their own countries. By March of the following year when the project was to conclude, it was expected that there would be two national IP academies running their own programs, with some assistance from WIPO. Two more national IP academies would be launched and there would be in total six cooperation agreements signed with Member States

and possibly the project would have reached the implementation phase in 10 countries. Establishing the start up IP academies had turned out to be lengthier than the original two year period that was foreseen. The process of identification of trainers and administrative staff, the identification of priority of actions and agreements of the terms for the signing of the agreements had proven to be time-consuming. It was a project that was an administrative and human resource burden for the beneficiary countries as they were supposed to set up their own infrastructure to build up their own academy. Additionally, in certain regions, particularly in the Arab region, the political situation had undermined the process of implementation of certain projects. In the Program and Budget for 2012/13, a new allocation for the extension and continuation of the project would be foreseen, subject to the approval of the CDIP. In deciding on the eventual extension of the project the Secretariat requested that the Committee took into consideration that the process had been slower than expected for reasons explained earlier and that a large number of countries had expressed interest in setting up such Academies than had been foreseen at the outset.

67. The Delegation of Algeria stated that the project allowed countries to build institutions that would work on IP issues and benefit from the work of WIPO. The Delegation was concerned with respect to the sustainability of the project as it was for a limited time and after the initial period the country had to manage the IP Academy with through own means which some countries might not be able to afford. The Delegation expressed its strong support for the renewal of the project, adding that the Secretariat should assess and improve the implementation on the basis of the lessons learnt thus far in terms of the difficulties experienced by the Member States.

68. The Delegation Egypt stated that its country had recently signed a cooperation agreement with the WIPO Academy for establishing an Egyptian IP Academy and expressed its support for the project as it focused on training of trainers that would enhance IP capacity in different stakeholders including government officials, academics, media, researchers, etc. It welcomed the progress achieved in the implementation of the project, including launching the two national IP academies in Peru and the Dominican Republic and noted that the WIPO Academy had received seventeen requests from Member States and one regional office to establish national IP academies. There was a huge demand for the project and the Delegation extended its support for continuing and extending the period and the funds for the project implementation through the regular budget. The Delegation looked forward to WIPO intensifying its efforts and allocating the required team and resources in order to meet the revised timeline as indicated in the document.

69. The Delegation of Panama speaking on behalf of the GRULAC stated that document CDIP/8/2 was not produced neither in Spanish nor in French at the start of discussion and hoped that that situation would not be repeated in the future. The implementation of Recommendation 10 of the Development Agenda through the mini academies project reflected the need for assistance to develop the national intellectual property capacities. Excellent result had been achieved through the pilot countries. The Delegation highlighted the implementation in the Dominican Republic and Peru, in the LAC region, stating that the commitment shown by that region to the project highlighted the importance attached to intellectual property and the development of skills in that area. In view of the above and given that there were a significant number of countries interested in participating in that project from the LAC region, *inter alia*, Colombia, Ecuador, Costa Rica, Trinidad and Tobago, and recently Haiti and Uruguay, the Delegation requested that; first the project be extended in time; two that the number of countries that could benefit be increased; third, the necessary financial resources be allocated to continue the project, fourth, the concept of assessment be clearly defined, whether it was internal or external, and five, that it became a specialized program under the WIPO Academy.

70. The Delegation of Pakistan thanked the Secretariat for briefing the Committee on the status of the project on the national IP academies. The progress made so far was heartening.

The Delegation stated that it was very satisfied to know that 17 countries and one regional organization had submitted requests and 13 needs assessments had been done and cooperation agreements had already been signed with six entities. However, it was mindful of the fact that the project was to terminate in March of the following year and stated that it would like to see the project to continue. Further, the long term sustainability of the project was an issue of concern as had been pointed out by other delegations. Setting up a national academy was not an end in itself. It was a means to an end, and in that regard attention had to be paid to its sustainability and what it would be delivering. The Secretariat should look into how, after completion of the project, linkages could be developed among the various WIPO academies, or linkages in terms of the IP academies and the WIPO infrastructures, so that there was an element of continuity even after the project was terminated. That would be, the Delegation stated, one of the aspects that could be improved. The Delegation understood that there was also a component for developing a model curriculum and establishing a library or information centre. It was of the view that it would be important that the training material and the curriculum was up to date and had a balanced outlook towards all the aspects of IP issues currently in focus. Thirdly, referring to the budget utilization rate as per the end of July, it noted that it mentioned 45.4 % and sought clarification whether that indicated a lack of utilization of resources.

71. The Delegation of Bolivia was pleased to note the success of the project and that there were many countries that wanted to take part in the project and had expressed their interest. That was proof of the needs that existed and of the importance of that project. It joined other delegations in expressing support for the continuation of the project. The Delegation sought further information on the contents of the material and information that was being used in the courses and in the training, given that Recommendation 10 of the Development Agenda referred to the objective of the project which was to make national institutions more effective. The second part of the recommendation referred to the importance of promoting a fair balance between intellectual property protection and the public interest. That, in the view of the Delegation, was connected to the content of the teaching material and classes given. Given the success of the project in the LAC region the Delegation underlined that it was important have that information which could be provided on a preliminary basis at that session and a more complete report at the next CDIP session, together with a report on the progress of the projects. The information on the quality of the courses could show how the teaching material promoted a fair and balanced vision of intellectual property and how it contributed to development.

72. The Delegation of the Dominican Republic expressed support for the statement made by Panama on behalf of GRULAC on the progress report and believed that cooperation for the implementation of Recommendation 10 of the Development Agenda was very important. As had been said, the Dominican Republic was one of the three countries that had set up a national IP academy under that project. It took shape in August that year with the signing of the WIPO cooperation agreement. It had created many expectations in the country and had produced very positive results as regards the development of national capacities in IP. Thanks to the commitment of the national authorities and the intellectual property offices and their cooperation with WIPO through the implementation of that project, the Dominican Republic was laying the foundations to improve IP knowledge in the country through meeting the training needs and education in the country in the area of intellectual property; improving knowledge of the scope of IP in the different sectors; creating technical training capabilities; increasing synergies with national academies and also international academies; promoting the culture of IP in the Dominican Republic and developing teaching materials on IP. The first stage of the project had been completed. The Delegation highlighted that it was important for the project to be sustainable. The training of trainers program had proved to be very useful. Technical staff had been trained and the aim was that they would be able to pass on their knowledge to other groups. Two modules had been completed and the following year three more would be carried out so as to complete five modules. The Delegation went on to say that teaching material had been provided by WIPO and a specialized IP library had been set up which would be extended.

Training in setting up distance training courses had also been received as well as in preparing curricula. Given the above, the Delegation requested that the deadline of that project be extended and funds be allocated for at least two more years so as to provide continuity and to achieve the aims of the project in order to guarantee the sustainability of national academies set up under that project. The Delegation was of the view that assistance provided by WIPO to the already established academies should be continued through an ongoing program of assistance to monitor and follow-up the operation and development of those academies and that they should be part of the WIPO Academy. For that reason, the Delegation had requested that in the case of the Dominican Republic the distance learning program should become effective from December of the following year which was when cooperation with WIPO on the basis of the agreement signed was supposed to end.

73. The Delegation of Costa Rica considered that training and education and research in intellectual property at the national level were aspects that were vitally important for acquiring the necessary knowledge to promote and apply innovative strategies in intellectual property that would support national development. It was of the view that the mandate of that project should be extended so as to allow more developing countries to benefit from it. More national academies would allow for more training. It was of the belief that it was appropriate that the project be extended with the necessary financial and human resources and hoped that WIPO would provide long-term support to those academies that had already been established so as to contribute to their sustainability.

74. The Delegation of Nigeria stated that the project was a very important one and was successful and expressed its support for extending the project as well as for an increased budget. It sought clarification from the Secretariat as to how it would be decided where a start up academy would be located in countries in which two government bodies were responsible for intellectual property.

75. The Delegation of Peru stated that its country was formally involved in that project with a view to consolidating the school for intellectual property under the auspices of the national department for competition and intellectual property. It sought in 2009 to carry out a number of specialized programs on intellectual property law and the last of those were carried out from May to June that year. It offered courses and workshops and demand for those courses was increasing on the part of professionals and specialists dealing with intellectual property. The Delegation stated that Peru's involvement in that project was to improve the position of the school, not only at the national level, but also across the region. With WIPO's help it hoped that it would consolidate its position and further the training work. The Delegation expressed support for the statement made by the Delegation of Panama on behalf of GRULAC and reiterated that a significant amount of progress had been made and that the project should be extended as well as funding provided so that the objectives of the project could be achieved. It submitted that the Program and Budget for 2012/13 should include a phase for creating further national academies and that it would like to continue the project. It further submitted that phase 1 should be carried out as efficiently and quickly as possible. One way to achieve that was to be quick in defining what was needed in the evaluation. It was also important to ensure that the evaluation was done by the next meeting of the CDIP so that implementation could continue.

76. The Delegation of South Africa sought clarifications on what were the responsibilities of WIPO and those of Member States in terms of resources. The Delegation voiced its support that the Secretariat needed to get involved in sustaining the project because once a project was created there should be follow-up and continued support, taking into consideration the different levels of development and the needs of different countries. Referring to the project implementation rate of 45.4 %, it sought clarification on the utilization of the budget. The Delegation expressed its support for the extension of the project and the necessity for additional funding. It sought further clarification on the section on Risk and Mitigation and the reference to

potential difficulties in implementation and wished to understand which country or countries in Africa were referred to.

77. The Delegation of Chile expressed its support for the project, particularly considering the need to create awareness and build capacity on IP in developing countries, not only in terms of the general population, but also in educational institutions and SMEs. It joined the statement of the Delegation of Panama on behalf of GRULAC and stated that the project should be extended and provided additional funding so that the number of countries involved could be increased. Finally, it expressed its interest in benefitting from that project.

78. The Delegation of Ethiopia informed the Committee that its Government had recently signed a cooperation agreement with WIPO on the establishment of a WIPO Start-up Academy and welcomed the progress achieved. The Delegation looked forward to the intensification of efforts by WIPO for sustaining that project and concluded by extending its appreciation to the Secretariat for its assistance in establishing the National IP Academy and IP Outreach Program.

79. The Delegation of Oman stated that its Government attached a great deal of importance to those academies given their role in strengthening capacity and thus social and economic development. The Delegation expressed the wish that the project be extended and also sought clarification from the Secretariat on the reference to Risks and Risks Management at page 5 of the Arabic and English texts and as to what was meant by the reference to difficulties in implementation in the Arab region.

80. The Delegation of Paraguay supported the statements made by GRULAC and wished to stress that the projects included many stakeholders and that attention should be paid for the development of that project in particular to maintaining the necessary budget.

81. The Delegation of Cuba expressed its support for the statement made by Panama on behalf of GRULAC.

82. The Secretariat thanked the Delegations for their interventions and sought to clarify the issues raised. Commencing with the issue as to the respective responsibilities of the Secretariat and the beneficiary countries, it clarified that it was for the beneficiary countries to decide and to set up their own national IP training institutions for which it should provide physical infrastructure and the necessary administrative or legal arrangements as well as the human resources, whether full time or part time, to become trainers in the institutions. It would be the responsibility of the Secretariat to provide advice and to assist and guide the beneficiary country through the process; including deciding on priorities in training and developing the program of training of trainers. With respect to the questions raised on the issue of budget the Secretariat clarified that by the end of that year the project would be at 80% implementation and the project was expected to terminate at the end of March of the following year. Addressing another observation the Secretariat informed that as the continuation of the project was subject to the approval of the CDIP, there could be a gap or interruption in the implementation of the planned activities if the project was not promptly renewed. On the issue of risks, the Secretariat underlined that a big burden of the responsibility for implementation of the project was in the decision of the beneficiary countries to set up their own institutions. As to the particular risk with respect to the Arab region, the Secretariat referred to the political situation that had been ongoing during the previous months and had delayed and hampered progress. However, that was not the case in Africa and there were three countries which had requested the establishment of IP Academies. Those were Kenya, Nigeria and Ethiopia. In the Arab regions there were six interested countries and one of them, Egypt had already signed the agreement of cooperation. Moving on to the question as to the content of the program for the training of trainers, the Secretariat explained that the expertise of the WIPO Academy was being fully used in designing the training of trainers. The Academy had a program on professional training. That program included 25 training institutions particularly focused on training people working in IP institutions.

There was also a special program on distance learning which included 14 training courses through which 53,000 participants were trained in the previous year in 6 UN languages and other non UN languages. There was also a special project with academic institutions for which there were four joint master programs devoted to people coming from developing countries and countries in transition. In addition, the WIPO Academy supported IP teaching at University level in 7 universities around the world. Finally, there was the network of IP academies which enabled IP academies from all over the world; from developed and developing countries to share their experiences and challenges in IP training. That experience of the Academy had given it the necessary expertise to guide the countries in developing training of trainers programs according to priorities established by the beneficiary country. The Secretariat underlined the importance it placed on presenting intellectual property in a balanced way taking into account developmental needs. Concerning the issue of IP being dealt with by two institutions and which would be relevant for owning a Start up Academy the Secretariat stated that that was a decision to be taken at the national level. However, the experience in implementing the project had shown that at the national level there had been a great deal of cooperation between the different administrative departments so as to maximize the benefit to the country from those initiatives. The Secretariat further informed that as regard to the assessments and value addition, there were two assessments that were going to be made. One assessment was going to be held at the national level once the two year period ended. The consultant appointed for that purpose would produce a report which would reflect the challenges faced and success achieved. Another assessment would be of the IP Academies project as a whole which would be done at the termination of the project. Both those assessments would provide an insight on how the project could be further improved.

83. The Delegation of El Salvador supported the statement made by GRULAC and reiterated that sufficient financial resources needed to be allocated to that project.

84. The Delegation of Germany requested a clarification from the Secretariat on how projects in certain countries went beyond the expiration date of the project and how such projects were budgeted.

85. The Secretariat recalled that the allocation at the outset was for four countries whereas the requests received far exceeded that number. In addition, implementation took longer than the 2 year period envisaged at the outset. Looking ahead, there were countries where the projects had not been completed and there were additional projects ready to commence. The money that had been approved in the Program and Budget for the forthcoming biennium was the same as that approved for the current biennium and as such the budgetary and human resource requirements needed to be carefully considered when renewing that project. The Secretariat recalled that just as there was a time when a lot of resources were put at the disposal of assisting countries set up IP offices, the need at present was for setting up IP training institutions which needed to be supported.

86. The Delegation of Brazil wished to share a piece of information stating that the National Institute of Intellectual property in Brazil developed in 2007 a national academy of intellectual property, innovation and development which provided master degree courses. Since its creation, more than 45 theses were developed. Every year, the national IP academy promoted academic meetings on intellectual property, innovation and development where many researches on the matter were presented and discussed. The national IP academy also offered a variety of different courses on intellectual property for different interest groups. The Delegation stated that it was interested in sharing with WIPO and interested Member States its experience on the establishment of its national IP academy. The Delegation was also interested in sharing with WIPO and interested Member States two project proposals presented by its Patent office during the 50th symposium of the Head of IP academies which took place in Washington in August of the previous year.

### Election of Vice-Chair

87. The Chairman closed the discussion on that project and called upon the Committee to elect a second vice Chair.

88. The Delegation of South Africa proposed the second vice-chair from the Delegation of Switzerland, Ms. Alexandra Grazioli.

89. The Delegation of Pakistan seconded the proposal made by the Delegation of South Africa.

90. The Delegation of Algeria also supported the proposal made by South Africa.

91. The Chair congratulated Ms. Alexandra Grazioli on her election as a Vice-Chair, stating that her experience would be very useful for the work of the Committee and looked forward to working with her to make CDIP/8 a successful session. The Chair then informed the Committee that the authors of the Taxonomy-Analytical Study for the Project on Open Collaborative Projects and IP-Based Models contained in document CDIP/8/INF/7 were present in Geneva to make a presentation in a side event during lunch time that day and suggested that the Committee took advantage of their presence and advance consideration of the Study contained in document CDIP/8/INF/7 under agenda item 4 and then revert back to agenda item 3.

### Agenda Item 4: Consideration of work program for implementation of adopted recommendations

#### Consideration of Document CDIP/8/INF/7

92. The Secretariat (Mr. Ali Jazairy) introduced the project on open collaborative projects in IP based models described in document CDIP/6/6/Rev. It stated that the first stage of the project focused on the development of a taxonomy analytical study of open collaborative projects in IP based models. The study included a thorough review of the existing relevant studies and literature on the topic of open innovation and the aim of the study was to map, cluster, analyze and correlate different open collaborative initiatives and the respective Intellectual Property models they were based on. Ultimately, the study identified emerging initial conditions and IP models for successful open paradigmatic collaborative initiatives. Open collaborative innovations had been described as the osmosis and reverse osmosis of knowledge across the porous membrane separating an organization or community and its environment. It could be promoted through a variety of arrangements; which might encompass more traditional models such as licensing, sub-contracting, R&D, collaborative contracts and joint ventures. Other options included internet enabled trends that foster customer driven innovation, including *inter alia* crowd sourcing ideas competition, creative commons and open source software. In an age of rapidly shifting technological landscapes in particular in order to innovate in the recent world crisis, competitiveness in a dynamic sense was of the essence. It had to do not only with responding to current consumer preferences, but also with anticipating evolving consumer needs. That competitive edge could be maintained through radical innovations springing from openness, connectivity, flexibility and cross pollination of creative networks. If innovators overcame their profession's inclination to endogenously determine all aspects of innovation, they were then in a position to explore the promising ground beyond incremental innovation at a time when the current shortening of the product life cycle did not allow for the long lead time for traditional research and development. Open collaborative innovation became, then, the locus of a new strategy based on the constructive interference of desecrate actors accelerating the tempo of innovation. The ultimate objective of the project was to establish an interactive platform to exchange information, experiences and existing best practices as well as to enhance an understanding of the potential uses of Intellectual Property models and procedures to stimulate home grown innovations. The term interactive platform referred to a two way digital



portal consisting of a website and a web forum for exchanging information and experiences. The project was intended to be a useful building block for the development of collaborative networks for innovation. The project outcomes would be integrated into relevant WIPO activities. It was reasonable to expect that the open collaborative project approach would unleash further innovative potential in particular in developing countries where information and communication technology development had been spectacular. The Secretariat concluded that open collaborative innovation had become co-terminus with the ICT revolution, which was a challenge for developing countries to bridge the digital divide, but also a historic opportunity to take a shortcut to developed status. The Secretariat then introduced the team of expert consultants who had completed the first draft of the study, which was contained document CDIP/8/INF/7, namely, Dr. David Gann, Professor and Head of Innovation and Entrepreneurship at Imperial College Business School, Dr. Lynus Dahlander, Assistant Professor at European School of Management and Technology Berlin, Dr. Gerald George, Professor and Director of Rajiv Gandhi Center at Imperial College Business School. The experts would briefly talk about their findings and conclusions and answer questions which would then be included into the final copy of the Study that would be finalized in December of that year.

Dr. Gann stated that the innovation process was changing across the globe and it was changing for several important reasons. Firstly, there was the internationalization of markets which was pushing questions out to different parts of the world about where innovation would occur and the need to have a system that would pick up on those signals and work close to the customers. Secondly, the trend was to move away from a traditional industrial innovation process towards one which was more based on services. In that regard, invention often occurred at the point of consumption in the market place rather than starting off in the laboratory. Therefore, if new ideas were out in the market, new ways had to be found for collaborating with users and customers and different stakeholders in order to harness those ideas and work on them in a purposeful manner to create value. As had been said, the Internet revolution had provided a new tool kit which was to increase the pace of those changes and provide new access to thinkers, to talent and to market and users. The word "open innovation" had been used as an umbrella across that context to say that things had changed in the innovation process and that new ways of connecting had to be found. He stated was the context of the study. Dr. Gann added that many large international businesses were quite closed in their approach to innovations. They were prepared to license in ideas, but often for business reasons were not prepared to license out or collaborate in open networks. That, however, depended on the industrial sector and the type of business. He added that collaboration tended to occur upstream in pre-competitive research and closer to the market there was more of a tendency to see a more closed IP based models of transacting technology and new ideas. Part of the study was to provide a model which could interpret what was happening in different sectors of the economy in different regions of the world.

Dr. Dahlander informed the Committee as to how the taxonomy was being constructed. He stated that in preparing the study, they had analyzed all academic papers that had been published on the topic of open innovation for the previous ten (10) years and that from a dozen in 2003 the number of papers published had grown to more than one hundred papers in 2010. Most of the work was done by scholars in the higher income countries. One of the challenges, he said, was with the term openness in that many fundamentally different things were brought under the single umbrella of open innovation. The team had tried to categorize all papers in a framework that focused on two dimensions, one being the flow of knowledge going into companies and the other leaving companies. They also looked at the nature of the flow across companies involving monetary exchange involving more informal collaborations which resulted in different type of openness that allowed them to compare and contrast different kind of initiatives and underlying IP models. He further stated that the team looked at a wide range of different arrangements, which used these different forms of openness and different forms of underlying IP models, and compared and contrasted them in how they applied in different industries.

Dr. Gerald George stated that open innovation had a distinct flavor for developing countries. The context of innovation in developing countries was vastly different from developed or high income countries. First, the role of government was very important in developing countries for promoting innovations. As much as 45% of total R&D spent on average was provided by the government in developing countries compared to 17% in advanced economies. That dichotomy meant that governments had to play a more active role in promoting open innovation in that context. Second, formal Intellectual Property had vastly grown in those countries. Between 1998 and 2008, the number of published papers from developing countries had gone up to 23% of the total papers published and compared to 14% in 1998 that was a 64% increase. In terms of Patents, the overall Patents in 2008 were 1.6% from developing countries compared to half a % in 1998 which reflected a 190 % increase. The total number of patents from developing countries still remained small and, therefore, that became an important issue to discuss how innovations could in those contexts be improved and open innovation had become one of those avenues to promote innovations in those sectors.

In developing countries, the priority for open innovations tended to be in areas such as agriculture, health, poverty alleviation and improving life expectancy, while advanced economies focused more on products and services in consumer markets. Given the dichotomy, new business models, new platforms for collaboration and sharing and new ways of promoting attention for example, on neglected diseases or in areas that mattered for improving human life in developing countries become important. Dr. George further stated that open innovation did not mean that IP was free. It was important to have stable regimes for managing Intellectual Property in all regions in order to improve the ability to collaborate on important scientific and technological areas. The study was expected to provide a taxonomy that would help member States make decisions about where collaborations and open innovation activities were likely to be most productive because there were choices that could be made in terms of how different types of players could interact together in different sectors of the economy and which combinations could be supported through public sector policy. The study would also examine how information technology infrastructure helped to underpin the transfer and use of new ideas and would highlight the importance of investment in modern communications on the Internet to trade intellectual property and to develop scientific materials through simulation and prototyping. The study would make a number of recommendations for WIPO in those areas and particularly look at the role of public data that could be used to stimulate collaborative projects which would harness activities in the private sector.

93. The Delegation of Turkey thanked the professors for their presentations and expressed the view that the information would help them in shaping their future activities in that field. The Delegation further affirmed its belief in the importance of innovation for development and that IP was also very important for innovation strategies of individual countries.

94. The Delegation of the USA thanked the research team, who presented the study, and stated that it had not had a chance to undertake detailed review of the study and that it would like an opportunity to do so. The representative suggested that Member States be allowed to submit written comments by a specified date perhaps mid-December of that year. The Delegation also submitted that the US Patent and Trademarks Office had an office of the Chief Economist and that Office would welcome the opportunity to comment on the study.

95. The Delegation of Bolivia thanked the experts for the study and was of the view that it would fuel the debate and discussion in the Committee. On the basis of its initial reading, it believed that the study focused a great deal on businesses strategy and, as such, left little room for government strategy or that of the users. In that context, it referred to open software which was a very innovative model and which was one of the very first experiments in the field. The open software movement had emerged from the users themselves who developed that model as a reaction to the appropriation by businesses of the results of users' innovations. The

objective was that everyone should benefit from their work. The Delegation's wished to know as to how that would fit into the taxonomy. Secondly, the taxonomy had not identified the basic value of the open collaboration model, in that the open innovation model included incentives for innovation and did not result in the appropriation of results. In case of access to medicines, for instance, open models provided incentives to innovate and resulted in free access to the result of innovation. That was the fundamental contribution made by those open models where the results of innovations were accessible and that aspect was absent in the taxonomy. In fact, the Delegation stated, when there were no models for appropriation, the incentive for innovation disappeared. That was in section 4 and 5 and if that was the case it raised concerns, because the value of analyzing open models lay in looking at how those models worked.

96. The representative of KEI submitted that there were strengths and weaknesses in the study. One weakness was that the biomedical field was not covered. In phase 3 of the document, there was a discussion of the proposals to the WHO by Bangladesh, Barbados, Bolivia and Suriname, which had to do with various price proposals that would be an alternative to a product monopoly for new drugs or diagnostic devices and several of those proposals included the concept of an open source dividend, which would reward people who shared open source biomedical information. Those kinds of developments were not discussed in the study. Likewise, there were similar initiatives in the USA in the areas of agriculture, medicine and in the latter case particularly in relation to AIDS which were not included in the study. The representative agreed with the suggestion of the representative of the USA that written comments be submitted and encouraged the Committee to consider allowing observers to also submit such comments.

97. The representative of Ibero-Latin-American Federation of Performers (FILAIÉ) sought clarification as to the choice of the term taxonomy which it submitted related to the classification of living beings.

98. Dr. Gann thanked the Delegations for their comments and stated that given that there would be a more in depth discussion in the side-event later that day he would respond at that time to a few specific issues that were raised. With respect to the open source software movement he referred the Delegation to the section of the study where it was in fact discussed. He expressed his agreement to the importance of the experience of the software industry and its role in stimulating further thinking about user engagement in the innovation process and user driven innovations. As to incentives for innovation and the accessibility of outcomes he agreed that that was an important dimension which the team would continue to work on and build on. With respect to the concern raised that the biomedical field had not been adequately discussed Dr. Gann confirmed that work was going on in that area and that the team was well aware of the activities aimed towards bringing about price competition to encourage innovation.

99. The Chair noted the recommendations of several delegations to allow for the submission of written comments and announced that the deadline for that would be the end of January of the following year and that NGOs would be allowed to also make such written comments.

### Agenda Item 3: Monitor, assess, discuss, report on implementation of all Development Agenda recommendations Cont'd

#### Consideration of Document CDIP/8/2 Annex V

100. The Secretariat stated that in the project document the main activities were: upgrading the IT infrastructure and business systems of two regional IP offices; upgrading IT infrastructure and business systems in three LDCs offices; and regional workshops to be held in different regions to increase capacity and the knowledge of staff of IP offices in using automation and deploying automation systems. The project started in 2010, but it was delayed at the beginning due to the need to hire the appropriate resources. However, three project personnel posts had been

filled to provide the necessary resources which included two professional service contracts for project management staff and one general staff for project coordination. The Secretariat further informed that in 2011, resources were added by engaging a regional consultant based in Nairobi, Kenya, in order to support the activities in that region. Progress on the different activities in the *Organisation Africaine de la Propriété Intellectuelle* (OAPI), included from a previous project, the delivery of an ICT infrastructure which helped the office to upgrade its basic infrastructure and to provide its own website, and email services and internet connectivity. Under the present project, while building on the previous project, assistance was given to the office to automate initially the commercial names registry and to improve connectivity between the OAPI and its Member States offices. That would be followed by automation to other IP registries, including trademarks, patents and others. The Secretariat informed that in the case of the African Regional Intellectual Property Organization (ARIPO), the current Smart IP Institution Project formed part of a number of activities. While ARIPO was currently seeking external funding for the major upgrade of its own business systems, the Secretariat had been providing technical assistance to ARIPO Member States to upgrade their own IP business systems as the current phase of the project focused on interconnectivity between ARIPO and its Member States. The Secretariat highlighted that in the pilot phase, a system of electronic exchange of notifications between ARIPO and Kenya had been tested and currently being extended to other Member States of ARIPO. Other activities would continue throughout 2012 and eventually, should result in much more sophisticated integrated systems at ARIPO and its Member States. The Secretariat further informed that in the case of LDCs project, three countries were identified namely, the Lao People's Democratic Republic, Cambodia and Bhutan. Those countries were identified on the criteria of the project document and on the demands of the Member States themselves. Need assessment missions were carried out during 2010. The projects were initiated in 2011 and were in progress in all the three countries to deliver upgraded business systems for these offices. Two regional workshops had been held; the first in Cairo, Egypt, in July 2010, and the second in Zimbabwe, in May 2011. The purpose was to increase the knowledge and the capacity of staff in the offices in deploying and supporting business systems. A third workshop was being held in Zimbabwe focusing on technical training for the IT staff of the IP offices of the ARIPO Member States. The Secretariat informed that the main risk identified in the project was the long term sustainability and there was a lot of planning happening to be able to ensure that the continued support of the systems in those offices after the end of the current project. The Secretariat reported that the finalization of the project was scheduled at the end of the first quarter 2012 and by that time, it was forecasted that most of the deliverables should be completed according to the original project proposal. However, there would be a lot of activities still required in those Member State offices which would be continued using other resources. Budget utilization was reported as 52.8 %, which was partly due to the late start of the human resources and it was forecasted that by the end of the project, most of the budget should have been utilized.

101. The Delegation of Cambodia expressed its support for the Smart IP Institution Project and was pleased to report that the industrial property automation system and the IPAS under that project was working very well and was user-friendly. Since the Delegation had been working with it for many years, there was a proven reduction of processing time, clearance of some backlog and reduction of costs. The Delegation thanked the Secretariat as well as the Japanese Fund-in-Trust and strongly expressed its support for the renewal of the Smart IP Institution Project.

102. The Representative of ARIPO referred to page 6 of Annex V, which stated that the ARIPO project would start in 2012, if the funds were available. Concern was expressed as regards implementation of the project if the donors were not available and the funds were not available. Would it mean that the whole project would not take place, the Representative asked. Unfortunately, the ARIPO project did not include the Member States as it only included the ICT infrastructure of the ARIPO. The Representative hoped that ARIPO Member States could be

included. As regards regional workshops, the Representative proposed that more workshops should be held after the project had been completed.

103. The Secretariat, responding to the comments by the Representative of ARIPO, affirmed that under the Smart IP Institutions Project, ARIPO Member States, as in individual offices, were not direct recipients of the project. However, the project fitted within a broad spectrum of activities of Program 15, technical assistance to IP offices, and the Secretariat worked with up to 80 offices per year under that program. All the ARIPO Member States were recipients of technical assistance under that program. The Secretariat further noted that on the subject of funding for ARIPO as pointed out, ARIPO was currently seeking external funding from another donor agency and the Secretariat was providing assistance in that funding request. If the funding was not available, the answer would be to look at other donor agencies. The Secretariat further informed that it was currently preparing the workplan for the 2012 budget and workshops on IT and IP business systems in all regions were being included under the regular activities, not under the CDIP activities.

104. The Delegation of Côte d'Ivoire shared concern of the Representative of ARIPO over the availability of funds for the implementation of the project. The Delegation suggested that it would be useful to begin to consider alternative solutions in view of the situation.

105. The Secretariat clarified that the funding which was mentioned by the Representative of ARIPO was not for the CDIP project, but for a separate project with ARIPO, a separate project for which ARIPO was seeking funding with the support of the Secretariat. The funds which were made available for the CDIP projects were already made available and being utilized according to the plans.

106. The Chair affirmed that the Secretariat's response satisfied the Delegation from Côte d'Ivoire. The Chair then invited consideration of the next project which was the Innovation and Technology Transfer Support Structure for National Institutions contained in Annex VI and gave the floor to the Secretariat.

#### Consideration of Document CDIP/8/2 Annex VI

107. The Secretariat stated that the objective was to create and test, update and improve, a series of modules and materials relating to managing IP rights, particularly patents, by academic and research institutions. That included the setting-up and running of technology transfer offices at public research organizations, exploring technology transfer mechanisms such as licensing agreements, and enhancing the capacity to draft patents. The project also included the availability of the material in a portal which would be a digital repository of training modules, guides, tools, examples, models of national IP strategies, institutional IP policies, best practices, case studies and a database with samples of typical agreements, including licensing contracts, accessible through one single visit (one-stop-shop). The Secretariat recalled that the project paper was completed and presented at CDIP/6 and the relative document had been posted on the Development Agenda webpage. In addition, training tools were tested in in-situ seminars and events. Those seminars and events included the fact finding mission for the establishment of technology transfer office in Algeria, Successful Technology Licensing seminars and workshops in many other countries, including Serbia, Costa Rica, Cuba and next month in the Philippines, and participation in TTO circle seminars in Grenoble, France. In addition, an internal IT specialist worked on the alpha version of the portal. The Secretariat provided a demonstration of the portal. The first prototype was included in the main website on the Innovation and Technology Transfer Portal which was part of the project on Recommendation 10. It contained a brief description of the project and at the bottom a section on Forthcoming Events which were related to innovation and technological transfer promotions mostly in developing countries. On the side menu, the link, About Innovation, provided a small introduction about the innovation processes. The Secretariat navigated through the area of the

website with the objectives and the mission for the Innovation and Technology Transfer Section. The mission was to foster indigenous innovation capacity, particularly in developing countries, and make it conducive to economic growth. The objectives were to develop innovation ecosystems and also to develop human capital with innovation commercialization skills. Innovation ecosystems development included formulation of IP infrastructure: IP audit, IP innovation strategy, institutional IP policies; the setup of innovation infrastructure such as TTOs, TMOs, TLOs, IP hubs, incubation centers, technology parks and business centers; and finally the establishment of innovation networks such as R&D networks/IP hubs. The Secretariat pointed out that on the same side menu, there was more information to be obtained on the modules of Technology Licensing and Successful Technology Licensing for which the actual manuals were directly available. In addition, there was a manual developed on valuation, negotiating licensing agreements and trainings, which were both in French and Spanish. Additional capacity building and technical assistance tools were available on that capacity building side menu where there was a description of the network innovation project which was the R&D network in IP hubs, and other projects. The Patent Drafting Manual was also available on the website in its entirety along with a link to publications related to IP and patents and a link to additional materials such as IP audit tools, IP development and management tools. All the manuals were available in a one-stop shop location. The Secretariat further highlighted the resources on the website including the link to the Secretariat's University Initiative Program which had detailed information about the objectives, the methodology as well as ways to become a partner for universities and R&D institutions. To become a partner, after following the link, there were a series of online steps. Finally, at the bottom of the left menu, there were related links such as IP for Development, IP Advantage, National IP strategies, the Small and Medium-sized (SMEs) website, and link to the Technology and Innovation Support Centers (TISCs) website. The Secretariat further informed that the Recommendation 10 portal would include studies that were going to be included on the website shortly. The studies were forthcoming and there would also be an additional study on an IP valuation guide for developing countries that would present ways to value IP in a straightforward way as well as a Patent drafting exercise book which would include contributions from four experts in patent drafting area. The Secretariat further noted that there would also be an IP Valuation Training Kit for Academic Institutions, a Training Kit on Models of IP-Related Contracts for Universities and Publicly-Funded Research Organizations, a Trademark Licensing Guide and a Guide on the Strategic Management of Open Innovation Networks. All of those guides would be finalized by March 2012. The first drafts of those manuals would be received by December 2011 and finalized at the end of March 2012. All of the guides would be available on the web portal in different languages, for example, the Successful Technology Licensing guide was available in ten languages.

108. The Delegation of Chile reiterated the importance of transfer technology to developing countries expressed its pleasure to see the development of the project and the expected future results. The Delegation noted its interest in working on the future development of the project.

109. The Delegation of the Dominican Republic inquired whether the project had any links to other institutions, for example, in the Dominican Republic the Ministry of Higher Education included technology.

110. The Delegation of Germany posed a question regarding the budget utilization. The Delegation observed that as of July 2011, the budget utilization rate was 10 per cent, and if after 27 months the utilization rate was 10 per cent, how the remaining 90 per cent would be spent in the remaining six (6) months.

111. The Delegation from Pakistan, referring to the comments made by the Delegation of Germany, regarding the budget utilization rate of 10 per cent stated that its understanding was that there was a delay in the project initiation and the original timeline would be changed. The

Delegation inquired that after the prototype of the portal was launched, what other activities were foreseen for the utilization of the rest of the budget.

112. The Delegation of Algeria underscored that the project was one of the most important projects for developing countries as it assisted the Member States to develop and improve national IP institution capacity. The Delegation stressed its interest in the project as it had already received an assessment mission from the Secretariat in relation to the project. It requested the Secretariat for clarifying the next steps of the project.

113. The Secretariat, addressing the comment from the Delegation of the Dominican Republic stated that the project for Recommendation 10 was the establishment of the digital portal that would make available all of the relevant materials that the Secretariat had at its disposal and that would be developed and finalized in the next few months. Most of those were done in collaboration and discussions with Member States. For some of those partnerships, the WIPO University Initiative was often engaged with universities and R&D institutions in Member States. In some cases universities were interested in becoming partners and contacted the Secretariat directly. But it was also recommended that the relevant ministries initiated the contacts between the R&D institutions as well as the universities and the Secretariat to become partners in the WIPO University Initiative program. The Secretariat explained the two-prong approach. First, the development of the innovation ecosystems which took a more infrastructural role and as such it included infrastructure projects such as the pilot project for the establishment of technology transfer offices in the Arab region. Also, it included the R&D networks in IP hubs project that the Secretariat started in January 2004. Most of those projects were initiated in countries with the relevant participation of some of the Member States. The approach now was more holistic, for example, for the TTR, the Secretariat looked at a certain number of countries in North Africa and put together a pilot project for the establishment of technology transfer offices based on an open innovation model for networking and collaboration in the region. In addition, there were some capacity-building tools and materials that the Secretariat had developed in-house, or in collaboration with experts from outside, such as the most recent study on open collaborative projects on IP-based models. The results of those tools were also available on the digital portal in different languages so that they could be accessed through the digital portal. On the implementation rate, the Secretariat stated that initially the project implementation was low and the reason for it was that the Secretariat needed to hire human resources. It believed that over the next few months, most of the available funds would be completely used. It was estimated that by the end of March next year, the Secretariat would receive most of the materials and new guides from the relevant experts. In addition, it would use funds for organizing seminars foreseen in the project documents. Concerning further activities, the Secretariat informed that six (6) different studies and guides would be finished and approximately ten (10) in-situ workshops on technology transfer would be conducted.

114. The Chair thanked the Secretariat for the detailed information and clarification and hoped that it satisfied the queries from the floor. The Chair conclude the discussion on the progress on that project and opened the consideration of the project entitled Strengthening the Capacity of National IP Governmental and Stakeholder Institutions to Manage, Monitor and Promote Creative Industries, and to Enhance the Performance and Network of Copyright Collective Management Organizations contained in Annex VII.

#### Consideration of Document CDIP/8/2 Annex VII

115. The Secretariat (Mr. Trevor Clarke, Assistant Director General) congratulated the Member States on the progress made and the excellent job done in solving extremely difficult problems between CDIP/7 and 8. The Secretariat (Mr. Andrew Tu) informed that it would provide a brief summary of the progress and some of the ongoing challenges. It recalled that the project had two main components which were related to creative industry and collective management. The implementation of the component related to creative industry had been completed successfully

in 2010 and a completion report had been presented to the sixth session of the CDIP. On the component related to collective management, during the reporting period progress was made notably in the area of technical design of the West African Copyright Area Network, the so-called WAN Database system, as well as the enhancing and the engineering of the WIPOCOS application in order to meet the current and emerging business requirements of the collective management organization in a more effective and efficient manner. However, there were still works that needed to be completed and challenging issues that needed to be resolved. Additionally, the work of the Caribbean Copyright Link Project (CCL) had also been progressing well. The CCL Project was a supplementary component of the aforementioned collective management project. The Secretariat received the final report of the project prepared by the CCL consultant team and shared with the CCL Member States. The Secretariat pointed out that recently the CCL had been renamed as Association of Caribbean Copyright Society (ACCS). According to the final report, the two work items related to the aspects of testing and trainings remained to be completed. The Secretariat was in contact with the ACCS Member States to seek their advice on the best way of completing the remaining two work items in a timely manner.

116. The Delegation of the USA addressing the part of the report relating to collective management, noted that the report detailed a number of technical challenges such as re-developing the WIPOCOS application in a modern software environment and developing the WAN database to support business requirements. The Delegation asked for an update on those challenges in detail and a suggested completion date for that aspect of the project. The report seemed to suggest December 2011 as the completion date, but the Delegation wished to learn any new information. Secondly, the Delegation stated that the report was candid in noting that the greatest risk to the success of the collective management part of the project was the extremely difficult technical challenges. The Delegation asked whether the challenge was in interconnecting the database with existing international systems where licensing terms might need to be negotiated as stated on page five. The Delegation further asked how great the risk was, in the Secretariat's judgment, and whether progress was being made to meet that challenge.

117. The Delegation of the Dominican Republic was delighted to hear that there was a project of that type and liked to know, since it was a question of strengthening the institutions responsible for collective management, whether the Secretariat had taken into account or studied the impact of the recent scandal which had taken place in Spain at the Sociedad General de Autores y Editores (SGAE).

118. The Secretariat, mentioning the technical challenges faced in the implementation of the project stated that those were many and complex. The WIPOCOS system had its origins in the early 1990s and it was developed in a software environment that was now obsolete. The supplier no longer supported the software and to continue to upgrade the system was extremely tedious. An associated problem was that there was just one technical person working on the system. The Secretariat had sought to remove that challenge by involving WIPO's ICT Division so the enhanced system was done in a modern software environment. There were technical challenges with the WAN database, which was conceived as a database to serve the interests of about ten (10) - eleven (11) countries in West Africa. The project, as approved by the Committee, was a pilot project, capable of being replicated in other parts of the world and the Secretariat thought that developing a technology with a database in a sub region was probably not the best course of action. Fortunately, Google had offered to use their technology to develop a database in the proverbial clouds which not only enhanced the capability of what the Secretariat was trying to do in West Africa, but immediately placed a facility that would be accessible in any part of the world. There would be a reduction in the maintenance and support costs because that facility would be part of Google's facility. In terms of the completion date, the Secretariat noted that the completion date was moved backwards and forwards, and that was the result of the technical challenges, adding that the project would not be completed in



December 2011, and it was hoped to be completed by December 2012. There were going to be a series of meetings between ICTD, Goggle WIPO Secretariat, along with the most important West African users. The series of meetings were planned for November 28 to December 2, 2011. Amongst all the logistical issues that would be discussed and agreed upon, the issue of timelines and completion dates would also be addressed. By the next CDIP, there would be a straight answer and indeed a better understanding of the conclusion of the project. On the risk of interconnecting the database with the International Trade Associations (ITA), organizations that managed data for regional and sometimes, large national collective management institutions, the Secretariat stated that one of the best known would be the International Confederation of Authors and Composers Societies (CISAC) which did that for maybe over 200 societies in 180 countries. To have the West African database connected to those societies, such as CISAC, and in the USA, the Recording Industry Association of America (RIAA), and in Europe, Society of European Stage Authors & Composers (SESAC), the Secretariat had started discussions with those organizations about overcoming the policy issue of the Secretariat's system interconnecting with those organizations on behalf of the WIPOCOS developing countries societies. In addition, the Secretariat would also discuss the technical issues of interconnections as whenever different databases developed by different persons needed to be interconnected; there were questions of protocols and standards and how data would be moved across different connections and also the critical question of who owns the data and who was responsible for the protection of the data. The Secretariat explained that there was a mixture of political and technical issues under discussion. The Secretariat referring to another observation stated that societies worked in the interests of their members, they collected money, took out their expenses and distributed the rest across the membership base, for example if it was a music society, on the use of the music. There were serious governance issues that had to be put in place and managed for those organizations to be successful. One of the things that the Secretariat was beginning to put great effort into was to help those societies to understand the serious responsibilities they had in managing other people's money. It was put in the context of governance. The Secretariat further noted that it worked with societies at the pleasure of the Member States and societies with whom it interacted were the societies for which the copyright offices or the governments of the Member States invited the Secretariat to assist.

119. The Delegation of South Africa requested detailed information on the follow up events which were envisaged last year and that year following the completion of the creative industries component of the project. The Delegation asked for an elaboration on that and also what happened to the budget that was remaining since the project had used 36.6 % of the budget and what would happen after December when the new biennium commenced.

120. The Secretariat regarding the follow up on the creative industry part of the project which was completed in 2010 noted that the details were in the Work Plan, both for 2011 and 2012, which was being prepared and pointed out that the follow up actions included an economic study and round table discussions, in the same format as done in the previous biennium. One of the very successful activities was the economic studies being done to assess the economic contribution of the creative industries to economic development or the estimated economic contribution of those industries to GDP. The Secretariat noted that it had done 31 studies in different countries and was continuing to increase the number of those studies. A study was done in Jamaica in 2007; currently a study was underway in Trinidad and Tobago and in six islands in the Caribbean. The studies were continuing as follow up activities of the project. Concerning the budget some of it, if not all, would be absorbed in the enhancement of the Secretariat software that was being done by the ICTD Division. The Secretariat did not expect any significant cost flowing to Google, but there were some costs associated with hosting meetings and facilitating activities to clarify issues, for example the meeting that would take place at the end of the month.

121. The Representative of KEI noted that the project was supposedly related to assist Member States to develop and improve their IP capacity with a view to making national IP

institutions more efficient and promoting a fair balance between IP protection and public interest. The Representative further noted that the description of the project sounded like it was mostly about strengthening and building and promoting collection societies. It recalled earlier debates of the Development Agenda when people had in mind the balance between IP protection and the public interest, and were thinking about issues like limitations and exceptions, what were the user rights, etc. The Representative stressed that it was almost as if something that was designed in the original Development Agenda to be about protecting consumers, ended up being almost part of the IP enforcement expenditure of over a million Swiss francs.

122. The Secretariat stated that it was confident that through the Committee, the Secretariat had embraced the issue of balancing IP protection and the public interest. It underscored that everything it did had that intention, perhaps not specific to the project discussed, but the work done in the SCCR and for a lot of side events related to advancing the understanding of the issues related to copyright, the internet or copyright in digital environment, everything in that area was to balance IP protection and the public interest.

123. The Chair concluded the discussion on the progress report on the project under the Annex VII and opened the discussion on Annex VIII; Improvement of National, Sub Regional and Regional IP Institutional and User Capacity.

#### Consideration of Document CDIP/8/2 Annex VIII

124. The Secretariat (Ms. Francesca Toso) started with a report on the first component of the project which focused on the development of a standardized methodology to assist least developed and developing countries in the formulation of national IP strategies. The project recognized the need to assist Member States in designing an approach which was coherent and harmonized, though flexible, to assist Member States in the formulation of national IP strategies, which had to be adapted to the specific needs and the circumstances of each country. The Secretariat had been able to develop a number of tools and framework guidelines, carried out by a number of experts, and the tools had been tested and validated in the six (6) pilot countries which were part of the project. The pilot countries, in three (3) cases, had completed the process, and another three cases were going to complete the process by the end of the year. The Secretariat briefly ran through the key phases of the project and especially the implementation phase including the development and testing of the tools and of the proposed methodology. The first phase had been carried out in each pilot country, including the analysis and collection of relevant data which was part of the first phase of documentary research. The analysis had been of the national economic, social and cultural development objectives of the country with a view to identifying the strategic axes around which the IP strategy would have to be built. The Secretariat explained that the object of such analysis had been national development strategies and policies, poverty reduction strategies, essentially the policy framework. For the analysis, the effort had been to identify the interface between intellectual property and national development goals. The Secretariat referred to the comment which was made earlier on the element of the recommendation to strike or to identify a fair balance of interests and stated that in that phase of analysis of the national development objectives, precisely the interface between IP and how IP could contribute to the attainment of the national development goals had been an important part of that research. The Secretariat noted that the second phase of research had been carried out in the form of an audit of the current state of the national IP system. For that phase, a questionnaire had been developed on the basis of existing documents, as well as other documents developed in the framework of the project. The Secretariat stated that each time a tool, the questionnaire in that case, was tested in each pilot country, the Secretariat was able to gather very relevant feedback and very relevant information to continuously refine that tool. At the end of that testing phase, the Secretariat had a tool sufficiently tested and validated. However, it would still go through a validation process at the end of the project. The third phase in the project implementation had been completed in three (3) countries including the actual formulation of the IP strategy, which had been accompanied

by the elaboration of an action plan with specific recommendations, time frames and specific actions, in addition to the identification of potential partners for the actual implementation of the strategy itself and identification of partners for the mobilization of resources. The Secretariat highlighted that the process had been an extremely interesting learning curve for everyone, and led to a consultation in different countries, specifically a national consultation, multi-sectorial public consultation with key IP stakeholders. After the consultation phase, the whole process would culminate in the adoption of the strategy itself. The Secretariat noted that having reached the point of adoption of the strategy, it could say that a whole new phase would open up to those countries that had completed the process. Having an IP strategy in place and having developed it according to that methodology concluded the preparatory phase, at which point the actual implementation of the national IP strategy had been taken into account. The Secretariat further noted that the implementation phase was not taken into account by the present project. The Secretariat concluded with a few points on the lessons learnt in the process and a few considerations on the way forward. It explained that it appeared clear that the development, establishment, and elaboration of national IP strategies was a process which was led by national experts and highlighted the importance of creating a pool of experts from within the country, who lead the national process, supported, when requested by international experts. It had been a process that was multi-sectorial and multidisciplinary, having involved all the national stakeholders. The Secretariat noted that the issue of resource mobilization came into play when the actual strategy would have to be implemented and those questions were open for the country to address. In terms of the way forward, the Secretariat was planning for the month of January 2012, a final action on the present project which consisted of holding an experts meeting, convening all the national and international experts who had been involved in the implementation of the project in order to validate the proposed methodology and to share the experiences they had carried out in each country with the differences which in each country had been pointed out.

125. The Delegation of the Dominican Republic stated that the initiative had enabled its country to be one of the participating countries in the pilot project, in order to formulate the strategy for IP and development. The project enabled it, through gathering data, to understand the current status of the intellectual property system in the Dominican Republic and to identify strengths and weaknesses both at the institutional and legislative levels and also to identify sectors which could be strengthened through the use of the system in order to improve and promote the use of IP in the Dominican Republic. The Delegation credited the project for being in the final phase, which provided the approach for the formulation of a national strategy for intellectual property for the future. In order to ensure that there were effective results of the project, the Delegation requested additional financial resources for the establishment of a standing program for assistance within cooperation for development in order to effectively implement national strategies. The Delegation highlighted that it would enable those countries which had been working on the pilot project and were now in the final phase, to strengthen and implement strategies at a national level.

126. The Delegation of Pakistan had three (3) questions with regard to the project. First, it stated that the Secretariat mentioned a meeting of experts involving six (6) countries, probably, the countries which were in the pilot phase, and asked whether it was the same meeting which was referred to in the document as international conference. Second, with regard to the guidelines which were set under the project, how those guidelines would be used for other countries at the later stages, bearing in mind that there were different levels of development of the countries. Third, the Delegation referred to the budget utilization which at that late stage of the project was only 36.3 % in July 2011, and asked whether there would be an increase in spending.

127. The Delegation of Algeria informed that Algeria was one of the pilot countries of the project. While somewhat delayed, it was progressing very well and by the end of the year it would be completing the first step on the project. The Delegation considered the project as one

of the main projects in technical assistance of the Secretariat to developing countries, and expressed hope that there would be a follow up, allowing those countries to start implementing the recommendations of the project. The Delegation stated that it was comfortable with the fact that the research first took into account the development needs of the different countries and emphasized that it had to be included in the national development strategy. The Delegation referred to the point raised by the Delegation of Pakistan concerning the budget utilization and asked whether the budget was only for the six countries or whether it was open to other countries that would participate in that project. Noting that if it was only for those six (6) pilot countries, and if three (3) countries had completed the project, it requested further clarification as 36.3 % was a very low %age on the implementation.

128. The Delegation of Bolivia requested for further information on stakeholders to be included in the national consultations. The participation of public interest organizations was vital as that would impact on the results. It was essential to promote a more balanced view of the IP system, and in particular, a balance between IP protection and the public interest. It was unclear as to whether that dimension of Recommendation ten (10) on promoting a balanced system was taking place. There were several other projects under Recommendation 10 that were presented and it was also difficult in those cases to determine the extent to which those activities contributed to a more balanced view of the IP system, taking into account, the public interest. For that reason, it would be useful in future, to provide more detailed information on the implementation of the activity. That was necessary in evaluating the implementation of Recommendation 10. Further details on the consultation process would be very relevant in that respect. In addition, the Delegation also recommended a balance in the selection of experts to be invited to the meeting to validate the methodology. That should include, in particular, adequate participation of public interest experts. It would also be beneficial if the methodology were to be made public and circulated to Member States. That would assist in understanding how the methodology could contribute to a more balanced approach to intellectual property.

129. The Delegation of Egypt noted that the SMEs drove the economies of many developing countries and LDCs. In that context, the Delegation underscored the importance of the project, with particular emphasis on the SMEs component. It looked forward to further clarification with regard to the status of the SMEs component.

130. The Delegation of Tanzania observed that the project was expected to assist countries in aligning their IP strategies with national development goals and priorities. Efforts should be made to ensure that those expectations were met. It was reported that only 36.3 % of the allocated budget had been spent to date and in view of the explanation that the implementation of the results was not included within the project the Delegation proposed that the pilot countries should be assisted in the implementation work.

131. The Delegation of Oman attached great importance to the project. The Government of Oman had two (2) years ago asked for support to the center for intellectual property and had carried out a survey, based on the tools described in page 3 of the document. However, those tools were currently only available in English, French and Spanish, but not in other official UN languages, including Arabic. That would impede the ability of developing countries such as those in the Arab region, to use the tools and for the project to assist those countries in developing national IP strategies which corresponded to their needs.

132. The representative of KEI agreed with the comments made by previous speakers, including the Delegation of Bolivia, with respect to the first component. The progress report stated that a major element of the adopted methodology was the holding of national consultations involving all key national institutions and stakeholders. The Secretariat was requested to provide further details of the stakeholders that participated in those consultations and whether they included consumer groups, librarians, educators and health workers. It was also noted that Recommendation 10 formed the basis for the project. In that regard, further

information was requested as to how the project assisted in promoting a fair balance between IP protection and the public interest.

133. The Secretariat clarified that the meeting of experts was not a reference to the international conference, but rather to the expert meeting included in the implementation timeline found on page 8 of the document. Although it was stated that that would be convened in February, it was likely to take place earlier in January. All consultants who had taken part in implementing the project at the national level would be invited to participate. That would include national experts from the six (6) pilot countries as well as international experts who had been involved in the various countries. The meeting was expected to validate the tools employed in the pilot countries. A final revision would take place afterwards. The end result would be a package of tools which would be made public. That would include: a compilation of documents and practical tools including a step-by-step methodology, user guidelines, key phases and a questionnaire. On the questionnaire, particularly how it could be used by countries at different stages of development, the questions could be adapted to suit individual circumstances. On the national consultations, the Dominican Republic, for example, had completed the entire process. The consultations involved the participation of representatives from the various government agencies, industry and civil society. The aim was to allow various stakeholders to express their views on a draft strategy which had been elaborated based on their inputs. Different institutions were interviewed and their inputs reflected in the IP audit. When the national strategy was drafted, it was put forward to all stakeholders for their consideration. In addition to sectorial roundtables and plenary discussions were also organized to allow every interested institution a chance to express their views. Further revisions were made to the draft based on the inputs derived from the consultations. The objective was for the document to incorporate the different points of view and reflect a fair balance. The project itself was aimed at achieving a fair balance. It was geared towards providing a means through which a national IP strategy could be developed to support national development goals. Each country would come up with its own response, adapted to its own circumstances and development objectives. On budget utilization, the report was only on one of three project components. The second component concerned the improvement of sub-regional IP institutional capacities and included the development of a Caribbean patent administration system which was still underway. The 14 CARICOM Member States were currently engaged in consultations and would meet in December to discuss possible texts for a convention to establish a regional Caribbean patent administration. The third was the SME component. The allocated budget was shared between all three components. The Secretariat agreed to the importance of the implementation phase for the pilot countries. At present, the implementation of the overall project was on target and had achieved the expected results. The expert meeting would also have an impact on the overall budget. On the availability of the tools in Arabic, those had so far not been translated into Arabic as the language was not used in the pilot countries. However, following finalization, the documents could definitely be made available in Arabic. The Secretariat (Mr. Sinha) reported on progress with respect to the SME component of the project. That included four major activities; national studies on IP and SMEs in six countries; translation and customization of SME publications; training of trainers; and the translation of IP Panorama into various languages. On the national studies on IP and SMEs, those had been completed in two countries and were in the advanced stages in a further three. Another two required more time. On the training of trainers program, work had been completed in four countries and among two others, one would be completed by year end, and the other by next year. On IP Panorama, the French and Spanish versions had been completed. An international conference could also take place in the first quarter of 2012.

134. The Delegation of El Salvador was currently identifying the interface between IP policy and national development strategy in order to consolidate a diagnostic report which would be submitted to the national authorities. Coordination between the Secretariat and national authorities was important in the implementation of those activities. As the Delegation had stated in the Budget Committee meeting, sufficient funds should be made available for the initial phase

of the project as well as for addressing priority needs. Although the Delegation was encouraged by the positive response received from the Secretariat, nonetheless, it wanted to reinforce the point that funds should also be made available to address identified needs.

135. The Delegation of Bolivia enquired as to whether participation in the expert meeting would be open to all or only restricted to the experts that had taken part in the project. There should be a balance in terms of geography and in the representation of the different sectors of society, including civil society. On the national consultations, it enquired whether external experts had been recruited to participate in the process, and if so, whether information was available on the experts and if that had been included in the database for technical assistance. The outcome of the consultations was largely dependent on the choice of experts and for that reason, it had to be balanced.

136. The Secretariat informed that the project was already being taken up by other countries in Latin America. Requests were received from other countries keen to follow in the footsteps of the Dominican Republic. That was despite the fact that the tools were still under review. On the meeting of experts, the meeting would be restricted to the consultants that had taken part in the project in the pilot countries. The aim was to facilitate the sharing of information on implementation issues. There would be other occasions to include and involve others, including civil society and governments, in discussions on approaches, methodologies and ways to develop national IP strategies. On the experts, those were external and had been included in the database for technical assistance. The aim was to create a pool of experts at both national and regional levels as a person from the same region with similar experiences could provide useful inputs to the strategy being developed in another country.

#### Consideration of Document CDIP/8/2 Annex IX

137. The Chair opened discussions on the project, "Intellectual Property in the Public Domain" and invited the Secretariat to provide an introduction.

138. The Secretariat (Mr. Roca Campana) recalled that the project was related to the implementation of Recommendations 16 and 20 of the Development Agenda. It had three main components – copyright, patents and trademarks. The copyright component had four main outputs. The first was the "Scoping Study on Copyright and Related Rights in the Public Domain". The study was released in May 2010 and presented during the 6th session of the Committee held in November 2010. Subsequently, Member States had requested for the study be published as an official document for the seventh session of the Committee in 2011. The Committee reviewed the study and decided that it should be presented for further debate at that meeting (document CDIP/7/INF/2). The second output was the "Second Survey on Voluntary Registration and Deposit Systems". The survey was based on a questionnaire submitted to all Member States. Eighty countries responded and the results were published on the WIPO website. The third output was the "Conference on Copyright Documentation and Infrastructure" held at WIPO Headquarters on October 13 and 14, 2011. The participation of 23 representatives from developing countries and LDCs was funded by the project. Conference documentation could be found on the WIPO website. The fourth and final output was the "Survey on Private Copyright Documentation Systems and Practices". The survey was divided into two parts. The first was on private registries and repositories. That was completed and the results were presented at the aforementioned conference. That was published in English on the WIPO website. Translation into other working languages was in progress. The second part of the survey on Collective Management Organizations' Databases was slightly delayed due to the complexities and the particularities of the issue. The preliminary findings of that survey were presented at the said conference. The survey was expected to be completed in the first quarter of 2012, and the final findings would be submitted to the next session of the Committee for its consideration. Thus, with regard to the copyright component, three outputs had been completed on time and the fourth would be finalized for the next session of the Committee. On

the patent component, a study on "Patents and the Public Domain" was commissioned by WIPO and completed by external experts within the established timeframe. The study was available in English on the WIPO website. It included an overview of patents and the public domain, as well as a number of country-specific accounts on the relationship between the public domain, national patent law and relevant information-retrieval mechanisms. A further output was the study on patent legal status data ("feasibility study"). The study was prepared by the Secretariat and posted on the WIPO website. It was based on a survey on the availability of legal status data from primary sources conducted through a questionnaire which was sent to Member States and Regional Patent Offices. Eighty-seven replies were received and evaluated. Detailed results of the evaluation were published on the WIPO website. It was also envisaged that a web portal would be developed to access national patent registers in accordance with information obtained through the questionnaire. The last component of the project was on trademarks. The implementation of that component was proceeding in a timely manner. An overall consultant had been identified for the preparation of a study on the misappropriation of signs. That was in accordance with the project document as approved by the Committee. Fourteen regional reporters had also been selected to contribute to the study. The study was expected to be completed in the fourth quarter of 2011, and presented to the Committee for its consideration in the April/May session next year.

139. The Delegation of the Dominican Republic asserted that the project was of great importance in terms of its contents and relevance. That was particularly so in light of recent criticisms directed at copyright protection. Clarity on issues such as public domain was important in that regard. For that reason, the Delegation was in favor of the contents of the current document. However, it drew attention to the issue of collective management and the public domain. Although the Delegation acknowledged the importance of collective management, it was also important that the role of the societies be clearly defined and that those working within them to do not engage in activities that would bring the entire system into disrepute. Those institutions should operate in a transparent manner to avoid problems such as those recently experienced in several places which undermined confidence in the system. The Delegation expressed its concerns on the issue of how WIPO would collaborate with the countries in its region for the development of a public domain database, as well as on private initiatives currently underway in relation to the public domain. On the latter, the Delegation requested for clarification on the advantages for right holders to obtain a license from the Creative Commons.

140. The Delegation of Egypt highlighted the importance of the project, particularly with regard to the creation of a database on national patent registers and its linkage to Patentscope. The database would provide valuable information on the relationship between the patent system and the public domain. It would also assist in understanding the impact of certain practices concerning patents and the public domain, and provide for a rich and globally-accessible public domain.

141. The Delegation of the USA referred to the recent Conference on Enabling Creativity in the Digital Environment: Copyright Documentation and Infrastructure. The meeting was useful and well received. The Delegation requested clarification on the current status of the study on Private Copyright Documentation Systems and Practices. Although the report indicated that the study was still under preparation, the Secretariat had mentioned that part of it was already published online and the rest would be made available soon.

142. The Delegation of Chile recalled that it was one of the first to promote recommendations on the public domain. As such, it was very pleased with the development of the project. Although the report indicated progress was being made on the objectives, the delegation had some comments on the public domain studies which it would make later under item 4 of the agenda. The Delegation informed the Committee that the Industrial Property Institute of Chile had produced a technical publication on the public domain which was available online.

143. The Representative of KEI had participated in the conference referred to by the Delegation of the USA and questioned its connection with the public domain. In his opinion, the conference was mainly focused on issues linked to licensing in the music industry. Those were not related to the public domain. Although the matter of how copyright registration systems could be implemented to identify works in the public domain was mentioned, that was not the focus of the meeting. The Representative requested for clarification on the budget for the meeting and the amount allocated to the WIPO Development Agenda item on the public domain. On patents and the public domain, he was of the opinion that that issue extended beyond enhancing access to patent databases and included matters such as the impact of bad or low quality patents on the public domain, and whether it was beneficial to allow for the patenting of subject matter such as software and surgical methods. Attention should also be given to the issue of how countries determine what should be in the public domain and what should be privately-owned and how those boundaries were resolved by State practices.

144. The Secretariat (Mr. Victor Vazquez Lopez) noted the concerns of the Delegation of the Dominican Republic on collective management and the creation of a database on the public domain. The scope of the copyright component, as approved by the Committee, was narrowly-defined and did not include examining challenges related to collective management. On the Creative Commons, reference was made to page 52 of the public domain study prepared by Professor Dusollier (CDIP/7/INF/2). That provided an objective description of that organization and its work. It was inappropriate for the Secretariat to comment on its advantages and disadvantages. In brief, the Creative Commons was a non-governmental organization which provided authors with a choice of user-friendly licenses which were compatible with copyright protection. Some of the possible advantages of these licenses were described in the study by Professor Dusollier. On the query by the Delegation of the USA on progress in the preparation of the study on Private Copyright Documentation Systems and Practices, the Secretariat stressed that although the first section of the study had been published, the full publication of the study in its entirety remained pending. That was due to the fact that the first part, prepared by a consultant from CISAC, focused mainly on authors' rights in the music sector. As such, it was felt that the study would be incomplete if related rights, reprographic rights and fine art rights were not also included. That, however, required additional work in terms of the collection and elaboration of required data. That was the reason why the full document remained pending. The Secretariat (Mr. Alejandro Roca Campañá) on the comment made by the representative of KEI, that the Conference on Copyright Documentation and Infrastructure was not focused on the public domain, pointed to the fact that the title of conference provided an indication of the focus for that meeting. The contents of that conference and its objectives were included in the thematic projects approved by the Committee in its previous session and was modified in accordance with the comments made by Member States. The project highlighted the importance of copyright documentation and infrastructure in allowing access to, and identification of content, regardless of protection. Hence, the actual focus of the conference was on copyright documentation and infrastructure. The meeting was partially funded through the budget allocated under the Development Agenda. On the comments made by the representative of KEI on the study on patents and the public domain, those should be kept aside for now as the study had yet to be formally presented. However, it was noted that some issues might be addressed in a new project on patents and the public domain at the micro-level proposed for later discussion.

#### Consideration of Document CDIP/8/2 Annex X

145. The Chair invited discussion on Annex X, progress report on the project on IP and Competition Policy.

146. The Secretariat (Nuno Pires de Carvalho) informed that the progress report reflected the status of the project on IP and Competition Policy as of August 2011. All 8 project components



were in the process of being finalized, except for the study produced by the Institute of Applied Economic Research of Brazil (IPEA) on sham litigation, for which the Secretariat had already received the final document. A Symposium had been organized on October 10<sup>th</sup>, 2011, during which the document had been discussed. With regard to the organization of four regional seminars, the Secretariat informed that one of the seminars to be held in Damascus, Syria, had to be postponed until sometime in 2012 or 2013, and that the third seminar in Bishkek, Kyrgyzstan, would be held on November 28<sup>th</sup> and 29<sup>th</sup>, 2011. The final component of the project, i.e. the publication of studies and other relevant documents, would be implemented in early 2012, after having received all the documents and selected the most relevant and helpful, which would then be translated and published. As far the risks and their mitigation, one particular issue was that many IP offices and competition policy authorities in Member States did not seem to be familiar with each others' programs and areas of expertise. As a result, an activity which had developed in parallel to the project was to organize meetings in which IP offices and competition authorities from a number of countries had been invited to share their experiences and viewpoints and to discuss areas of common interests. In that regard, three roundtables had been held: one in New York in June 2011, one in Geneva in July 2011; and one in Singapore in September 2011. In all, IP offices and competition authorities from 11 countries, as well as three international organizations, had used the opportunity to share their views and experiences. While not a direct result of that approach, WIPO had already received formal information from two Member States that their IP offices and competition authorities had signed a Memorandum of Understanding to continue to exchange their experiences and that three other Member States had indicated, in an informal way, that they would engage in a similar approach.

147. The Delegation of the USA highlighted the fact that the two competition agencies in the USA, i.e. the Federal Trade Commission and the Department of Justice, as well as the US Patent and Trademark Office, had spent a great deal of time on that project and had indeed endeavored to contribute to its success. Referring to the fact that the progress report reported a low response rate with regard to the two surveys, namely the survey on compulsory licenses and the survey on franchising, with a less than 20% response rate, the Delegation asked whether the Secretariat had any idea why the response rate had been so low and whether that indicated that a large number of Member States had limited interest in those areas of enquiry or maybe limited use for the type of data they provided. Secondly, what procedures had been used to prepare the studies and discuss countries' laws? Had Member States been given the opportunity to provide inputs on questionnaires before those were being circulated and the opportunity to review draft studies discussing country laws so that they could provide any corrections, if necessary? Acknowledging the fact that it might be difficult, or perhaps not worthwhile to use that procedure in a study that discussed the laws of a dozen of Member States from a general viewpoint, the Delegation stressed that a study which would discuss a Member States' legal framework in an in-depth manner, including reviewing cutting-edge areas of the law, should ideally be made available to that Member State for review at the draft stage to ensure accuracy. In fact several studies under the project seemed to fall under that category, such as the study on the interface between exhaustion of IP rights and competition law, which would be discussed at a later stage. The Delegation asked for the Secretariat's thoughts on that point and also how the topics for the studies had been chosen, as it was the understanding of the Delegation that the list of studies would be submitted to Member States before any work would be undertaken by the Secretariat. The Delegation also asked for more information about the regional seminars, in particular about the audience, the number of countries attending those seminars, their length, format, content, the designation of experts etc. Pointing to the last progress report which had mentioned that a dedicated webpage would be set up on the WIPO website and that it would contain reports on the activities undertaken under the project, such as transcripts, presentations etc., the Delegation asked whether any progress had been made with regard to that particular initiative. It also pointed out that, in its experience so far, surveys and questionnaires developed by WIPO had often reached the offices months after they had been issued, which meant that the offices had very little time to complete them. The Delegation

asked whether WIPO had considered establishing an electronic means of delivery to keep points of contact within Member State governments and to ensure the timely delivery of documents. Finally, the Delegation stated that it would appreciate a preview of the planned activities within the new WIPO Division on IP and Competition.

148. Thanking the Delegation of the USA for its comments and acknowledging that the USA was one of the countries with the most advanced experience in the complex field of IP and competition, the Secretariat stated that despite lack of human resources, it had endeavored to engage with the Member States to collect as much inputs and guidance as possible on that subject. The low response rate to the two surveys was in fact one of the key lessons learned from the project. Rather than being a sign of lack of interest or lack of attention by Member States, it seemed to be more of a focal point issue. When surveyed, both the IP offices and the competition policy authorities had similar reactions that the scope of the surveys did not appear to be relevant to them. Competition authorities for instance often stated that the surveys were about IP and not about competition. That, the Secretariat added, was in fact one of the main objectives of the recommendations being implemented under the project, i.e. to raise more awareness and understanding among Member States of the interface between IP and competition. On the questionnaires, the Secretariat confirmed that the objective was indeed to incorporate that aspect in the future work. Two additional surveys on IP and competition had been planned and in that respect, a number of countries with practical experience in the two areas covered by the questionnaires would be identified so that their inputs could be gathered and incorporated into the final version of the questionnaires, which would be kept as short. That would be followed by the so-called "fact-finding missions" during which the Secretariat would discuss directly with the Member States the inputs needed. The Secretariat agreed with the comment that too many countries had been involved, partly because the experience in terms of IP and competition was not even amongst Member States, and stressed that that was part of the lessons learned under the project. It was the first time that WIPO was working in that area of IP and competition. Even though the Paris Convention of 1925 had a provision on competition law, it was a fact that the Secretariat had never engaged in that type of work before, and hence it was an important learning process for WIPO. As regards the selection of topics for the four studies, four different programs within WIPO were involved in the project and the selection of the topics had been the result of inputs from each one of those programs. For instance, one specific study on "IP rights as a barrier to entry", carried out by a foreign university, had been suggested by WIPO's Chief Economist. Concerning regional seminars, while they were referred to as "regional" seminars, they had in fact been "sub-regional" because of the Secretariat's limited resources. Therefore, around four, five or six countries from each region had been selected and the participation in the meeting had depended on the options in the specific region and on the host country's support. In the first regional seminar in Brazil, besides countries from South America, other participants included the Brazilian community of intellectual property and competition, specialized agencies of IP and competition in Brazil, as well as other government authorities directly or indirectly involved in competition, such as regulatory commissions, telecommunications, and health. In South Africa, the regional seminar had been different in the sense that the meeting was not open to the public in general. There were Member States from Africa, IP and competition authorities, two regional trade organizations from Africa (SADC and COMISA), and representatives of consumers, in particular the entity in South Africa which had a very prominent role in using competition law to address issues of access to pharmaceuticals. The meeting in Kyrgyzstan would be open to the IP and competition law community of a number of countries from the region. On the webpage, it was in the process of being finalized, with plenty of text and documents ready to be added to the webpage. A certain selection would, however, have to be done with regard to the content that would be posted on the page and that only some of the presentations from the seminars for instance would be put on there. Activities relating to IP and competition would be posted on the webpage within the following two weeks. Referring to the suggestion of having an electronic portal for the questionnaires/surveys, the Secretariat stated that as far as the low response to the two questionnaires was concerned, that did not seem to be related to time, as plenty of time

had been given to the Member States to respond to the questionnaires and the deadlines for sending the responses had even been extended on several occasions. With regard to the future planned activities, ideas on how to continue the work on IP and competition had been submitted to Member States in the PBC and that since the work plan for 2012 was now being discussed at an internal level, the Secretariat could not answer that question in detail. However, the plan was to continue that type of activities under the principle of mainstreaming. The difference would be that the funds for such activities related to IP and competition would come from the regular budget rather than from the CDIP budget. Two additional surveys were currently being planned and the Secretariat would keep on organizing meetings for IP offices and competition authorities so that they could continue to exchange views and experiences. The Secretariat concluded by pointing out that three recommendations guided that project on IP and competition and the mainstreaming of the activities would continue to be guided by those recommendations. One out of the three recommendations had not been treated with the same emphasis, i.e. the recommendation on technology transfer. That recommendation would be addressed in the Secretariat's work during the next biennium. That area was in fact one of the key areas where the Member States' inputs would be important, in particular inputs from Member States with experience in technology agreements and licensing agreements that might include anti-competitive clauses, and which could provide some guidelines, statutes or jurisprudence on the matter. The Secretariat would seek to collect that information in a consistent and organized manner and would distribute it to all Member States.

149. The Delegation of Chile stressed that the link between IP and competition policy was a very important issue for Chile. In particular, Recommendations 7, 23 and 32, implemented under that project, were among the most important recommendations for the country as IP and competition policy was particularly important for developing countries. An example of that was the agreement signed between national IP institutions and the Ministry of Economy to cooperate on that issue. Referring to the activities undertaken under the project, the Delegation acknowledged that the survey provided a general picture of the current state of the interface between IP and competition policy and regretted the low level of responses to the surveys. It urged other delegations to actively participate in that exercise. Despite having been unable to take part in the regional seminars organized under the project, the Delegation stated that it was working with WIPO to organize another seminar on that subject in the near future to which it hoped to participate and contribute.

150. Responding to the intervention by the Delegation of Chile, the Secretariat confirmed that a regional seminar would be organized in Chile in the context of the mainstreaming of activities either in March or in April 2012, and that WIPO had already received, the text of the Memorandum of Understanding, which Chile had announced during the WIPO round table held in Rio de Janeiro. That Memorandum, it added, would be translated and added to the website, together with the Brazilian Agreement, so that the Member States could see how other Member States were carrying out those types of cooperation and joint approaches between IP and competition authorities.

151. The Chair, thanking the Secretariat for its intervention, gave the floor to the Secretariat to introduce the report on the project on IP, Information and Communication Technologies (ICTs), the Digital Divide and Access to Knowledge contained in Annex XI of the document.

#### Consideration of Document CDIP/8/2 Annex XI

152. The Secretariat (Mrs. Carole Croella) first introduced the copyright component of the project which comprised a study on the use of copyright to promote access to information and creative content, and was designed to implement Recommendations 19, 24 and 27 of the WIPO Development Agenda. As part of achieving digital inclusion, the copyright system and its flexibilities could play a key role in enabling access to information and communication technologies and in facilitating access to information and knowledge. The aim of the first

component was to provide Member States with relevant and balanced information on the opportunities provided by new models of distribution of information and creative content, focusing specifically on three areas, i.e. education and research, software development, and public sector information/e-information services. The study consisted specifically in a survey of legislations, strategies, public policies and government strategies from all regions with a view to showcasing strategies which had been successful in enhancing access to content in the three areas mentioned previously. The study, therefore, focused on practical initiatives and case studies to support development through the application of the copyright regime to software development practices, public sector information, and education. While it endeavored to be as practical as possible, it was also clear that some of the identified regions had had little experience in that area or were not very advanced in terms of practice and public policies relating to the areas of the study. The project had been delayed due to some logistical issues with one of the contractors. The issues had been resolved and three interim reports would be presented and discussed at a workshop which would take place immediately after the session, during which the content of the study on using copyright to promote access to information and creative content would be presented. The Secretariat also pointed out that the three authors of the study would be at the workshop to present the content of the studies and Member States and NGOs would have the opportunity to analyze and evaluate the preliminary results of the interim reports. Those experts were Professor Bernt Hugenholtz from Amsterdam University, Professor Richab Gosh from Maastricht University and Mr. Sisule Musungu from IQSensato. The event would provide a valuable opportunity for the delegations to make comments. The finalization of the study would take place by the end of the year and it would be posted on the website. It was expected that the final version of the study would become an official document which would be presented at the next session of the CDIP. The final report would contain a number of recommendations to facilitate an assessment of the opportunities for possible follow up initiatives and address WIPO's possible road in relation to future initiatives in that area.

153. The Chair invited comments on the first component of the project. As there were no comments from the floor, he invited the Secretariat to present the second component.

154. Reporting on the second component of the project, i.e. the digitization of IP documents component, the Secretariat (Mr. William Meredith) stated that it aimed at helping IP offices to digitize their IP records. The goal and benefits of the project were twofold. First, from the point of view of the internal administration of the offices, the digitization would help them move more quickly towards an automated environment for processing IP rights' applications, which, in turn, would help IP offices to provide faster and better services to their stakeholders, applicants and the public. The second benefit was simply that it would provide digital information which could be published online either in international databases or on the websites of the IP offices themselves, or both, thereby contributing to the dissemination of information with regard to the status of IP rights in different countries and regions around the world. The project could be implemented in different ways according to the requirements of the offices. A range of different kinds of projects had been run, ranging from the simple provision of software and technical assistance to contracting external suppliers to digitize very large back-files of IP records. The Secretariat pointed out that digitization projects had been initiated in ten countries, which was more than what had originally been planned. The countries had been selected based primarily on demand from the offices themselves, including one regional office, and the offices had been selected based on an assessment made by the WIPO Project Managers to ensure that the offices were ready and capable of supporting the digitization process. These projects had been largely completed in 2011, but ongoing activities would, however, continue in 2012. As far as resources were concerned, the Secretariat re-emphasized the fact that projects had been initiated in more countries than originally planned and pointed out that the budget had been underutilized, stressing that the constraints on the project had, therefore, not been budget related but rather the resources which the Project Managers had needed to support the project. The Secretariat concluded by stating that the project would come to an end at the end of the year and that any outstanding activities in the various offices would continue under the principle

of mainstreaming. In that respect, ongoing projects and activities would continue to be implemented under the regular budget of program 15.

155. The Delegation of Cuba was satisfied with the project implementation. Cuba had, on several occasions, reiterated its interest to see funds used for that and hoped that Cuba would be able to participate fully in the implementation of the project from the beginning of 2012 and that the implementation of such a project would contribute to the modernization of the IP office.

156. The Delegation of Egypt stressed Egypt's support to the project and in particular to the important process of IP document digitization, software development and e-services development.

157. The Delegation of Kenya asked the Secretariat for additional information on the exact scope and status of the digitization process in the IP office in Kenya.

158. The Delegation of Paraguay stated that its general Department had requested support with regard to the digitization of copyright documents, but that it had not yet received any response and that it still did not know the answer. Using the opportunity, the Delegation asked whether Paraguay was on the list of countries interested in the project, and if the answer was negative, whether it would be possible to be added to the list for 2012.

159. The Delegation of Nigeria asked the Secretariat whether it had received any new requests for that project.

160. Referring to the project implementation timeline, the Delegation of Pakistan noted that there was a delay in the project implementation, but that both the components would be finalized between the end of 2011 and the beginning of 2012. With regard to the budget utilization rate, the Delegation pointed out that the figure of 31.6%, data from July 2011, would inevitably be higher at the time of the Committee session. For the Delegation it seemed to be a systemic issue that a lot of the projects suffered delays in implementation and budget utilization and asked for more details with regard to that particular project.

161. The Secretariat started by answering the question from the Delegation of Cuba and informed that it had not yet received a request from Cuba and that Cuba was not included in the scope of the current project, adding that that was simply a matter of scheduling the digitization activities with the other activities which were also being conducted in that Office. Further, progress would be made before the end of 2011 and the mainstreaming of digitization activities would be included in the 2012 work plan, in agreement and after discussions with the office. With regard to Kenya, the project involved the provision of equipment by WIPO. The equipment had been delivered to the office in early 2011 and the Project Manager had visited the Office several times to set up the work flow for the digitization of documents, an activity which had been progressing well. The Kenyan patent collection was now being prepared for publication on the WIPO Patentscope website and would also be made available to the Office to help with internal procedures. That project, the Secretariat added, should be closed by the end of 2011. On the question of Paraguay regarding the digitization of copyright documents, the Secretariat stated that a planning mission had taken place earlier in 2011, during which equipment had been provided using funds from an external source, and that another planning mission had taken place two weeks earlier, out of which a work plan including the digitization of IP documents as well as the full automation of the office using the WIPO automation software would come out. With regards to the Delegation of Nigeria's question on new requests for the project, the Secretariat answered that there were indeed many requests as there was continuous demand for that type of work, and the current project funded under the Development Agenda had enabled the Secretariat to speed up work in that area. In the specific case of Nigeria, it added, an assessment/planning mission was going to take place two weeks later to the office in Nigeria and digitization would be one of the topics to be discussed during that

mission. With regards to the comment on the project timeline from the Delegation of Pakistan, the Secretariat pointed out that the project was scheduled to end in 2011, not 2012, and that the current activities funded under the Development Agenda would be completed by the end of 2011, after which ongoing activities in 2012 would be funded as part of the mainstreaming principle under WIPO's regular budget. Referring to the low budget utilization rate, the Secretariat pointed out the fact that the report had been prepared in the middle of the year and that the final budget utilization rate would be quite a lot higher than reported in the progress report since a number of projects were still ongoing and would be completed, invoiced and delivered before the end of 2011. The Secretariat (Mrs. Carole Croella), referring to the question from the Delegation of Pakistan stated that both the study and the interim report would be finalized by the end of 2011, and the study would contain a feasibility assessment on WIPO's possible role in that area which would also be included in the final report of the study and would be presented at the following session of CDIP. With regard to the budget, the Secretariat stated that copyright was a very small component of the project and the deliverables, including the finalization of the study, had mainly been achieved. The Secretariat (Mr. Baloch), in response to the Delegation of Pakistan's observations with regard to the systemic delay in the implementation of most projects, pointed out that the Development Agenda projects had been a new experience for WIPO, and hence there were many lessons learned both for WIPO as a Secretariat, but also for its Member States. Evaluation reports would be presented to CDIP for each completed project in the future. In some cases, the projects were over committed in terms of time. The delays, in many cases, had been the result of time needed to allocate the necessary human resources on a project and time needed to undertake preparatory work in a beneficiary country, which took from six months to one year in some cases. Likewise, delays had also been experienced in the cases where the implementation of a project had depended on the readiness of beneficiary Member States. Budget wise, it was worth pointing out that many project managers had been cautious and had over-budgeted in order to avoid financial issues arising during the implementation phase. Referring to the particular project on the organization of a conference on extra-budget resource mobilization, for instance, the Secretariat pointed out that the left-over budget of about 40'000 Swiss francs had been transferred to the project on mini-IP academies. Another issue which the Secretariat had faced in the course of the implementation of those projects had been an over demand in terms of assistance. Many projects, in particular the so-called "pilot projects", which were supposed to meet the requests of x number of countries, had faced very large numbers of requests - beyond the scope of the projects, and in some cases, the project managers had indeed, and naturally, overstepped the scope of the project, which was also an issue to be addressed. The project on automation managed by Mr. William Meredith, as well as the project on mini-IP academies and the TISC project for instance had all met a very large demand, much beyond what the projects were able to offer. The Secretariat concluded by saying that all those lessons learned would be presented to the Member States upon final completion of each project and would be reflected in the final evaluation reports.

162. The Delegation of Paraguay with regard to the question of support to its office confirmed that it had received information about what had been carried out and what had been implemented, adding that the automation and digitization of documents in Paraguay were at a very advanced stage and that they were very happy with the work that had been undertaken.

163. The Delegation of South Africa sought clarification with regard to the additional missions and projects on the digitization of documents that would be initiated in the course of 2011, subject to the capacity of the program, and inquired as to what would happen if the demand was to exceed the capacities in that context.

164. Answering the question from the Delegation of South Africa, the Secretariat pointed out that at the time of the drafting of the progress report, there were six months left before the end of the project. In that time, the Secretariat had attempted, as much as possible, to meet the demands within the current project and had carried out numerous assessments and attempted

to initiate projects in several other countries. However, once such a project was initiated, there was often a long process of purchasing involved, including sending requests for tenders, evaluating the tenders, awarding the contract and implementing the project - a process which should have been carried out and finished by the end of the current year. In that respect, it had been impossible for the Secretariat to initiate more projects which would have had to be finished within the current timeframe and cycle, even though several opportunities had been identified. Resource permitting, such projects would be initiated and carried out as part of the mainstreaming of that project into WIPO's ongoing activities under program 15 and the regular budget. If more financial resources be required in a specific situation as those types of projects could easily range from 50 thousand to several hundred thousand Swiss francs in the cases where external contractors would need to be engaged to carry out the digitization of the documents, then WIPO would work with the offices to look for external sources of funding, including for instance Funds in Trusts managed by WIPO and provided by Governments of various donor countries. In other cases, and depending on the size of the project, WIPO would try to seek specific funding from other agencies. The intention was certainly to continue to meet the demand, as much as possible, of Member States using a combination of internal resources available under the regular Program and Budget, Funds in Trusts and other external funding sources.

165. Thanking the Secretariat for the clarifications, the Chair requested the Secretariat to present the following progress report.

#### Consideration of Document CDIP/8/2 Annex XII

166. The Secretariat (Mr. Roca Campana), presenting the progress report on the project on Developing Tools for Access to Patent Information, dealing with Development Agenda Recommendations 19, 30 and 31, pointed out that the project had three main components; the first one being the preparation and drafting of patent landscaping reports; the second on the preparation of an e-tutorial for training on the use and exploitation of patent information, focusing in particular on the preparation of a patent search report similar to patent landscape reports; and the third focusing on capacity-building, including the organization of several training activities, conferences, and workshops for users, in particular for the staff of technology and innovation support centers, with a view to providing a platform for exchanging experiences and best practices on the use of patent information, and training on specific skills such as the preparation of patent landscaping reports by local research and development institutions and universities. The progress report contained a detailed description of the various patent landscape reports prepared after close consultations with IGOs, NGOs and other Member States, such as the patent landscape reports on the antiretrovirals Ritonavir and Atazanavir, which were the result of close cooperation with the WHO and the medicines patent pool; another general report on vaccines which would be published soon; another one on desalination technologies and the use of renewable technologies, which had been prepared in close cooperation with international renewable energy agencies; another one on solar cooking etc. The Secretariat added that 12 such reports were under negotiation under the current project and other reports were in the pipeline, for instance reports on salinity tolerance, plant genetic resources for food and agriculture, neglected diseases etc. With regard to the e-tutorial, the Secretariat pointed out that the work was at a very advanced stage and a company had already been selected to prepare the e-tutorial, which would be made available on DVD and online. It would be an interactive learning tool which, was expected to be completed by the end of 2011 or the beginning of 2012 at the latest. With regard to the last component of the project, i.e. capacity-building and the organization of training and awareness-raising activities, the Secretariat highlighted that several regional activities had been organized in all regions, in line with the project schedule and implementation timeline, such as in Addis Ababa in November 2010, in Moscow in December 2010, in Buenos Aires in March 2011, as well as other regional training activities and seminars with ARIPO Member States, as described in the progress report.

167. The Delegation of Pakistan stating that about 14 topics had been identified for landscapes, but it was mentioned that only 10 reports would be delivered under the project, sought clarification if work would be done with regard to those additional four reports.

168. The Delegation of Australia pointed out that it had attended the presentation the day before and had found it very interesting and useful and also it had found the methodologies used particularly interesting and clever. The Delegation was pleased to see the productive relationship which had developed with other intergovernmental organizations in accordance with Development Agenda Recommendation 30.

169. The Delegation of Egypt also commended the choice of the 14 patent landscape reports for their specificities and their focus on the much-needed development aspects. With regard to the e-tutorial, the Delegation asked whether patent drafting had been included in the tutorial.

170. The Secretariat mentioned that three out of the five reports produced so far had been presented the day before during side events, and work had started for the other five reports, with the hope that those would be completed by the end of the project implementation timeline. It was the first time that the Secretariat had engaged in that type of work and the preparation of some of those reports had in fact taken more time than originally foreseen. It was an important lesson learned to clearly and carefully define the scope of each report in order to ensure that the reports met the expectations. With consultations held on each one of the remaining topics, it was hoped that the other 5 reports would be completed by the end of the project implementation timeline, i.e. by April 2012. While 14 topics had indeed been mentioned in the progress report, in line with the demand for those types of reports, the Secretariat's work would concentrate on finalizing the five reports. WIPO would, however, continue to engage in similar activities as a result of mainstreaming into WIPO's ongoing programs during the following 2012/2013 Program and Budget cycle. In that respect, funding for the activity had already been foreseen in the regular Program and Budget for the following biennium. With regard to the productive relationship with UN agencies, the Secretariat pointed out that that was also a key lesson learned from the process. Finally, regarding the inclusion of patent drafting in the e-tutorial, the Secretariat confirmed that the general topic would be included, but not patent drafting as such, and not as a dedicated chapter as that was not the original purpose of the e-tutorial. The purpose of the e-tutorial, as defined in the project document, was to promote the use of patent information and to provide an additional tool for those doing patent searches and for those exploiting patent information in general, to use it as a tool in their daily work intended for scientists and researchers in research and development centers and universities at large. WIPO had built a dedicated website providing information on the ongoing work of patent landscape reports where all the reports were being published, including other patent landscape reports developed outside of the project's scope by public and private institutions, universities, and IP Offices, and those were in fact available for consultation and use.

171. The Chair gave the floor to the Secretariat to present the next project on "Enhancement of WIPO's Results-Based Management Framework to Support the Monitoring and Evaluation of Development Activities".

#### Consideration of Document CDIP/8/2 Annex XIII

172. The Secretariat (Ms. Maya Bachner) recalled that it was a thematic project addressing Development Agenda Recommendations 33, 38 and 41, which had started in January 2010 and which had two components. The first component was the strengthening of the results-based management framework of the Organization to support the monitoring and evaluation of development activities, and the second was the facilitation of the conduct of an external review of WIPO's activities in the area of cooperation for development. Reporting on the progress accomplished since the last progress report, the Secretariat stated that the capacities within the Organization, and therefore throughout all of WIPO's programs, had been considerably



strengthened in terms of results-based planning and mainstreaming of development, including Development Agenda recommendations and projects, into all activities of the Organization. The result of that effort, which had been mainly achieved through a series of workshops conducted throughout the Organization could be clearly seen in the Program and Budget for 2012/13. A total of nine sectorial workshops had been organized, involving all sectors of the Organization, during which the work had focused on the planning framework for 2012/13 and the mainstreaming of development, including Development Agenda recommendations and projects. Those were followed by an extensive coaching period for program managers throughout and during the preparation of the Program and Budget for 2012/13, to further fine tune the preliminary deliverables which had come out of the workshops. The project had been instrumental in facilitating the process to have a stronger and results-based management framework as it was moving forward towards the next 2012/13 biennium. In that context, it pointed out to page 9 of the Program and Budget document showing the revised results-based framework of the Organization with a total of 60 expected results, out of which 40 had a development orientation - a clear illustration of the mainstreaming of development throughout the strategic goals of the Organization. With regard to the second component of the project, i.e. the external review of WIPO's activities in the area of cooperation for development, the Secretariat pointed out that the review, carried out by consultants had been completed and the report, which had been posted on the website, would be discussed later in the session. Going back to the first component of the project, the Secretariat highlighted that while the project had enabled WIPO to move a big step forward in terms of results-based and results-focused planning, even when the project would come to an end, the work of fine-tuning would continue to ensure that the lessons learned from the project would be integrated into the Organization's future planning processes. That effort would, therefore, continue and be part of the Organization's regular work. With regard to a small and still outstanding component of the project, i.e. the country-assessment frameworks, it was pointed out that while the project was supposed to come to an end at the end of 2011, there would be a slight delay in the implementation of that particular component as it was thought to be important to integrate that component into the other ongoing activities of the Organization in order to avoid parallel processes. In that respect, the country-assessment framework exercise should ideally feed into the planning frameworks at the country level. Likewise, the Secretariat pointed out to the ongoing evaluation in Kenya, which the project could also learn from.

173. The Delegation of South Africa stated that the project was one of the most important projects that the Committee had ever undertaken and commended the Secretariat for having implemented it thus far with very encouraging results. The external review of WIPO's development activities in the area of cooperation for development, which would be discussed during the following item under the agenda, was in fact a result of that specific project. In that respect, the Delegation supported the idea of delaying the implementation of the project so as to ensure that all the recommendations and findings from the review and other lessons learned would be fully taken into account.

174. The Delegation of Cambodia added its voice to the Delegation of South Africa to support the project and to support a possible delay in its implementation to ensure all lessons learned would be taken into account. With regard to the results-based management workshops organized at the beginning of the year, the Delegation added that it had proved to be a very good tool, providing Management with the monitoring and evaluation framework and indicators needed to assess the impact of the Organization's activities, in particular the Organization's development activities.

175. The Secretariat thanked the Delegation of South Africa for its pertinent comments and the Delegation of Cambodia for its encouragements, and confirmed that the recommendations and findings from the external review would indeed need to be taken into account.

176. With no further comments, the Chairman gave the floor to the Secretariat to present the next project on Intellectual Property and Product Branding for Business Development in Developing and Least Developed Countries.

#### Consideration of Document CDIP/8/2 Annex XIV

177. The Secretariat (Ms. Francesca Toso) pointed out that the project was particularly interesting as it targeted local communities and local groups of farmers and producers as the main beneficiaries. While the project was very close to the end users and creators of IP at the grassroots level, it also addressed, in the course of its implementation, the need to strengthen the capacities of institutions, both at the national and local level, in the implementation of IP and branding strategies. Another objective was to raise awareness of the impact that product branding could have on the business development of local communities, both at the level of the communities themselves and at the level of the institutions involved.

The methodology developed under the project was based on a five-step approach. The first was to map and identify products with strong branding potential in the three pilot countries selected under the project. In each country, three products had been identified and the work was being carried out with the cooperation of national and international consultants appointed to work on each specific product and to develop appropriate strategies for each one of those products. The mapping and selection of products had been done keeping in mind a set of criteria, such as the quality and reputation of the product, its unique characteristics etc. In that regard, the first phase involved a benchmarking exercise of each product, based on criteria such as the IP dimension, the technology dimension, the market dimension and the social dimension of the product, including the motivations of the communities to adopt an IP and branding strategy to promote their products on the market. In that respect, a range of different products had been selected. Uganda for instance, representing least-developed countries, had chosen to focus on three agricultural products. Thailand, on the other hand, had chosen to focus on three handicraft products, while Panama had selected two agricultural products and one handicraft product.

Following the selection of the products, the second step of the methodology was the design of specific branding strategies for each product. Those strategies were to refer to the specific characteristics of each product and of the community and group of producers, in line with the regulatory frameworks in those countries. That work, the Secretariat added, had been done with the involvement of consultants who had carried out repeated visits to the communities and had designed such strategies in close cooperation with the communities. The third component consisted of capacity building activities to help develop progressive capacities and competencies of stakeholders, communities, small and medium-sized enterprises as well as local authorities. Those competencies had been determined at different stages in the products' development and commercialization with the idea of creating the basis for sustainable business development. The capacity building workshops had, therefore, been based on the objective needs of each one of the communities, needs which had been identified during the benchmarking exercise. An output of the capacity building phase, and a practical result of the implementation of the project methodology had been the development of a so-called "modular curriculum" for the capacity building of communities in the development of branding strategies. With regard to the fourth step in the methodology's implementation, i.e. the development of a business strategy, the Secretariat pointed out that that was a very important step in the sense that once a branding strategy had been developed to use the IP tool adequately to protect a product, the strategy had to be properly integrated into a comprehensive business strategy. It was, therefore, important, at that particular stage, to identify strategic partners at the local and national level that would be in a position to accompany the implementation of the branding strategy and the business development of the community in the actual marketing phase. As an example of those types of business partnerships or alliances, the Secretariat pointed out the specific case of Thailand, where a very productive partnership between the University of

Bangkok, School of Design and Architecture, and the local community of producers of wicker-based handicrafts had developed, in which the university had provided resources and know-how to help the community in developing a whole new line of products. Another example was the case of Panama and in particular the work being carried out with a specific group of producers to develop a collective mark for coffee from that region, where a broader initiative to go beyond the collective mark and to develop an appellation of origin or geographical indication for the broader region as well as a “coffee route” was being pursued. The last step in the methodology was the development of a series of mechanisms to monitor the impact of the project. While the impact of such a project would only be measured several years down the line, it was important to include monitoring mechanisms at an early stage in the project implementation. The Secretariat concluded by stating that efforts would be made to document all the case studies, and in that regard, practical steps had already been taken to document the whole process in the three countries.

178. The Delegation of El Salvador, stating that the project’s focus was clearly on the protection of marks and branding, sought clarification whether geographical indications had specifically been included in the projects carried out in the three countries, stressing the fact that El Salvador would be particularly interested in learning about that experience for practical application reasons. The Delegation also asked whether there were any plans to extend that project to other countries outside of the pilot group of countries, who might be interested in being part of the project. While that would no longer be a pilot project, it could be considered as a second phase project related to branding and geographical indications, depending on the answer given with regard to GIs. Finally, with regard to the coffee route which was mentioned during the presentation, the Delegation asked the Secretariat if it would be possible to share more information at that stage with regard to that particular project, as El Salvador would be interested in carrying out a similar project in its coffee sector.

179. The Delegation of Thailand stated that Thailand, as one of the selected countries for that project, was very pleased with the way the project had been implemented thus far. The Government of Thailand was very keen with regards to the project’s potential for community development within the existing framework of the “One Village, One Product” program in Thailand. As mentioned in the progress report, the Delegation confirmed that benchmarking studies for the three handicraft products selected under the project had been completed. The products’ strengths and weaknesses had been identified and preliminary roadmap for the next steps had been designed. The Delegation informed that two capacity building workshops had been held in September 2011 to equip the stakeholders with the necessary knowledge on IP and distinctive signs. In that regard, WIPO’s involvement in the workshops had helped the communities in identifying problems with regard to the registration of geographical indications as well as the prospect of using certification marks as complementary tools for branding. A second and third series of capacity building workshops on design issues and business strategies had to be delayed because of the flood situation in the country, but the Delegation hoped that the situation would come back to normal soon, so that those workshops could be held in the first quarter of 2012. The Delegation also stressed the importance, based on experience, of working closely with the local communities, of raising awareness about the importance of geographical indications and trademarks as branding tools. It was essential for stakeholders in the product value chain to understand and appreciate the role of geographical indications or collective marks in differentiating products and in indicating a certain quality. Branding could not be effective without brand communication, and if IP was meant to be a branding tool, then all stakeholders in the product value chain would have to understand why it was important for a product to carry a GI or a certification mark. Understanding that concept would justify, in the eyes of the consumer, for a product to have a higher price. Thailand was committed to ensuring the successful implementation of the project throughout its three year span and it stood ready to share the lessons learned with other Member States. Moreover, it hoped that the project would not only result in establishing strong brands for the three selected products but that it would also

serve as a model for other products, thereby promoting sustainable community development in Thailand and beyond.

180. The Delegation of Paraguay expressed its interest in the project, which it hoped, would be extended to other countries outside the pilot group. The Delegation's understanding was that there was an initiative for it to go beyond the original group of countries and that the Committee had mentioned that other countries might be able to benefit from that project. The Delegation was following the project closely as it thought it could also be applicable to Paraguay, and having mentioned it to the Secretariat, it had already received encouraging results in that regard. A group had already been identified with regard to the work that could be undertaken and that matter was at a quite advanced stage. It was probable that its type of project would have a very positive impact, in particular with regards to creating a favorable image of intellectual property for citizens in Paraguay. The Delegation wondered if the project could be continued whether on the basis of the current structure or on the basis of a new format, adding that in its opinion the best way would be to keep it under the Development Agenda, using the relevant human resources available so as to cover needs in the long term, as the project would need at least three years before being consolidated.

181. The Delegation of Uganda appreciated the opportunity to be part of the project and informed that it had selected three agricultural products. The project, launched in Uganda in March 2011, had made substantial progress, thanks to the support received from WIPO. Participants had already benefited from capacity building workshops as well as from practical guidance and the project continued to enjoy support from the local communities and the leadership. The stakeholders were eagerly waiting to receive the enhanced yields from that project in early 2012 as they expected a boost in the productivity of cotton and in its competitiveness. The Delegation expressed its commitment to share the lessons learned from that project with other interested parties and looked forward to the upcoming capacity building workshops to be held in Arua.

182. The Delegation of Cambodia found the project very interesting in the sense that it would clearly benefit associations of local groups of farmers and producers by adding value to their products and increasing their export income, thereby also reducing poverty. In that regard, the Delegation wanted to share with the Committee that Cambodia's first two GI agricultural products were pepper and palm sugar. Pepper had already been successful, with farmer associations receiving twice the price for it, but there were, however, not enough products to provide both the international and local markets. In that regard, the Delegation was interested in learning how Cambodians could benefit from those types of projects, in line with the Government of Cambodia's eagerness to promote the development of local communities.

183. The Delegation of Panama stated that, as mentioned previously, Panama had been selected as one of the three pilot countries under the project. Panama had a solid legal framework in place for the protection of geographical indications and other distinctive signs, and there was a strong commitment by all parties involved in the project. Three products had been chosen; pineapple; coffee from specific areas in Panama with specific features, protected as a collective trademark; and the certification mark Mola Kuna. In the experience of Panama, even though the project was still being assessed, it was clear that it was very useful and it had had very positive effects in improving marketing and branding tools for producers and handicraft workers in Panama. In that respect, the Delegation emphasized that it also supported the request from the Delegation of Paraguay for the project to continue and extended so as to include more countries to benefit from it.

184. The Delegation of Pakistan pointed out that the Delegation of South Korea had initially made the proposal on which the project was based. As the initiative was highly appreciated by all the Member States, the Delegation was grateful to the Delegation of Korea for making that proposal. As sharing lessons learned was part of the project's objectives, the Delegation

pointed out that there might be a possibility to go beyond the three current pilot countries. That, however, remained to be seen. Referring to the project document which mentioned that a conference would be organized at a later stage in the project implementation, the Delegation inquired whether it would be possible to have access to the completed benchmarking studies of Thailand and Panama as well as whether those could be shared with other countries so that they could start learning from the experiences and reach the stage of the conference with the knowledge of issues and also contribute more successfully towards the conference.

185. The Delegation of Egypt expressed its interest in the project, underscoring the importance of using IP to enhance the competitiveness of certain strategic products in developing countries. The Delegation looked towards an extension of the project to other countries, and supported Pakistan's statement about the importance of sharing the lessons learned before the international conference.

186. The Secretariat thanked the various delegations for their comments and expressions of support. Addressing the question of the Delegation of El Salvador on GIs, it pointed out that the aim of the project was really to develop the most appropriate strategy for each particular product. Hence, if a GI or an appellation of origin was found to be the most appropriate route to protect a brand or a particular product, then the strategy would go in that direction. If, however, there was no GI legislation, like in the case of Uganda where the project looked at how to protect a brand cotton or vanilla, then a certification mark or another tool could be used. Likewise, in the case of Panama, other options had been considered such as the use of a collective mark. WIPO was in fact considering developing a geographical indication for coffee and a certification mark for the textile handicraft Mola Kuna. With regard to the coffee route, that was a concept which was being applied in Panama, or at least was being studied, as that was a new proposal in addition to the development of a GI which was under consideration by the group of producers. The idea of a coffee route would mean that other stakeholders, such as the tourism sector in that particular area, would join hands with the group of producers using the name of the region, such as for instance the Boquete region in the case of coffee, to develop the concept of a touristic route in that region. On the opportunity to extend the project to other countries, the Secretariat pointed out that indeed, in the course of the implementation of the project, it had received several indications of interest from other countries wanting to benefit from the methodological approach offered under the project, and it was the Secretariat's intention to share that methodology. As for the conference, the Secretariat confirmed that it would be organized towards the end of the project and that it would indeed be a very good opportunity to share lessons learned. What could be shared even before the conference, however, was not only what the Delegation of Pakistan had pointed out, i.e. the results of the benchmarking exercises in the three pilot countries, but also the matrix and questionnaire which had been used to carry out the benchmarking exercise. Those were the tools that could be made available with the obvious need to be adapted to each particular context. With regard to documenting the lessons learned, the Secretariat informed that the opportunity had been used to document the case studies in a visual way and that an audiovisual production was underway to document the experiences of the communities in their own contexts. Some live images of what had been going on in the ground would hopefully be ready to be shared in time for the conference or the next session of the CDIP.

187. The Chair concluded discussion on the progress report and gave the floor to the Secretariat to present the next report on the project on Capacity Building in the Use of Appropriate Technology-Specific Technical and Scientific Information as a Solution for Identified Development Challenges.

#### Consideration of Document CDIP/8/2 Annex XV

188. The Secretariat (Mr. Kifle Shenkoru) stated that the project was indeed very important, but delicate, and required careful attention in its delivery. Implemented as a pilot project in three

countries out of the forty-five least-developed countries, the selection of the three countries had entailed a hard consultation process to build consensus on which those three countries should be. The three countries that had come forward in the end were Bangladesh, Nepal and Zambia. The implementation of the project had started in the set timetable and within the framework outlined in the project document. In that context, national expert groups had been established in all three countries and both national and international experts had been nominated. Another important project component was the requirement to identify two need areas in the three beneficiary countries with regard to the usefulness of technologies for communities and for people in the agricultural and health sectors, taking into account environmental factors. The national expert groups, together with the national experts and the international experts, had already identified six need areas in the three countries, i.e. two per country. In Bangladesh the two identified areas were technology for the hardening of the soil, both for rural construction, including roads and bricks, as well as for agricultural terracing. The second need area which had been identified was the conversion of municipal waste into land filling materials, one of the most important need areas by Bangladesh in terms of its environmental impact. With regard to Nepal, the first area which had been identified was the area of biomass briquetting for easy access to clean and green alternative fuel for cooking as well as for space heating. The second need area was post harvest drying of cardamom, to be used especially in rural areas by farmers and SMEs. In Zambia, the first identified need area was rain water harvesting, to be used for small-scale irrigations in the rural areas in the agricultural sector in particular; the second one was solar water distillation for easy access to clean drinking water. The next step was the identification of the appropriate technology to address those need areas. That process had already started and would be completed very soon, further to which the identified technology would be given to the countries and the implementation process would start. The Secretariat concluded by pointing out that the process had been quite smooth after implementation had started and that the project was on schedule.

189. The Delegation of South Korea pointed out that, as an initiator of the project, the Republic of Korea was of course highly interested in its successful implementation. The Delegation found it necessary to point out some minor, but obvious errors in the progress report. The first was the fact that the progress report lacked basic information with regard to the project timetable, in particular the project start date, its duration and expected completion date. Secondly, according to the progress report, the project was being carried out in accordance with project document CDIP/6/rev, a document which the Delegation had been unable to find. The project document which had been approved was labeled CDIP/5/6/rev. The Delegation pointed out to page 5 of the progress report which mentioned a component on copyright and related rights, which did not appear to be relevant to that project. With regard to the project outputs listed in the table on the same page mentioning three items, i.e. national expert group, AT landscape report, and business plan for implementing the selected appropriate technologies, the Delegation highlighted the fact that one item seemed to have been omitted. The approved project document from the seventh session of CDIP entitled CDIP/5/6/rev, mentioned a fourth item entitled "outreach program". The Delegation sought clarification as to why that item had been omitted in the progress report. Finally, the Delegation asked the Secretariat to provide additional information with regard to the six need areas which had been identified under the project.

190. The Delegation of Bangladesh was glad that Bangladesh had been selected as one of the three pilot countries. The project was very useful as it combined existing patented technology with local knowledge and local resources. The Delegation was thankful to South Korea for having initiated that proposal. Mentioning that the risk factors in the project were small and had been taken care of, the Delegation thought that project should be replicated in other LDCs. The only concern the Delegation had was with regards to the budget utilization rate, but it understood that there were plausible reasons for the late start of the project and had been reassured by the Secretariat that the project was being implemented on schedule.

191. The Delegation of Nepal joined the Delegation of Bangladesh in stressing the importance of the project for LDCs and thanked WIPO for its cooperation in implementing the project in Nepal. The Delegation was very happy with the progress made so far in terms of its implementation. The Delegation pointed out that, through the national expert group, two important need areas had been identified - areas which focused on clean and green energy technology as well as the processing of agricultural products. The application of appropriate technologies in those areas, it added, would contribute to the access and use of clean and alternative energy and would improve the living conditions of Nepalese people.

192. The Secretariat thanked all delegations and assured the Delegation of South Korea that the typographical errors in the progress report would be rectified and that the information requested would be provided.

#### Consideration of Document CDIP/8/2 Annex XVI

193. The Chair invited the Committee to continue discussions on document CDIP/8/2 and gave the floor to the Secretariat (Mr. Sacha Wunsch-Vincent) to introduce the progress report on the project on Intellectual Property and Socio-Economic Development contained in Annex XVI.

194. The Secretariat informed the Committee that the project, which was one of the three projects under implementation by the Office of the Chief Economist, addressed Recommendations 35 and 37. Recommendation 35 requested WIPO to undertake, upon request of member states, new studies to assess economic, social and cultural impact of the use of intellectual property systems in those States. Likewise, Recommendation 37 called upon WIPO to conduct studies on the protection of IP and to identify links between IP and development. The project consisted of a series of studies, to be precise 6 to 8 country studies, assessing that particular relationship between IP and economic development. The studies were being implemented by the Office of the Chief Economist and assisted by the national governments that requested those studies and by international expert and national expert who supplement the core team of WIPO. Between the previous meeting and the current meeting, several Member States had expressed interest in such a national economic study. In terms of progress, the project started on time and two countries in particular, namely, Brazil and Chile were going forward with such studies. Fact finding missions and extensive consultations with different levels and parts of the government had taken place. The Secretariat added that any national study on the topic of economic development and IP was quite a massive task given the breadth and the unique nature of the study and the number of exchanges necessary in advance and during the process and that it had been very positively surprised by the degree to which the countries in question had responded. The Secretariat further informed that in addition to those two countries, other countries had also expressed interest in the studies. The Secretariat (Mr. Julio Roffo) expressed the gratitude of the Chief Economist to those countries who had volunteered the study. The Secretariat was trying to respond to the various demands which were at different levels of progress. As regards the implementation of the project in Brazil and Chile, the Secretariat explained that the implementation plans were divided into three phases. The first phase related to building some capacity within the patent offices. The existing raw data in those countries was very rich, but required a lot of work to be made suitable for statistical use and for that purpose WIPO was working in close partnerships with those offices. The second phase was to provide a map of the use of IP in those countries. That was an exercise that had not been done previously in those countries and also it had very rarely been done in other countries particularly at a micro data level. WIPO hoped to be able to share some insights in that respect by the end of next year. The third phase and the one which specifically tackled the objective of the project was the analytical research on the impact of IP through data analysis. For that phase, WIPO was working in close collaboration with the governments and other stakeholders in those countries who had been selected and appointed during WIPO missions. In Brazil, the work was being carried out in collaboration with Scholars and researchers from the Institute for Applied Economic Research (IPEA) and in Chile with the National Institute of

Intellectual Property (INAPI) and also some scholars from the different universities. The Secretariat pointed out that a study was also being launched in Uruguay and another was expected to begin early next year. Further studies were being considered from other regions so as to achieve a geographical spread.

195. The Delegation of Chile stressed the importance of the project for its country and thanked the staff of the Chief Economist's Office. As mentioned, Chile was one of the pilot countries and the project had afforded an opportunity for undertaking economic analysis of IP issues. The Delegation hoped that the result of the study would allow a better understanding of the system and to improve the IP policy in the country. As regards progress, the Delegation informed that a WIPO team had been in Santiago a few months ago to initiate the project. The team reviewed the existing data to determine the feasibility of the study and also met with the representatives of different national institutions such as the business community, officials from the statistics office, and the Ministry of Foreign Affairs. Chile was working very closely with WIPO. The project had three stages and included an analytical study on the impact of Intellectual Properties system which was particularly relevant for Chile. The Delegation expressed its hope that the results of the study would be useful not only in Chile, but also fruitful for the entire region.

196. The Delegation of Uruguay thanked the secretariat for introducing the project which aimed a better understanding OF the impact of Intellectual Property on the development of developing countries. As stated, Uruguay would follow the footsteps of Brazil and Chile, and would shortly benefit from the project. The Delegation expressed its hope that the implementation of the project would be equally successful in Uruguay.

197. The Delegation of Brazil thanked the secretariat for the information provided on the project. Brazil was very happy to participate in the project and looked forward to the results of the initiative. The Delegation considered the project it to be very positive for developing countries and assured of its constructive cooperation with WIPO in the implementation of the project.

198. The Delegation of South Africa, while expressing its support for the project, sought information with regard to the number of countries that had expressed interested in benefiting from the project as well as the additional countries with which consultations were ongoing. The Delegation had heard about Uruguay, but wished to be informed of other countries with which consultations were in progress.

199. The Secretariat, referring to the comments of Uruguay, Chile and Brazil, reiterated its appreciation for the spirit of collaborations seen thus far and hoped for a continued support. As to the questions by the delegation of South Africa, the Secretariat informed that in addition to the two countries mentioned in the document, three other countries including Uruguay had approached the secretariat. As soon as those plans firmed up and the expression of interests became more definitive, the Secretariat would inform the Committee. The Secretariat added that those were very complex and resource intensive projects and at least for 2011 and a good part of 2012, the current work would keep it fairly busy. That said, the Secretariat very much looked forward to other countries stepping forward and those which had manifested interested. The Secretariat was working to clarify the data situation and the desirability of taking a step forward. The decision was not of the Secretariat alone, but of the Member States in conjunction with the Secretariat and as soon as the situation became clear the Secretariat would make that information available to the Committee.

200. The Chair thanked the Secretariat for the additional information and invited the Committee to consider the next progress report on Project on Intellectual Property and Technology Transfer - Common Challenges, Building Solutions contained in the annex XVII.



Consideration of Document CDIP/8/2 Annex XVII

201. The Secretariat (Mr. Ali Aljazairy) informed the Committee that the progress report addressed the first stage of the project described in document CDIP/6/4 Rev. The project was based on Recommendations 19, 25, 26 and 28 concerning a range of activities that would explore possible initiatives and IP related policies for promoting technology transfer, the dissemination and facilitation of access to technology for development, particularly for the benefit of developing countries including LDCs. The first stage was the preparation of the project paper which was before the Committee for approval. The paper included the details of description of the following components: An introductory section describing the background and containing a definition of technology transfer together with the ultimate project objectives. The second part was to undertake a thorough literature review of the existing work within WIPO and the work done by the other Organizations in the area of technology transfer as well as a description of the needed studies and case studies. The last component concerned the project deliverables with a detailed description of the project stages and timelines. As the Committee might recall, transfer technology was previously defined as referring broadly to a series of processes enabling and facilitating flows of skills, knowledge, ideas, know-how, and technology among different stakeholders such as university and research institutions and to national organizations, IGOs, NGOs, private sector entities and individuals as well as international technology transfer among countries. Transfer of technology, which was often considered to include the absorption of the new technologies, was some time also considered to involve the transfer of concrete knowledge for the manufacture of products, the applications of the process, or for the rendering of a service granting the improvement of domestic as well as the international competitiveness in the economic markets. Transfer of technology to developing countries was a very complex issue. It had been one of the most intensively debated areas of the international economic relations in the past 30 years or more. The developing countries had sought since the 1970s to use both national policies including education, national IPR protection, tax intensives and international agreements to stimulate international technology transfer, such as the 1985 code of conduct that aimed to regulate it under the auspices of United Nations. However, the challenge with the latter was the problem of monitoring compliance with international regulations. As a result it was fair to say that the international technology transfer was mostly mediated by national policies. Multinational rules on subsidies, trade policy, IPR regimes existed, but agreements on actions that government should pursue to encourage international technology transfer were largely based on a voluntary basis. In the mid 1990s, multinational measures started to shape. The World Trade Organization Agreement on Trade Related Aspect of Intellectual Property Rights (TRIPS) adopted in 1995 had certain provisions for international technology transfer. In 2001, WTO established a Working Group on Trade and Technology Transfer to explore ways to increase technology flows to developing countries. In that context, the ultimate objective of the approach proposed in the project was to use a step-by-step approach, involving accredited organizations and new partners involved in all aspects of technology transfer and explore new ways of establishing international IP collaborations, enhanced understanding and consensus on possible IP initiatives or policies to promote technology transfer. The project's outcome would be integrated into relevant WIPO activities after consideration of CDIP and any possible recommendations by the Committee to the General Assembly. The project would consist of five progressive phases with the objectives of adopting a list of suggestions, recommendations, and possible measures for promoting technology transfer. The very first phase was the organization of five regional technology transfer consultation meetings, for which the composition criteria and terms of reference would be decided by member states. The five regions were the African, Asian, East European, Latin American and Group B regions. For that reason the appendix I and II of documents of CDIP/8/7 contained the terms of references and composition criteria with respect to the regional consultations meetings and the experts tasked to elaborate the various studies as well as the provisional model program for the regional consultation meetings. The Secretariat held meetings with regional group coordinators on September 28 and October 6, 2011, regarding the terms of reference and composition criteria for the experts of the first regional consultation

meeting which was originally intended to take place in the Asian Region namely in the Philippines. At the end of those meetings, it was decided to agree on the composition criteria and terms of reference at the eighth session of the CDIP.

202. The Delegation of Pakistan, while thanking the Secretariat about the presentation, requested a further elaboration of the status of the meetings and studies.

203. The Secretariat, in replying to the Delegation of Pakistan informed that there would be six studies as outlined in the annexed to the document and those were mentioned on page 3 of appendix I. The regional meetings were also described in the appendix I and there would be five regional meetings that would be conducted in the next years.

204. The Delegation of Pakistan thanked the Secretariat and stated that it also had the same understanding. The Delegation wished to know more about the status of the preparation of both the studies and the meetings which the Secretariat referred to.

205. Replying to the Delegations of Pakistan's follow-up question, the Secretariat stated that originally it was intended to organize the first regional consultation meeting on technology transfer at the end of the year in the Philippines. However, as the result of the meetings with the regional coordinators held on September 28 and October 6, 2011, it was decided to postpone the meeting and decide upon the terms of references and composition criteria of the meetings at the current session of the Committee first and then to organize the meeting in 2012.

206. The Delegation of Pakistan while apologizing for taking the floor the third time stated that from the Secretariat's response it understood the terms of references were to be approved by the Committee during the current session of the CDIP.

207. The Delegation of Bolivia sought clarification as regards the consultation process planned at the regional levels. The Delegation wished to know whether it was already clear as to where and when the regional consultations would be arranged, and would it be with national Intellectual Property offices or other Ministries that would be involved and whether the civil society would be participating in such meetings. Had those things been already defined or those were covered under the terms of references? Referring to the question raised by Pakistan, the Delegation also wished to know as to when the Committee would discuss the terms of reference.

208. The Chair, replying to the Delegation of Bolivia stated that it was something the Committee was supposed to discuss later in the week. The Chair then invited the Committee to consider the next progress report on "Open Collaborative Project and IP based Models contained in annex XVIII of document CDIP/8/2" and gave the floor to the Secretariat for introducing the document.

#### Consideration of Document CDIP/8/2 Annex XVIII

209. The Secretariat (Mr. Ali Aljazairy) informed the Committee that the first draft of the Taxonomy and Analytical Study on Open Collaborative Projects and IP Based Models had been completed. The Committee had the opportunity to discuss the Study yesterday with the three professors from the Imperial College who prepared the study. The next step for the project would be to incorporate Member State comments and suggestions on the study. As agreed earlier, the Secretariat would receive the comments by the end of January and include those in the final version of the Taxonomy Analytical Study. That would follow the convening of the Member State meeting three months after the conclusion of the Study which would be close to the next CDIP, i.e. around April 2012.

210. The Delegation of Bolivia informed that the day before it participated in the side-event on the Study and thanked the Secretariat for the very useful presentation made there and for the Study itself. The Delegation expressed one doubt as regards the concept of open collaboration projects. Elaborating its point, the Delegation stated that within that concept, there were two ideas; one was the idea of "collaborative" and the other was the aspect of "open". The Delegation thought that there was a bit of confusion in the analysis made, and the discussion showed that there was not a shared understanding of "open" and "collaborative". The Delegation found the study very good in terms of its analysis of new forms of innovation which were being used by companies and in the side event a very good description of that new trend towards innovations in a more distributed and a more collaborative way was provided. That was one aspect which was illustrated very well, but at the same time there was a confusion of the collaborative distribution approach and the notion of "open". As far as the Delegation understood, the term "open" referred to the results of the innovation - to the results of the innovation being freely accessible. So there might be collaborative projects which in fact were not open and there might be open projects which were not collaborative. In the study by experts and in the side-event, innovation by companies such as Procter and Gamble, which were collaborative, but had nothing open about them, were presented. While the results of the innovation were being patented, they were presented as open projects. If the results of that innovation were patented, then really one was no longer talking about an open system and was faced with the same problems for having access to the results when they were patented and to go into licensing agreements and so on. The Delegation felt that in the future implementation of the project, it would be a good idea to have a clear and common understanding of what was meant by open and by collaborative. For Bolivia, the Delegation stated that the fundamental benefit and interest in that project was in fact the "open" aspect as it would like to hear more about how innovation models functioned with open, i.e., accessible results, which were accessible to all. Bolivia was interested in issues like license-free software and how those licenses guaranteed accessibility and innovation as they functioned, but also the application of such licensing in other areas, for instance bio-linux with open licensing for investigation on seeds in agriculture. There were also open initiatives such as the one in which Bolivia together with other countries had presented in the health area in order to give incentives to research in medicine guaranteeing that the results of that research would be freely accessible. The Delegation felt that for the future of that project it would be interesting for developing countries and certainly for Bolivia to put more focus and emphasis on the "open" aspect, in other words, having the results of the research or investigation open. The Delegation further felt that while there was a lot about initiatives by companies, there were initiatives on the part of states which weren't really considered. It would be useful to analyze initiatives by states, research centers, and universities, which enter into collaboration and results of which weren't really accessible, and to analyze how those licenses which guarantee free access to the results worked. Referring to the decision for comments to be submitted on the taxonomy study, the Delegation inquired whether an invitation would be sent to the Permanent Missions in Geneva, or would there be a website to which proposals could be sent as Member States and observers needed to be invited to make recommendations. The Delegation further referred to the meeting planned for April 2012, and sought clarification as regards the relationship between that meeting, the Member States meeting, and the experts meeting, and how those meetings would be related and why a single meeting with States and experts couldn't be organized. The Delegation felt that an analysis should not be the only basis of discussion, but governments or observers ought to be invited to contribute through proposals and presentations of their open collaborative projects that they were aware of in order to enrich the discussion.

211. The Delegation of South Africa observed that from the project implementation it could be noted that 67.8 % of budget had already been utilized and the only implementation that was reflected was the current study. The Delegation wanted to know if that 67.8 % was spent only on that study, mindful of the fact that there were other five deliverables that needed to be implemented. That meant that there was about 32 % remaining in the budget and if it would be

sufficient to cover the remaining activities? There was another in-depth, analytical study on evaluating the activities that had to be undertaken.

212. The Delegation of Knowledge Ecology International (KEI) supported the suggestions by Bolivia, adding that it was important that people had a deep understanding of the Intellectual Property issues that were involved in the management and design of those open collaborative projects and that those issues were included in the final versions of the reports. It was an area that was often not well covered in some of the WIPO training seminars, and something that also related to the issues of equity and access. Some of the proposals that Bolivia was involved in and one of the key features of what they had proposed was that people designed direct development projects in a way that the products themselves were available from competitive suppliers at generic prices so that there would be inexpensive products and greater access to medicine, and in pursuing those objectives people fully appreciated what needed to be done to get to that end result.

213. The Secretariat thanked delegations for their very pertinent comments. Addressing the comments from the distinguished representative of Bolivia, the Secretariat stated that it was often true that open innovation was confused and thought to be free and in fact open innovation did not mean free innovation. Oftentimes open innovation was confused with the term of open source software. So there was a general confusion in the literature about what open innovation includes or implied. As defined, open collaborative innovation was the osmosis and reverse osmosis of knowledge across the porous interface or membrane that separated an organization or a community and its environment. It was about that knowledge flow across the porous interface had to do with the pecuniary aspects or non pecuniary aspects and in the taxonomy analytical study it covered those different initiatives that required the transfer of knowledge between different entities or organizations that might include traditional means such as licensing, joint ventures, R&D contracts. It also included a second type of initiatives where you have internet enabled initiatives such as price competitions, the crowd sourcing, the contribution of people on different platforms and finally it also included initiatives that were included by different organizations to resolve questions of intellectual property, such as defensive patent pools, patent pools and so on. It covered most of those different initiatives and the side event on the taxonomy analytical study mentioned some of the different initiatives that happened in some of the third world countries. There were several initiatives that were mentioned like the Barbados, Bolivia, Bangladesh and Surinam proposals that were submitted to WHO. In fact open innovation as just described did not only include those non pecuniary aspects, it also included the pecuniary aspects and there was a survey that was sent to 300 executives from many different organizations around the world talking about what was the highest risk for open innovation today, and 67 % responded that the highest risk was the risk of IP leakage or IP theft. That component of intellectual property might be either in the form of patent, trademarks, copyrights, but it could also be in the form of trade secrets, know how and so on. All of those different aspects really needed to be thought about much more carefully today. In the context of shortening product life-cycle on the market and the increase and acceleration of technology growth, there was a need to think about that contribution which might be internet enabled from people around different platforms and how to protect those different contributions and how to make sure that those different contributions would receive the proper protection. In the context of open innovation, IP management had become more critical and more important than ever before, just because of the rate and speed at which collaborations were engaged and the speed at which cooperation's were done. For the second question from the representative of South Africa, the Secretariat stated that the implementation rate of 67.8 % was as of July and it concerned only year 1. As of today, the implementation rate was 85 % and that was out of the 130,000 Swiss francs allocated for year 1 for the budget. Concerning the third comment from KEI, the Secretariat stated that indeed those were very important tools that WIPO was developing and as described before, WIPO was developing a new guide on the strategic management of open innovation networks and those tools would be critical for developing ways to cope with those very fast on-going processes in terms of collaboration.

214. The Delegation of Bolivia stated that from the Secretariat's response it seemed clear that there were various different definitions and opinions about what "open" meant, about what "collaborative" meant. However, the Delegation did not share the Secretariat's definition of open innovation. For that Delegation, open meant freely accessible, and the definition that the Secretariat gave would be more the definition of a collaborative innovation. The Delegation further stated that the Committee should not prejudice and limit the discussion particularly that of the Member States, to a definition that the Secretariat had just given because the meeting had not actually come to an agreement on a definition and what was understood by it. The Delegation wished to draw the Chair's attention to that issue and to leave very much open the possibility for discussion by the intergovernmental group so that the focus was not only on what the Secretariat had talked about on how to protect the new forms of innovation because that was of course a classic topic of intellectual property and the Committee was talking about was the Development Agenda and the Development Agenda was trying to explore alternative models for innovation; alternatives to the intellectual property system and in the intergovernmental meeting that was what needed. The Delegation further thought that the issue had not been sufficiently developed in the study and it should be focused on in the intergovernmental meeting. A strict definition would actually exclude that from the debate and the Committee needed to move forward with the ability to have a focus on the diversity of experience, the Delegation added.

215. The Chair thanked the Delegation of Bolivia for the comments and the Secretariat for the information provided and invited the Committee to consider the last part of document CDIP/8/2 which dealt with the 19 recommendations.

216. The Secretariat (Mr. Irfan Baloch), introducing the document stated that annex XIX, part C of document CDIP/8/2 contained progress report on the implementation of the 19 recommendations. It recalled that at its first session when the Committee looked at the ways and means to implement recommendations, 19 recommendations which were primarily principles and needed no financial resources for implementation, were identified for immediate implementation. At the sixth session of the CDIP, a similar report had been presented to the Committee. Member States had made comments in terms of how to improve that report. Also the Secretariat was advised to avoid duplication of work in terms of reporting and at the same time an effort needed to be made to mainstream the reporting process, i.e. with the Organization's Program Performance Report. The Secretariat further informed that Mrs. Maya Bachner, who was the Project Manager for the project on the Enhancement of Results Based Management Framework, had helped in developing the structure for the report. The Secretariat (Mrs. Maya Bachner) explained that the Secretariat had used the Program Performance Report, and the achievements that had been reported in that Report as one of the basis for the report on the 19 recommendations. The Secretariat recalled that there were a lot of reporting requirements and what it had tried to do as one of the objectives of the RBM project was to mainstream exactly all those reporting requirements so that there was a single source of truth, so to speak, and then use that for various reporting purposes. In that respect the Enterprise Resource Planning (ERP) would help the Organization tremendously in using the information in various reports. The Secretariat further stated that in many cases the reporting requirements did not cover the same timeframe and that was also the challenge faced in that particular case because the report under consideration covered the period from July 2010 to July 2011, whereas the PPR for 2010 covered only that year. To deal with that challenge, the Secretariat had extracted information related to the 19 recommendations from the PPR 2010 and complemented that information with the first six months of 2011. Also, the focus had been given to achievements rather than providing a list of activities.

217. The Delegation of Algeria, speaking on behalf of the Development Agenda Group welcomed the document CDIP/8/2 containing the reports the various Development Agenda projects and activities. The document enabled the Member States to understand the

implementation of those projects, the implementation of the Development Agenda by various different committees, and also the cross-cutting nature of the Development Agenda in WIPO. The Delegation thanked the Secretariat on behalf of the Development Agenda Group for the pertinent information provided. The Delegation referred to the statements made by the Member States and stated that those contributions should be taken into account by the Secretariat in continuing with the implementation of the projects and also in the elaboration of future projects. The document contained key elements which provided an even clearer understanding of the evaluation of the implementation of these projects. For that reason the Development Agenda Group requested the Secretariat to produce a very brief and succinct document, a table for instance, for that session which could provide the same information that was found in that document, but provided key elements such as, the title, the initial date for conclusion, the revised date for conclusion, the amount given and the amount used to date with a %age of completion of the project. That could be given in a tabular format. The document should also provide the total amount given for carrying out those projects and the total amount that had been used to date. The Secretariat had already provided that information, but the idea was to have all that information collected together from the different projects, which would enable the Committee to have a clear understanding progress.

218. The Delegation of Pakistan speaking on behalf of the Asian Group thanked the Secretariat for the progress reports which were very informative and helped Member States to understand and appreciate the progress that had already been made in that connection. The Asian Group supported the proposal by Algeria for the Secretariat to provide a very simple spreadsheet mentioning the name, the Project Manager's name and the Division concerned so that it became easier to reflect where it was being dealt with, the initial date of conclusion, the revised date, the amount initially allocated and the amount utilized to date. That would help the Committee to have a broad overview and clarity and considering the efficiency of the WIPO Secretariat should not take more than half an hour or an hour to prepare.

219. The Delegation of South Africa, speaking on behalf of the African Group, expressed its support for the proposal made by the Delegation of Algeria and supported by Pakistan.

220. The Delegation of Indonesia expressed its support for the proposal made by the Delegation of Algeria in its capacity of the Coordinator of the Development Agenda Group and by the Coordinator of the Asian Group.

221. The Delegation of Brazil also supported the proposal made by the Development Agenda Group supported by the other Delegations to have a consolidated spreadsheet, adding that it would help Delegations to have a clear look and a broader picture of the whole process.

222. The Delegation of Bolivia stated that it was one of the Delegations which had in past asked for changes in the way the Committee was informed of the implementation of the projects, and thanked the Secretariat for the work they had done. The quality of the information provided had improved considerably. There was more qualitative information regarding the changes made. In the past, there were status reports of activities and now it was far more detailed as to the content of the implementation of the project. There was, however, always room for improvement. In Recommendation 13, for example, it was stated that WIPO promoted an IP culture which was focused on development, and perhaps by the next meeting more information could be provided as to the how that was achieved and what activities had been undertaken. The Delegation, however, wished to recognize the efforts made so far.

223. The Delegation of Oman supported the observations made by Pakistan on behalf of the Asian Group as to the preparation of a one-page document which would allow an easy review the report. The Delegation also thanked the Secretariat for the efforts undertaken and for the explanation provided and for preparing the document.

224. The Chair reminded the Delegations that the Committee was examining the annex on the implementation of the 19 Recommendations and asked whether any delegation would like to speak to address that or the Committee would rather wait for a one page review.

225. The Delegation of Pakistan stated that it had no preference as to the approach and the Chair could provide guidance on that issue. The Delegation, however, wished to appreciate the approach that had been taken as regards providing reference to the PPR and the database and thought that that would be helpful in the future also.

226. The Delegation of Nigeria expressed its full appreciation for the work of the Secretariat by providing a detailed report on the recommendations. While supporting the position of the African Group, the Delegation felt that the issue was to have a more detailed document for members to see and maybe to comments on.

227. The Chair expressed the opinion that generally speaking the report had been appreciated. While thanking the Secretariat for the work undertaken to prepare the report, it invited the Secretariat to respond to the comments.

228. The Secretariat stated that the information on the financial information of the projects had been made available in the past; in the Program and Budget Committee; the previous sessions of the CDIP and other fora. The Secretariat agreed to update that information and to add other information as had been requested and make that information available to the Committee by the following day.

229. The Chair thanked the Secretariat for its willingness to provide the information and concluded the consideration of the document. The Chair then invited consideration of document is CDIP/8/6 entitled "Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations". The Chair recalled that the WIPO General Assembly at its fortieth session considered the document WO/DA/40/18 on that subject and forwarded the relevant paragraphs from that report of the various bodies to the CDIP. Accordingly, document CDIP/8/6 had been prepared on that basis.

#### Consideration of Document CDIP/8/6

230. The Delegation of South Africa first drew the attention to a typographical error on page 1 of the Annex, where it was stated that the Delegation of South Africa on behalf of the African Group made a statement in the SSCR, and informed that it would submit the correction in writing to the Secretariat. Speaking on behalf of the African Group, the Delegation, said that in 2010, the General Assembly adopted a decision, effectively allowing the second pillar of the mandate of the CDIP to be implemented, i.e. the coordination mechanisms and monitoring, assessing and reporting modalities. The decision instructed the relevant WIPO bodies to include in their annual report to the assemblies, a description of their contribution to the implementation of the respective Development Agenda Recommendation. The Delegation thanked the six bodies of WIPO that had implemented the decision of the General Assembly, namely the Standing Committee on the Copyright and Related Rights, the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, the Standing Committee on the Law of Patents, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, the Advisory Committee on Enforcement and the Patent Cooperation Treaty Working Group. The Delegation noted that the contributions made by Member States in the PCT Working Group were not included in that document and sought clarity on why excerpts from the PCT Working Group were not included in the document CDIP/8/6. For the effective implementation of the Development Agenda Recommendations the African Group, while recognizing significant progress in the IGC, encouraged the Committee to accelerate its negotiations towards the completion of an international binding instrument or instruments for the effective protection of Genetic Resources,

Traditional Knowledge and Traditional Cultural expressions. The African Group was encouraged by the Development in the SCP. The African Continent wished to reap meaningful benefits of utilizing the patent system to the extent possible. The Group was, therefore, pleased with the current Work Program which included issues important to developing countries, such as exceptions and limitations, technology transfer and patents and health. The Group noted that some of the activities of the SCP might cross-cut with the work of the CDIP and the PCT Working Group. The coordination mechanism could be used to monitor and reconcile the work of the different bodies. The African Group welcomed the current norm-setting activities in the SCCR. The committee was, among others, developing norm-setting on public policy issues important to developing countries, to be precise exceptions and limitations for educational and research institutions, libraries and archives as well as for persons with disabilities, including persons with visual impairment. However, the African Group stressed the importance of the Committee to adhere to Recommendation 15 of the Development Agenda, in particular the principles that norm-setting activities must be inclusive and member driven and that it must be a participative process which took into consideration the interest and priorities of all WIPO Member States and the viewpoints of other stakeholders. There was a need for stressing that principle as the current norm-setting activity aimed at developing an international instrument for persons with visual impairment seemed to have forgotten about those principles. The SCCR must not introduce a new culture nor change the negotiation pattern known in developing international instruments in WIPO. The Development Agenda Recommendations were there to guide the Organization in discharging its mandate on various issues pertaining to development, including on norm-setting. Similarly norm-setting activities in developing a treaty on industrial design formalities in the SCT should also undertake due consideration of the Development Agenda Recommendation 15, 17, 21 and 22. The development implications of the industrial design treaty was still not known, but norm-setting was progressing in the absence of evidence based analysis supporting the Treaty and its potential impact to developing countries and least developed countries. The committee was requested hitherto to provide a report on how the Development Agenda Recommendations were affected into the preparation before norm-setting was under taken. The African Group encouraged the Committee to provide the information on cost and benefit analysis as recommended by the Development Agenda. The Group also welcomed the development made in the ACE in implementing Recommendation 45. Building respect for IP in developing countries must be understood within the context of different levels of development and the benefits developing countries could derive from the IP system. It believed that ACE should also undertake more work on outreach and awareness on building respect for IP. Therefore, sufficient resources should be allocated for enhancing human resources and building capacity for enforcement at national and regional levels. The African Group agreed with the suggestions made by some Member States that the discussion on the contribution of WIPO Bodies to the Development Agenda should in principle take place after discussions and conclusion of other agenda items. The African Group proposed that the Secretariat should prepare an analytical document of the contribution made by Member States in documents CDIP/8/6 highlighting the assessment, improvements and/or recommendations made by Member States for the considerations of CDIP/9. The document would facilitate the discussion of the Committee on the issues raised by Member States in various committees and also report back to the General Assembly. The last session of the CDIP discussed the modalities of implementing the coordination mechanism. It was important that the Committee agreed on the modalities to implement the 2010 General Assembly decision on the coordination mechanism. As already stated the Group's general statement, the African Group believed that the proposal by the Delegation of India already provided modalities that could serve a basis for discussing and finalizing the modalities for implementing the coordination mechanism. The Delegation recalled that the main point for divergence was the list of WIPO Bodies that must report to the General Assembly. The Committee was urged to decide on the list of WIPO bodies to report to the General Assembly. The Group believed that in addition to the 6 bodies that already reported, the Program and Budget Committee, the Coordination Committee and the Committee on WIPO Standards should be added on the list.



231. The Secretariat stated that as identified by South Africa, necessary corrections would be made to the document under consideration. The Secretariat drew the attention of the Committee to page 19 part F where the PCT Working Group report contained in a single paragraph which came from document PCT/8/42/1 had been provided.

232. The Delegation of Iran expressed its satisfaction to see that the coordination mechanism had come into existence and stated that there was a need to strengthen that mechanism in the benefit of membership and the Organization. If the mechanism worked properly it would help the Organization and Member States to benefit and avoid the duplication of work in different committees and achieve focus and result based actions. The General Assembly instructed all relevant WIPO Bodies to include a description of their contribution to the implementation of the respective Development Agenda Recommendations in their annual reports to the Assemblies. According to the document CDIP/8/6, CDIP had received reports from SCCR, SCT, IGC, SCP, ACE and PCT Working Group. While appreciating that, the Delegation stressed the need for all WIPO Bodies to comply with the requirements of the GA. The important Committees such as the PBC and CWS had not yet provided such reports. Given the fact that the Development Agenda Recommendations represented an integral part of the Program and Budget Committee's substantive work and each program had been linked to a specific development agenda recommendation, it was unfortunate that the Committee had not received any report from the PBC. The last PBC had agreed to increase the development expenditure and therefore, contributed tangibly to the integration of the development dimension, and it was totally relevant for PBC to provide a report to the General Assembly. Therefore the Delegation looked forward to receiving reports from PBC on how it would be integrating the development dimension in its work. SCCR and IGC were among those important WIPO norm-setting committees which provided respective reports and set an example of how development objectives should be pursued in the Organization. The Delegation was satisfied with the balanced work programs of these two committees and hoped to see the proper results and final product in the form of binding instruments. It was also satisfied with the inclusion of public health and transfer of technology in the Work Program of SCP, as those were important matters for the developing countries. For the other WIPO committees, while recognizing the enhancement of the efforts in mainstreaming the Development Agenda, the Delegation believed that still a lot of work needed to be accomplished to reach a balanced work program. The Delegation further stated that the review process of reports in the Committee should be dynamic and lead to concrete recommendations to WIPO committees, particularly to the norm-setting committees. It would be practical for the CDIP to receive concrete reports from each committee and the Delegation hoped that in the future Member States would make specific proposals to be considered here by CDIP under that Agenda item. The results of normative work in other committees could also be reported to CDIP for examination in light of the proper implementation of the Recommendation 22 which stipulated that norm-setting activities should be supportive of the development goals agreed within the United Nations system, including those contained in the millennium declaration.

233. The Delegation of Brazil attached great importance to the coordination mechanism and, therefore, was very pleased to have the document included in that session of the CDIP. Making a comment on the process as a whole, the Delegation expressed its support for the proposal made by the African Group on having a report summarizing the main points raised by the different delegations and that were reflected in the document. It recalled the statement made by the Delegation of India on behalf of the Development Agenda Group during the last General Assembly which stated that it was important that the PBC reported on its role of implementation of the Development Agenda. In fact all committees should do so - those were relevant bodies, the Delegation added. The Delegation acknowledged that the issue of development had been discussed in the PBC. In that regard, it recalled the commitment achieved in the last session on further elaborating the definition of development related activities. Given the centrality of the PBC to the assignment of resources to the different projects, the Delegation considered it of

utmost importance that that body also be considered relevant and to present its report to the General Assembly.

234. The Delegation of the USA, speaking on behalf of Group B, stated that as regards the coordination mechanism, a full year of committee sessions had passed; from the General Assembly in 2010 to the recently concluded General Assembly. During that period, productive discussions had been held as to the relevant WIPO bodies and the manner in which the reporting would occur and how it would be transmitted to the General Assembly. The following committees were agreed upon by consensus to be relevant for the purposes of the coordination mechanism; the Advisory Committee on Enforcement, the Standing Committee on Copyright and Related Rights, the Standing Committee on the Law of Patents, the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications, the Inter-Governmental Committee on Intellectual Property, Genetic Resources, Traditional Knowledge and Folklore, the IGC. Group B believed that with that list of relevant WIPO bodies and the reports delivered to the recent General Assembly and transmitted to the CDIP, the committee could finally close that chapter. Turning to the call from some of the previous speakers on including the Program and Budget Committee, the Coordination Committee and the Committee on WIPO Standards, the Delegation thought that everybody in the room understood that it was for those bodies to decide whether they were relevant and not the CDIP.

235. The Delegation of Poland, speaking on behalf the European Union and its Member States, continued to support the following modalities of the coordination, monitoring, assessing and reporting mechanisms for the Development Agenda: an item entitled Contribution to the Implementation of the Development Agenda recommendations should be included in the agenda of each relevant WIPO body at the session preceding the report of the committee to the General Assembly. That agenda item should be placed at the end of the agenda in order to adequately reflect the work of the session and the work performed during the year. Under that agenda item Member States would be given the opportunity to express their views on the contributions of the particular body to the implementation of the Development Agenda recommendations. The views expressed would be included in the committee's report to the General Assembly. The list of the so-called relevant bodies should encompass only the committees which deal with substantive intellectual property issues, namely, the Advisory Committee of Enforcement, the Standing Committee for Trademarks, the Standing Committee for Patents, the Standing Committee for Copyright Issues and IGC. Committees which relate to the running of the Organization itself and not intellectual property *per se*, were not relevant to the coordination mechanism and should not be included in the list of relevant bodies. That included, *inter alia*, the Program and Budget Committee and the Coordination Committee.

236. The Delegation of Algeria speaking on behalf of Development Agenda Group expressed its pleasure to see document CDIP/8/6 on the Description of the contribution of the relevant WIPO Bodies to the implementation of the respective Development Agenda Recommendations. The Group took note of the information contained in the report which provided a broad overview of the way in which the main committees of WIPO were taking into consideration the recommendations of the Development Agenda for establishing norms within WIPO. Making the coordination mechanism operational enabled the Committee to have a genuine mainstreaming of the Development Agenda into all the activities of WIPO. The Delegation wished to remind all the appropriate bodies of WIPO that the Development Agenda cut across all the activities of WIPO. It supported the statement made by South Africa on behalf of the African Group requesting the Secretariat to prepare an analytical document on the basis of the statements contained in CDIP/8/6 and to ensure to take into account those suggestions on improving the mechanism. The Delegation further stated that all of those bodies involved in the implementation of the Development Agenda Recommendations needed to give their support to the coordination mechanism. It recalled that the Development Agenda Group had already made a proposal in that regard which stated as follows: First, all WIPO committees and bodies would report annually to the General Assembly about the manner in which the Development Agenda

Recommendations were being mainstreamed in their work and how they were contributing to the implementation of the respective Development Agenda Recommendations. Second, to that end, the decision of the committee/body immediately preceding the session of the General Assembly would contain as a standing agenda item entitled implementation of the Development Agenda. Third, under the above agenda item, all members of the Committee will be invited by the chair to provide their views and comment on the mainstreaming of the Development Agenda in the work of the Committee. Fourth, the chair of the Committee will compile the views expressed on that agenda item and forward the compilation to the chair of the General Assembly as the report of the committee to the General Assembly required under annex II of the document WO/GA/39/7. The General Assembly would consider the report and might request the chair of the relevant WIPO bodies to provide it with any information or clarification on the report that might be required. Sixth, after considering the report, the General Assembly shall forward the report to the CDIP for discussion under the first substantive item of the agenda. Sufficient time would be allocated to the agenda item to complete that deliberation within the meeting schedule. The duration of the CDIP session should be extended on an exceptional basis if a clear need was identified subject to the agreement of all Member States. In addition, during discussion of future work, the Committee might consider the duration of the next CDIP meeting. Seventh and last, the CDIP should include a review of the implementation of the Development Agenda Recommendations in its report to the General Assembly to be discussed in the General Assembly and of the standing item of the report of the CDIP, as sub-item entitled Review of the implementation of the Development Agenda Recommendations. In the Annex was a list of the WIPO bodies that were proposed to report to the General Assembly and then to the CDIP. Those were: 1. Coordination Committee, 2. Program and Budget Committee, 3. Committee on Development and Intellectual Property, 4. Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, 5. Standing Committee on Copyright and Related Rights, 6. Standing Committee on the Law of Patents, 7. Standing Committee on Trademarks, Industrial Design and Geographical Indications, 8. Standing Committee on Information Technology mandated in 2010 as the Committee on WIPO Standards, 9. Advisory Committee on Enforcement 10. Audit Committee, 11. Patent Cooperation Treaty Working Group, 12. IPC Union Committee of Experts, 13. IPC Revision Working Group, 14. Nice Union *ad hoc* Working Group, 15. Working Group on the Development of the Lisbon system, 16. Working Group on the Legal Development of the Madrid System for the International Registration of Marks, 17. Working Group on the Review of Rule 3(4) To (6) of the Regulations under the Singapore Treaty on the Law of Trademarks and lastly, 18. The Inter-sessional Working Group of the IGC. As a final observation, the Delegation stated that that proposal made was being followed and the Committee had only to agree on the committees that needed to report to the General Assembly. That was the only issue that needed agreement following which there would be a clear mechanism to put in practice and whenever it was necessary to review it, the Committee could do so.

237. The Delegation of Pakistan stated that further to the decision of the General Assembly in 2010, it was the first time to have the report from the relevant WIPO committees for consideration in the Committee. As one of the proponents of the coordination mechanism, Pakistan was really glad to see that with the efforts of all the WIPO Member States, an agreement with regard to the coordination mechanism had been arrived and it was bearing fruits. The efforts of all Member States could not be applauded more for their conviction and dedication with regard to the implementation of the Development Agenda across the Organization. That act in itself established the importance that the Organization attached to the implementation of the Development Agenda across all its actions and decisions and the Delegation was pleased to see that. The coordination mechanism was not at all an end in itself, but was a mechanism to help the Member States and the Organization to see how they were moving towards the implementation of the Development Agenda and its recommendations. In that context, the Delegation believed that it was a continuous cycle of improvement which was inherent to change in any organization that moved in a positive direction. It, therefore, fully supported the concrete suggestions and proposals made by the coordinator of the African

Group and the coordinator of the Development Agenda Group with regard to the way forward and requested the Secretariat to consolidate the descriptions contained in the paper. The Delegation added that it would not be something new on behalf of the Secretariat and what was being requested was just a compilation in a structured manner of the comments of the various Member States. All kind of comments and opinions were needed in a structured format with regard to the various committees, and then those could be presented to the next session of the CDIP where the Member States could deliberate on them and see how the Committee could be further helpful towards the amelioration of the situation in the Organization. As regard the relevant WIPO bodies, the Delegation's understanding was that the Member States needed to agree on the list of those bodies. The Member States had been working on the basis of an *ad hoc* agreement and that had been working very well. The work in the committees which had reported had been very smooth and the Member States had been looking at that work on how those committees had been contributing towards implementation of the Development Agenda in a very smooth manner. But the list still had to be agreed and finalized. In that regard, the Delegation emphasized the importance of the Program and Budget Committee in addition to some other committees that had been mentioned by some delegations. Without going in to the details, it believed that the Program and Budget Committee was absolutely relevant. That was the committee which dealt with the program and the budget of the Organization. In the Program and Budget for the biennium which the Member States had approved, on page number 8 or 9, the first thing was the table on the implementation of the Development Agenda and the funds that had been allocated to it. The Delegation urged all delegations to see how the PBC and its work could be incorporated as had been done with other committees. Concluding its remarks, the Delegation stated that it would also like to see the coordination mechanism formerly operationalized. That was an *ad hoc* arrangement which had been agreed to and which had been functioning very well but it needed to be formalized to continue ahead with the work of the Organization in the implementation of the Development Agenda across all the relevant WIPO bodies.

238. The Delegation of Thailand welcomed the significant progress in the mainstreaming of the Development Agenda Recommendations in all areas over the past year and expressed its confidence that the coordination mechanisms and monitoring, assessing and reporting modalities would allow developing countries to benefit from IP in their development efforts. The Delegation highlighted the development in the Standing Committee on Copyright and Related Rights that would help enhance access to copyrighted works for persons with print and other related disabilities which it considered a meaningful step in promoting a balance in WIPO's normative work. Thailand believed that greater access to the copyright network would help promote greater opportunity for the visually impaired as well as encourage their active participation in social and economic activities. Therefore, it remained committed to the enhancement of access for the visually disabled at the national and regional levels, as well as at WIPO and felt that that would set forth a good example for the years to come. The Delegation was confident that the 45 Development Agenda Recommendations would continue to encourage an engaging norms-setting activity in other committees. The progress shown at the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), over the last biennium seemed a promising signal for WIPO setting a new norm to effectively protect genetic resources, traditional knowledge and folklore. Thailand stressed the importance of working towards consensus on an international legal instrument or instruments and assured of its active participation in the IGC to arrive at the common goal to effectively protect GRTTF. The Delegation thanked WIPO's Secretariat for its hard work and Member States for having shown the determination and flexibility in promoting IP and development and looked forward to working with all sides under the CDIP and under WIPO's wider umbrella with a view to striking a balance between public interest and rights holders as a means to promote innovation.

239. The Delegation of Egypt expressed its full support for the coordination mechanism and emphasized that there was still a need to agree on the list of bodies that should report to the CDIP, and in that regard, it supported what had been mentioned by the delegations of South Africa. The Delegation believed that there was a logical relevance for the Program and Budget Committee to report to the CDIP.

240. The Secretariat referring to the request by some delegations to consolidate the report or compile it in a structured format sought guidance as to what exactly those delegations had in their minds and how they would like that compilation to be.

241. The Delegation of South Africa responding to the reply given when it posed a question about the PCT Working Group stated that it recognized that there was a page 19 and what it stated. What that Delegation was referring to were the excerpts because it wanted to see the information there and not a reference to a document. It, therefore, requested the Secretariat to reflect the excerpts from that session. As regards its proposal, the Delegation stated that the compilation could be clustered into sections; one section could be assessment, the other could be improvements, and yet another could be recommendations. The document could be in a matrix format so that the ideas were clearly articulated and fell under those categories. The Delegation recognized that all contributions were important, but it would like to see them categorized rather than a document just stating facts only.

242. The Delegation of Pakistan supporting the structure suggested by South Africa, stated that at the moment what the Committee had was a compilation of statements and what could help the Organization was the compilation of ideas which were already contained in those statements. The mention about the document being analytical did not mean an analysis of the ideas by the Secretariat, but rather a compilation of ideas which were already mentioned in the statements - just tabulating those ideas. As for the assessment, it should be whatever the Member States had made as assessment and what improvements might have been suggested by them. The document could be submitted to the next session of the CDIP.

243. The Delegation of the USA appreciated the comments from other delegations suggesting a way forward and stated that it would like more time to reflect on that proposal.

244. The Delegation of Pakistan thanked the Delegation of the USA for its consideration of the proposal by various Member States and looked forward to having that discussion.

245. The Delegation of Poland stated that the European Union and its Member States also would like to have more time to reflect on the proposal and supported the USA.

246. The Chair decided to defer the consideration of the document and move on to agenda item 4.

247. The Delegation of South Africa stated that it had mentioned that the Committee needed to discuss the issue of the coordination mechanism and suggested to hold informal consultations among regional coordinators and interested Member States to reflect on the proposals made in the plenary that day. It believed that the proposals merited more discussion and proposed to meet in informal consultation possibly starting the following day lunchtime, or to dedicate an hour during lunchtime.

248. The Delegation of the USA, speaking on behalf of Group B, welcomed the idea by the African Group coordinator and informed that unfortunately Group B had a group meeting at 2.30 p.m. the following day.

249. The Chair requested the Delegation of South Africa to propose a timeframe in consultation with other groups.

250. The Delegation of South Africa agreeing to the Chair's request stated that the main thing was that the USA welcomed the idea of holding information consultations.

251. The Chair invited the consideration of agenda item 4 and informed the Committee that under that agenda item there were 15 documents to consider. The Committee had already discussed the documents CDIP/8/INF/7, Taxonomy-Analytical Study for the Project on Open Collaborative Projects and IP-Based Models and requested the Secretariat to introduce document CDIP/8/3.

#### Agenda Item 4: Consideration of work program for implementation of adopted recommendations

##### Consideration of Document CDIP/8/3

252. The Secretariat (Mr. Wunsch) stated that considerable time had been spent during the last Committee meeting on that subject and to recapitulate, the project dealt with recommendation 34 which asks WIPO to conduct a study on constraints to IP protection in the informal economy. A discussion paper was submitted to the previous session of the CDIP to get the Committee's guidance on the directions that the project could take. As mentioned before, the discussion on the document helped the Secretariat to clearly identify and better understand the Delegations' interest in that particular topic. Accordingly, the scope of the project proposal was as follows: First, to start from the understanding that the informal economy made up a significant share of economic activities in certain developing countries. Second, to recognize that the informal economy could be a source of significant innovation if one took a broad understanding of innovation, not only technical innovation leading immediately to a patent. That was the starting point. The project aimed to improve understanding in the nexus which might exist between the informal economy on the one hand, and intellectual property protection on the other hand. As explained in the last CDIP that nexus, to which extent IP mattered or did not matter for innovation taking place; which barriers there might be for innovation in the informal economy relating to IP; to which extent IP could actually be a useful mechanism to transform the informal economy into potentially the formal economy. All those questions were the ambit of the project. To tackle that ambitious task, four studies were proposed. One was to flush out what the nexus could be between informal economy and intellectual property protection. That would be undertaken through an eminent scholar who had worked on the informal economy in conjunction with the Office of the Chief Economist. When that conceptual framework stood, three case studies would be commissioned - cases which would ideally emanate from different regions and then solidified by the means of anecdotal examples of how innovation took place in the informal economy and what role, if any, IP could or was playing, or could potentially play, in the future. The Secretariat was in the process of identifying specific experts for the conceptual study and also had already quite a good idea on which countries or which specific cases could be of interest for the case studies. However, as regards the case study, it would be particularly interesting to also get the Committee's guidance and if delegations had a specific sector in mind for analysis under those three case studies or even if they would like to work in conjunction with the Secretariat to propose such a case study.

253. The Delegation of Brazil thanked the Secretariat for the information and expressed its support to the scope of the project. It took positive note of the nature of the activities to be carried out, namely, one conceptual study, three case studies and a mid-term workshop. In the Delegation view, it was encouraging that the case studies would analyze different regions. That approach would allow the consideration of the subject matter along distinct socio-economic realities. The Delegation expressed its willingness to collaborate in the process of establishing the terms of reference of these studies and emphasized the importance of a peer review on the project outputs in the CDIP so that all Member States had the opportunity to make comments on its contents as described in item 3.1 of the document.

254. The Delegation of Bolivia stated that the question of innovation in the informal economy was an important issue in Bolivia and in the study it was proposed to analyze creativity and innovation in the informal economy which was an excellent focus for such a project. As regards the consideration of the barrier to IP protection in the informal economy, the Delegation had concerns and felt that rather than considering the barriers to IP protection in the informal economy, it should rather be to consider the impact of intellectual property protection in the informal economy, i.e., to analyze the impact of the degree of IP protection within a country. The Delegation thought that it would be interesting to look at how the degree of protection affected the creativity and innovation in the informal economy.

255. The Delegation of Poland, speaking on behalf of the European Union and its Member States, thanked Secretariat for the preparation of the thematic project proposal on intellectual property and informal economy. It recalled that EU and its Member States were of the view that the case studies and anecdotal evidence could not alone serve as a substitute for a detailed investigation. Instead, they suggested that a full inventory and analysis of successful enforcement operations carried out in the past five years should be undertaken to develop useful enforcement indicators, for example on techniques and approaches used to prevent and disrupt trafficking. The Delegation stated that they continued to support that position and in that view, considered the proposed delivery strategy as a first step in efforts to assess the scale of the problem and towards carrying out a more developed analysis covering other IP related aspects such as risk for public health, food security, or losses to formal economy. The outcome of such analysis could serve as a valuable reference material for further deliberations that would provide a better guidance on how to proceed with implementation of the project. In that context, the European Union and its Member States supported some other delegations' view that whilst preparing a proposed conceptual study, it would be useful to partly rely on the studies commissioned in the past by WIPO which inter alia, identify some of the constraints faced by small and medium-sized enterprises in using the IP system. The project could also include a look at both informal tangible assets and the lack of access of informal firms to the IP system as well as the effect of unemployment of counterfeiting and piracy. Both issues were critical in discussions on IP and in the informal economy. Furthermore, in the Delegation's opinion, the success of the project required a clear understanding regarding the definition of the term informal economy, since it had already been established that the overall definition existed. The Delegation suggested that those be included in the introduction to the project in order to give an indication of the scope of the subject matter being covered.

256. The Delegation of Pakistan stated that with regard to the substantive direction of the work, an additional element on the importance of establishing appropriate levels of IP protection at the national level to promote the development of local productive activities, including in the informal sector that could eventually become integrated with the formal sector should be included in the studies. With reference to the need to examine the question of how the level of IP protection afforded nationally determined whether an activity in the informal economy was an IP infringing activity, the Delegation stated that an important source of economic activity in developing countries was to imitate and based on imitation, developed innovative goods without any IP infringements because IP was not afforded to certain goods that could be protected in foreign legislations. The informal sector in developing countries was of huge scale and promoting its incorporation into the formal sector, while continuing to allow economic activity in the informal sector was a crucial policy to ensure the livelihoods of the poor in developing countries. The most relevant IP question was how to ensure that the levels of IP protection that were afforded at the national level did not impede the creation of local innovation and imitation under domestic economy. With regard to the type of work required, empirical work was no doubt necessary, starting out by the design of an adequate methodology for the study of the issues that would also help to shed light on some of the research and some of the over-politicized issues, the Delegation added.

257. The Delegation of Argentina stated that there were about 15 documents under agenda item 4 and it would be more useful to have both the title and the number of the documents when introduced as they were only described by the numbers. As regards the conceptual study, the Delegation was interested to know the details about the study such as more specific definitions and particularly how the Secretariat intended to deal with that aspect particularly in the first study and whether the study would address the informal economy and its relationship with the rest of the economy or just to focus on the informal economy. With regard to the three case studies, the Delegation wished to have some more details whether the countries were already decided and what would be criteria for selecting those countries.

258. The Delegation of South Africa speaking on behalf of the African Group thanked the Secretariat for preparing that document. It stated that most of comments had been incorporated in the proposal and also thanked the Secretariat for excluding one of the sensitive issues that the Group had raised and there was no reason to include enforcement. The Group believed that that issue should be left in the ACE to be discussed further. The Delegation further stated that the Group would like to expand the objective of the project as it was narrow and just an excerpt from recommendation 34. In that regard, the Delegation proposed the following: "to contribute to greater awareness and enhanced understanding of the IP systems and informal economy and provide conceptual guidance on the innovation process in the informal economy and the role that IP rights play in the sector". The Group also wanted to reiterate one of its suggestions made in the previous sessions that in addition to focusing on identifying the assets, the Group would like to see how to assist the inventors from the informal sector in protecting the IP assets as well as how to integrate the informal sector into the formal sector. In addition, there were two suggestions for insertion under the three case studies which were suggested before but not reflected. It would be useful for the studies to also identify and list inventions and innovations made in the informal sector, and that related to the Secretariat's question whether delegations had a specific sector to suggest. Mostly it was the creative industries and the medicinal sector that were covered and depending on the region one could touch upon inventors. The Group had also indicated that it would be useful for the case studies to also list and describe the success stories of innovation activities done in the sector, that of course for those which have enjoyed the IP protection. It would, therefore, be useful to also add those aspects. The Delegation's last point related to the section on delivery strategy, where it wished more specific information as regards the number of studies, instead of saying several studies.

259. The Delegation of Algeria stated that the informal economy and intellectual property was a subject in which there had been a lot of polemics as regard piracy and counterfeiting. However, the Delegation wished to say that the informal economy was an economic reality and also a socio-development reality. The project under consideration was within the framework of the development agenda and, therefore, the Delegation supported the statement made by several delegations that the studies foreseen needed to demonstrate how the level of protection of intellectual property at a national level should not negatively affect the creativity and innovation or limit innovation in the informal economy. As regards the countries to be chosen for case studies, the Delegation stated that they ought to be representative of the different levels of development.

260. The Delegation of Mexico thanked the Secretariat for project proposal and expressed its support and hope for the project implementation to begin soon enabling the Committee to get the result of the conceptual studies.

261. The Delegation of Australia, responding to the Secretariat's question on which sector might be of interest for delegation, welcomed the reference by South Africa to the medicinal sector. The Delegation felt that that sector might be worthy of study and it thought of tradition based medicines rather than trade in counterfeit pharmaceutical medicine.



262. The Secretariat thanked delegates for their fruitful comments and stated that discussions were held in the previous session of the Committee and before that on clearly delimiting the scope of that particular project. The main sticky point was whether the counterfeiting and enforcement side of the problem should be treated under the project or to leave that topic to the ACE and other committees and focus on how innovation took place in the informal economy. It suggested focusing on that aspect and stay away from the counterfeit and imitative industries aspect. No doubt that the imitative industries and counterfeit was a very interesting topic, but in those studies, one could not deal with all topics at once and it was difficult enough for an economist to define informal economy which was quite a loose concept. The Secretariat's suggestion was not to go backwards on the previous session's decision and to focus constructively on informal economy as opposed to the counterfeiting aspect. Within that, following the suggestions of delegates notably also Bolivia, the project could analyze IP both as the driver of innovation and how could potential entrepreneurs in the informal economy be converted into more formal enterprises by the use of IP, but also to study if and where possible how IP could potentially be a barrier, an obstacle to those local entrepreneurs. In the conceptual study, the project would try to define what was meant by informal economy, relying on the existing international definitions and to produce data, where available in respective economies and through that would emanate also a number of sectors which through the academic and other empirical literature seemed to be quite prominent as a matter of the case studies. The project would properly define, as best as it could, the informal economy at the outset, trying on existing definitions and when carrying out the work, it will, thanks to Poland for that remark, try to draw on existing WIPO studies, which made a great deal of sense. If one took the informal economy in all sectors, from handicrafts to traditional knowledge and to pharmaceutical, that would be quite a large sphere of analysis and one would have to try to be focused in some way. The Secretariat hoped that it had covered most of the comments and thanked delegations for the specific follow-on suggestions as to how to narrow it down in particular which three case studies should be tackled to fruitfully develop that project.

263. The Delegation of Knowledge Ecology International on the question of informal economy sought clarification from the Secretariat if it was looking at tools like flattr which were developed by people that operated outside the regular copyright system, but tried and developed their own markets for supporting artists in copyright content; a sort of pirate bay community and things like that? It added that Flattr was an Internet based service where people put money into the account and then literally flatter people by donating money to them by assigning points to them if you liked their content. It operated outside the regular licensing system and had become popular and you mentioned the informal economy operated in that zone.

264. The Delegation of Nigeria asked if the project would look at the potential systems within the innovation process in the informal economy.

265. The Delegation of South Africa expressed its support for what had been said by Australia recalling that in its intervention at the seventh session of the Committee, it had said the medicinal sector, i.e. the traditional medicine as a sector that could be looked at in the informal economy.

266. The Delegation of Kenya wished to inquire from the Secretariat as to where the case studies would be conducted and what would be the criteria, adding that there were already tentative candidates.

267. The Chair stated that as also explained by the Secretariat on the issues emerged from the floor, he believed that the Committee should not go back to the issues which had already been resolved in the last CDIP. On the basis of the discussion we have had, the Secretariat would try to accommodate the necessary changes needed and the following day the project would be reconsidered the following morning.

268. The Secretariat observed that there was consensus on the direction of the project. There was also agreement on the meaning of the term, “informal economy” as well as on the areas to be excluded. The only uncertainties that remained were in relation to the selection of case studies. The project proposal would be revised to reflect that. It would begin with a conceptual study. Sectors which held more promise would be identified for potential inclusion in the study. A draft would be submitted for consideration by Member States at the next CDIP meeting. That would include a list of potential sectors, for which three or four would be selected for inclusion. Thus, work on the said study would commence in the first quarter of 2012, in accordance with the current project proposal. However, the case studies would be deferred by one or two quarters. That would allow more time to consult with Member States and other divisions before committing to specific areas. The Delegation of Poland had noted, for example, the case studies commissioned by the SMEs Division. If agreed, the project proposal could be revised in that manner and submitted to the Chair the following day for consideration by the Committee.

269. The Delegation of Poland, speaking on behalf of the European Union and its Member States, supported the revision of the project proposal, but reserved the right to return to the concerns raised in its opening statement.

270. The Chair noted that there were no objections to the Secretariat’s suggestion. Thus, the Secretariat was requested to revise the proposal for submission the following day. The Chair then opened discussions on the next document, CDIP/8/4, “Assessing WIPO’s Contribution to the Achievement of the Millennium Development Goals”. WIPO’s contribution to the United Nations (UN) Millennium Development Goals (MDGs) was discussed at the fifth session of the Committee in April 2010 contained in document CDIP/5/3. The Committee had requested that the report be revised and resubmitted to the Committee for consideration. The revised report was contained in the current document. The Chair invited the Secretariat to present the report.

#### Consideration of Document CDIP/8/4

271. The Secretariat informed the Committee that it had engaged an external consultant, Mr. Sisule Musungu, Chairman of IQsensato, a NGO based in Geneva, to prepare the revised document. It requested Mr. Musungu to introduce the document and its findings.

272. Mr. Musungu recounted that the report was built on the previous document and took into account the Committee’s discussions on that document. In that context, three particular observations should be recalled. First, that the key issue and the underlying reason for the request was to assess the actual impact of WIPO’s work on the MDGs as opposed to the identification of activities that could potentially contribute to the MDGs. Second, the importance of using WIPO’s results-based management (RBM) framework for undertaking an assessment of the Organization’s work, such as with respect to the MDGs, was highlighted. Finally, it was also asserted that WIPO should consider its role in making intellectual property rules and regulations more supportive of development goals. The report covered a period of three years and was based on information on the implementation of the Program and Budget (P&B) between 2008 and 2010 as reported in the Program Performance Reports (PPRs). The PPRs were chosen as the reference point for a number of reasons. Those reports focused on results and impact. They also provided the most credible source of data and information on how WIPO’s activities and program had met the objectives set by the Member States under the P&Bs. The PPRs were also rather comprehensive and covered all of WIPO’s work including its work with other UN agencies. As such, those captured the results and/or impact of the Organization’s work that was covered under various other reports such as the reports on the implementation of the Development Agenda and the periodic reports to the World Trade Organization (WTO) Council on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the UN Commission on Science and Technology. A separate exercise was also undertaken to arrive at a methodology or basis for assessing WIPO’s contribution to the achievement of the MDGs. Progress towards the achievement of the MDGs was measured

against the 21 targets through the use of 60 official indicators. However, the use of MDG indicators as a basis for assessing WIPO's contribution was problematic, particularly as those sought to achieve very high-level outcomes. For example, it was difficult to connect WIPO's work with the goal of reducing the proportion of the population living below one dollar a day. A different methodology, which could link better to WIPO's mandate and its RBM framework would offer better and more credible results. The key question was how the MDGs could be linked to WIPO's mandate, strategic goals and performance indicators. The solution was to find, within the Millennium Declaration, the MDGs, the Sachs Report and the Report of the Task Force on Science, Technology and Innovation (STI), the aspects that were related to WIPO's mandate in technology, innovation, and IP and to link those to WIPO's RBM framework. From those, more specific STI and IP related MDG needs/outcomes were identified. Those needs/outcomes formed the framework for linking the MDGs to WIPO's work. As a direct causal relationship could not be established between WIPO's activities and initiatives and the broad MDG indicators, it should be accepted that progress/contribution by WIPO towards the STI and IP-related needs/outcomes would serve as contributions to the MDGs. The nine MDG related outcomes against which WIPO's performance in 2008/2009 was assessed were included in Box 1 of the report. A summary of the findings was contained in paragraph 38 of the report. In 2010/2011, at least 30 of WIPO's expected results, across five of the Organization's Strategic Goals, had a credible link to the MDGs. As such, their achievement could be said to have contributed to the MDGs. However, those should not be viewed as direct contributions as the role of international institutions was to support the efforts of the individual countries to achieve those Goals. National governments were primarily responsible for the achievement of the MDGs and WIPO's work should be considered in that context. Of the 30 MDGs-relevant expected results, 23, approximately 77 %, were on track to being fully achieved by the end of the biennium. A further 5, approximately 17 %, were broadly or partly on track. Only 2, less than 7 %, were unlikely to be met. In 2008/2009, a similar number of expected results were linked to the MDGs. Of these, 16, approximately 53 %, were fully achieved, a further 13, approximately 43 %, were largely or partially achieved and only one, less than 4 %, recorded limited achievement. On the issue of how WIPO could improve its contribution to the MDGs, WIPO should consider joining the MDG Gap Task Force in view of the importance of STI in the achievement of the MDGs. WIPO should also participate in the Inter-Agency Expert Group on MDG Indicators (IAEG). That would allow the Organization to engage in MDG monitoring data preparation and analysis as well as on the definition of methodologies. It would also assist the IAEG to improve monitoring and reporting on STI and IP-related MDGs needs/outcomes.

273. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, supported the report and believed that as an UN organization, WIPO's work must contribute to the achievement of the MDGs. The contribution to the MDGs was included in the Development Agenda Recommendations, particularly under Recommendation 22. The Secretariat was requested to examine how WIPO's work contributed to the achievement of the MDGs and whether that could be improved. Thus, the report was expected to provide an evaluation of the actual impact of WIPO's work on the achievement of the MDGs. However, the report was mainly focused on the relationship between WIPO's Strategic Goals 1 and 3 and MDG 8. In that regard, the Group believed that a comprehensive approach would have been more appropriate. For that purpose, the Recommendations of the Development Agenda should also be included in the coverage of the report. That would provide a better picture of what could be done to ensure that the implementation of the recommendations contributed to the achievement of the MDGs. The report also indicated several areas where there was scope for improvement. First, WIPO's work should be sufficiently linked to the broader UN family's work and mechanisms. It was also important for WIPO to offer its specialized expertise on IP and technology matters in relevant UN processes. Second, WIPO should, as a priority, take steps to join the MDG Gap Task Force. Third, WIPO should also take steps to engage with the IAEG. Lastly, WIPO's contribution to the MDGs could be enhanced by integrating the conceptual framework proposed in the report in the formulation of expected results and performance indicators. The Group supported those elements of the report and requested the Secretariat to

engage in further work on the inclusion of Development Agenda Recommendations in the report.

274. The Delegation of South Africa, speaking on behalf of the African Group, recalled that the Group had requested for work to be undertaken on WIPO's contribution to the MDGs. The previous report, document CDIP/5/3, was prepared by the Secretariat in response to that request. Following its review, the Committee had decided that the report should be revised to provide an empirical evaluation of the actual impact of the Organization's activities in support of the MDGs. In that regard, the revised report suggested that the role of WIPO in the achievement of the Goals should be examined within the context of science and technology and innovation, owing to WIPO's mandate which was to promote creativity and innovation. The Group also noted that the study largely focused on MDG 8. Although MDG 8 seemed to be clearly on line the targets related to access to affordable essential drugs and making available the benefits of technologies, the other MDGs related to education, HIV AIDS, malaria and other diseases, had a direct relation to IP. That included MDGs 2 and 6. Universal access to treatment for HIV AIDS for all those who needed it was clearly linked to affordable medicines. In a similar vein, access to literary and artistic works had an IP dimension which was relevant to the achievement of literacy targets. The Group was of the view that WIPO's contribution to the MDGs was broader than that in relation to MDG 8. The Group noted the reasons for not using MDG indicators to assess WIPO's contribution to the achievement of the Goals. It also believed that a direct causal relationship could be established between WIPO's activities and the Goals without the use of MDG indicators. There was perhaps a need for WIPO to develop a different methodology to reflect the direct links. In that regard, the Group agreed with the report that a methodology which could link better to WIPO's mandate and its RBM framework would offer better and more credible results than MDG indicators. However, it also emphasized that WIPO's mandate should not be limited to STI within the context of MDG 8. For that reason, the Group proposed that further work be undertaken to provide a qualitative evaluation of WIPO's activities against the criteria described in paragraphs 19 and 34 of the report. In addition, work should also be undertaken to develop specific indicators for the purpose of evaluating WIPO's contribution. It noted that WIPO was not a member of the MDG Gap Task Force which included more than 20 UN agencies. The Group believed it would be advisable for WIPO to participate in that task force as it was created to improve monitoring of the implementation of commitments, and to identify gaps and obstacles in their fulfillment at the national and international levels. It also supported the recommendation to link WIPO's work with the broader work of the UN family and to make available its expertise in the area of IP and technology transfer. It also supported the view that WIPO should engage with the IAEG. It further agreed that WIPO's MDG related needs/outcomes could be included in the formulation of expected results and performance indicators.

275. The Delegation of Poland, speaking on behalf of the European Union and its Member States, noted that the report provided a thorough overview of the contribution of the Organization's work to the MDGs. It described the extensive development oriented framework, of which the WIPO Development Agenda was part. The overall goal of economic and social development was being addressed in many different fora and WIPO's role was set out in the report. It was pleased to learn of the increased efforts by WIPO to strengthen cooperation with other intergovernmental organizations. The Delegation acknowledged that the effective implementation of the Development Agenda was central to WIPO's contribution to the MDGs. The EU and its Member States supported the development and regular updating of the webpage dedicated to providing information on WIPO's contribution to the MDGs, as it increased the visibility of the Organization's work in that area. The Delegation also highlighted the importance of continued collaboration with other international governmental organizations to provide a coordinated response to development needs, including in the implementation of development Agenda activities and to ensure that appropriate expertise was available when dealing with IP aspects in other relevant fora.

276. The Delegation of Australia noted the proposal for WIPO to increase its collaboration with other UN agencies. In that context, and as one of the proposed criteria for assessing WIPO's contribution to the MDGs was the creation of mechanisms to manage the benefits and risks of new and existing technologies, it enquired as to whether it was intended for WIPO to engage in such work, as opposed to supporting other UN agencies, such as the International Atomic Energy Agency or the World Health Organization, in their work in that area.

277. The Delegation of Japan asserted that the achievement of the MDGs was crucial to its authorities. It had been extending assistance to developing countries and LDCs in a wide range of areas, and appreciated the conclusion, in paragraph 49 of the report, that WIPO's work had direct relevance to, and the Organization had been making important contributions towards the achievement of the MDGs in terms of supporting its developing country and LDC Member States. Japan would continue to contribute to the future work of WIPO to ensure that further progress was made in the achievement of the MDGs. The Delegation appreciated the efforts to establish a credible method for assessing WIPO's contribution to the achievement of the MDGs through the Organization's RBM framework. However, although it was noted in paragraphs 47 and 48 of the report that it might require improvement. It was important to keep in mind that it was merely an assessment tool. As such, efforts should be focused on constructive work towards the achievement of the MDGs in a cost-effective manner rather than on the mere improvement of the tool.

278. The Delegation of Pakistan fully endorsed the ideas and parameters mentioned in paragraph 19 and 34 of the report and further work in those areas. It also thought that the recommendation on the need to link WIPO's work to the broader UN family, especially with regard to the MDG Gap Task Force and the IAEG, was very important and possibilities should be explored to allow for that. It also supported the comment made by the Delegation of Poland on the periodic updating of the webpage dedicated to WIPO's work with regard to the MDGs, as it was very important not only for the Organization to do its work with regard to the MDGs, but also for the public to perceive that it was doing so.

279. The Delegation of Brazil noted that the RBM based methodology shed new light on WIPO's contribution to the MDGs. It was also a step towards a comprehensive model for accountability - an objective of the Development Agenda. It was also pleased with the positive assessment of the impact of the Development Agenda initiatives with regard to the MDGs. In its view, the RBM based methodology offered limited possibilities as its indicators were not designed to measure the contribution of the Organization to the MDGs. That was reflected in paragraphs 46 and 47 of the report. In that context, it agreed that there was room for improving the indicators and encouraged further discussion on that matter. It also understood that the report could be complemented with studies employing different methodologies. The Delegation also agreed with the proposal by the African Group to broaden the field of analysis. Work in that area could also be enhanced through consultations with UN specialists on MDGs. As WIPO was not part of the MDG Gap Task Force, it would be of interest to hear from experts, their opinion on the potential contributions from WIPO. Some clues could be found in paragraph 17 of the report which referred to language contained in the Sachs Report and in the Report of the Task Force on STI.

280. The Delegation of China asserted that the MDGs reflected the determination of the leaders of the UN and its Member States to promote national development. The assessment of WIPO's contribution to the achievement of the MDGs was of great importance. As a specialized agency of the UN, WIPO should promote an IP system that was balanced and easy to use. As the MDGs were closely linked to WIPO's work, the Organization should play an important role in the implementation of the Goals. For that reason, WIPO should in future, play an even more active role and strengthen its coordination with other UN agencies, so as to enhance its contribution to the implementation of the MDGs.

281. The Delegation of Morocco, speaking on behalf of the Arab Group, requested for the webpage dedicated to WIPO's contribution to the MDGs to be made available in Arabic. It also requested the Secretariat to increase its efforts to ensure that the WIPO website was also available in Arabic. Speaking on behalf of Morocco, the Delegation stated that as the achievement of the MDGs was the responsibility of several different organizations, it was necessary to determine WIPO's role in the achievement of the MDGs. WIPO's mandate was to promote IP. The Development Agenda was intended to assist developing countries in achieving the MDGs through IP. In that context, the Delegation was of the opinion that the achievement of MDGs through IP should be measured in accordance with a country's capacity to generate IP. Various statistics were available on the creation of IP in developing countries. The issue was whether progress, if any, was a reflection of WIPO's efforts through the implementation of activities under the Development Agenda. In that context, it enquired as to whether criteria for protecting IP could serve as requirements for measuring the implementation of the MDGs.

282. The Delegation of the USA stressed the need for WIPO and other international agencies to remain forward-looking in their efforts to collate data. That could aid WIPO's contribution to the MDGs, and place the Member States and Secretariat in a better position to know where the starting point was at the beginning of the biennium and where they might finish at the end of the biennium with respect to contributions to the MDGs. That could help identify shortcomings and ease their correction. It also noted that the use of a RBM framework to assess the contribution of WIPO to the MDGs had the potential to help provide a clearer framework with which to understand and assess WIPO's contributions on a more systematic basis. The Delegation looked forward to further information on progress in the implementation of that framework. Although that was an information document, there were also recommendations that WIPO should participate in the MDG Gap Task Force as mentioned in paragraph 44 of the report, and that it should also increase its engagement with the IAEG. The Delegation enquired as to the benefits and general consequences of those additional engagements.

283. The Delegation of Egypt endorsed the statements made by the Development Agenda Group, the African Group and the Arab Group. In its opinion, one of the key findings of the study was the strong link between WIPO activities in the areas of norm-setting and technical assistance. That could contribute or otherwise to the achievement of the MDGs, especially on access to food, knowledge and affordable medicines and on the protection of bio-diversity. As that had been established, the Delegation was keen to determine the next steps. There was perhaps a need to widen the report and include Development Agenda Recommendations. It was necessary to take a broader look at WIPO's contribution, with the Development Agenda recommendation as a basis for that. It was also essential for the Secretariat to implement the recommendations included in paragraphs 42, 43, 44 and 45 and to report to the next CDIP on progress achieved in those areas. The Delegation reiterated the need for WIPO to play a more active role in contributing to the MDGs. An action plan for 2012/2015 could be drawn up for that purpose.

284. The Delegation of Bolivia noted the finding, in paragraph 40 of the report, that WIPO was making positive contributions to the achievement of the MDGs. The Delegation requested for further information on the evidence used to reach that conclusion. WIPO's activities could impact on many areas including education, environmental protection, food security and health. On the environment, for example, the impact of IP on the transfer of technology to mitigate the consequences of climate change was difficult to determine. It should be recognized that the impact could be both positive and negative. The study also found that progress had been made in almost all areas of WIPO's work. In that regard, it would be useful to know the basis for arriving at that conclusion. Although it could not be denied that there was progress and change in WIPO's work, the Delegation believed that a positive impact on the MDG goals was dependent on WIPO's ability to implement a balanced vision, to recognize and provide information on both the positive and negative impacts of IP. Change had taken place but it had yet to reach the stage where WIPO was providing a more balanced picture. For example, there

remained many challenges in the area of legislative advice. As much remained to be done, it was difficult to conclude that WIPO's impact was positive. A major concern for its authorities was the patenting of seeds and life forms, the impact on food security and the exchange of seeds by farmers. It was also concerned with the impact of patents on access to medicines and that of copyright on education in developing countries. Thus, it could not be concluded that WIPO's work had a fully positive effect on the environment and development. The study also recommended that WIPO should make available its specialized knowledge on IP and technology to other UN agencies and that WIPO should become more involved in UN activities in that regard. The Delegation believed that that recommendation should be treated with caution as the impact of increased WIPO involvement was dependent on whether or not it approached IP in a balanced manner.

285. The Delegation of Switzerland joined other delegations in highlighting the importance of the MDGs for development. It was pleased that WIPO was contributing to the achievement of the Goals and supported the continuation of its work in that area. It also agreed with the Delegation of Japan that it was very important to allocate maximum resources for such activities. It was through the implementation of those activities that WIPO could better contribute to the achievement of the MDGs, and not through continued spending on studies and assessments. The Delegation supported the proposal made by the European Union on the dedicated webpage. A fresh evaluation could also take place, in perhaps two years, on WIPO's contribution to the achievement of the MDGs.

286. The Delegation of South Africa, referring to the Appendix II, enquired as to how it was concluded that the implementation of certain expected results of the P&B for 2010/2011, was on track, and how those results related to the MDGs. It also requested for details as to how it was determined that certain expected results were on track and others were not.

287. Mr. Musungu stated that the document would be revised to take into account additional comments by the Committee. As stated, a key challenge was the selection of information that possessed credibility. Hence, the focus on information contained in the P&Bs and the PPRs. Thus, in the areas indicated by the Delegation of South Africa, the information that led to the conclusion that those expected results were on track was contained in the PPR for 2010 as approved by Member States. Thus, it followed that the assessment of whether or not an expected result was on track was made by Member States through their approval of the PPR. On comprehensiveness, efforts were made to connect the needs and outcomes with the relevant Development Agenda Recommendations, expected results and performance. Further, as explained in the study, the criteria in Box 1 were based on a range of documents and not just on MDG 8. That included the Millennium Declaration, MDGs, the Sachs Report and the Report of the Task Force on STI. However, he agreed that more could perhaps be included. On the query from the Delegation of Australia on WIPO's engagement in work on managing the benefits and risks of new and existing technologies, it was not intended that WIPO should engage in that. That was merely an area highlighted as important in the MDGs by the aforementioned sources. Indeed, it was indicated in the assessment in both Appendix I and II of the report that that was not applicable to WIPO. The management of the regulation of technology was not included in WIPO's mandate and was the responsibility of other agencies. Thus, although WIPO might support the work of other agencies, it was unlikely to play a direct role in managing the risks of technology. On the suggestion by the Delegation of Morocco to use of IP statistics as a basis for assessment, the statistics might not provide a good picture as the number of patents in a country for example, would not provide an indication of what was happening with the respective patented technologies. However, more thought would be given on the use of these statistics. On the question from the Delegation of the USA concerning the benefits of WIPO's participation in the UN mechanisms, as pointed out in the study, WIPO's engagement with the IAEG would be beneficial for both. The IAEG had indicated that it had difficulties in developing indicators related to STI. WIPO's expertise and data from the RBM framework, including with respect to the implementation of the Development Agenda, would

enrich and help improve monitoring and reporting on STI and IP-related MDGs needs/outcomes. For WIPO, its engagement in both the IAEG and the MDG Gap Task Force would provide learning opportunities for the Organization. Thus, both WIPO and the UN system would both benefit from its engagement. On the issue raised by the Delegation of Bolivia on the conclusions of the study, he reiterated that those were based on the PPRs. As the PPRs were assessed and approved by the Member States, it was the Member States themselves that decided that the expected results for 2008/2009 were met. That was the basis for the conclusions.

288. The Delegation of Egypt recalled that at the paragraph fifty-eight of the UN Summit on MDGs outcome affirmed that the agencies within the UN system had an important role to play in development and in the achievement of the MDGs. Continued efforts would be made to enhance coordination and coherence within the UN system in support of the MDGs. That could provide the justification for promoting the integration and alignment of WIPO activities with those of other agencies within the UN system.

289. The Delegation of South Africa emphasized that it was insufficient to simply declare that an expected result was track and that it was relevant to the MDGs. The specific elements that were related to the MDGs should also be described to demonstrate the links.

290. The Delegation of Bolivia reiterated its request for details to how it was concluded that WIPO was making a positive contribution. Progress did not necessarily mean that the impact was positive. That was particularly so in view of the findings of some of the external reports on technical assistance.

291. Mr. Musungu noted the comments of the Delegation of South Africa and stated that those would be taken into consideration in the revision of the document. However, an example of how a connection was made between WIPO's work and the MDGs was on the development of a balanced patent system by WIPO. That activity was linked to the need for a balanced IP system in the achievement of the MDGs, as highlighted in the Sachs Report. On WIPO's contribution to the MDGs, although it was stated that WIPO had made positive contributions, it did not mean that all of WIPO's work had necessarily resulted in positive contributions. It was difficult to fully link every action or outcome in a country with WIPO's work as the Organization was merely playing a supporting role.

292. The Vice Chair opened discussions on document CDIP/8/5, "Future Work Program on Flexibilities in the Intellectual Property System", and invited the Secretariat to introduce the document.

#### Consideration of Document CDIP/8/5

293. The Secretariat (Mrs. Lucinda Longcroft) recalled that the Committee, at its sixth and seventh sessions, had considered document CDIP/6/10. At the seventh session, the Secretariat was requested to revise and update that document by reporting on the strategy for implementation of the work program on flexibilities and to revise the annex providing details of WIPO's activities related to flexibilities in the IP system, in accordance with the comments received from Member States. Those were taken into account in the current document. Part A contained work in relation to two documents on patent-related flexibilities, namely, documents CDIP/5/4 Rev and CDIP/7/3. The latter remained open for future comments and contributions by Member States. Part B contained a stock-take of activities undertaken by WIPO. The table included in the annex was revised to include further activities related to flexibilities which were undertaken by the Organization through technical assistance and development cooperation activities as a whole. It was also updated to include activities that had been carried out since the last session of the Committee. Finally, Part C described progress in the implementation of elements of the proposed strategy for technical assistance in the area of flexibilities, as agreed



by the Committee in its previous session. Subparagraph (a) described the incorporation of information on IP flexibilities in the technical assistance program and the steps that were taken, with the agreement of the Member States. Subparagraph (b) was on the publication of a webpage, in English, French and Spanish, on the WIPO website dedicated to flexibilities in the IP system. The webpage, under development, would describe WIPO's activities in relation to IP flexibilities. As agreed by Member States, it would include a roadmap indicating the various areas of the Organization in which such work was taking place, links to relevant material on flexibilities produced by WIPO and other relevant international organizations, and a database containing legislative provisions on flexibilities in the IP system. That would potentially cover ten patent-related flexibilities. At present, the database contained five flexibilities drawn from document CDIP/5/4 Rev, considered by the Committee. A further five were provisionally included. Those were related to information contained in document CDIP/7/3 which required finalization. The Secretariat then proceeded with a presentation of the database. On legislative amendments, the database would only include information contained in document CDIP/5/4. However, the webpage would also include a link to the WIPOlex database. WIPOlex was updated through notifications received from Member States. Member States were invited to explore the database after its launch and to inform the Secretariat of any amendments to their IP laws. The Development Agenda Coordination Division would serve as the focal point for receiving amendments. The Committee was invited to consider two particular issues in relation to the database. First, whether further work was required to identify flexibilities in the areas of copyright, trademarks and design. In that context, in the field of copyright, the Committee might take note of the work of the SCCR on exceptions and limitations to copyright, and for relevant material to be incorporated in the database. That included, for example, information contained in the responses to the SCCR's recent questionnaire on limitations and exceptions. Second, the proposal made in the previous session for the database or webpage to also include information on national experiences and case studies, along the lines of IP Advantage, to enable countries to share practical information and best practices in the implementation of flexibilities. Subparagraph (c) was on the internal communications and briefings undertaken to ensure awareness and continued integration of information on flexibilities by those involved in the provision of technical assistance to Member States. Finally, paragraph (d) provided that, as requested by Member States, national and regional seminars had been organized to enable the sharing of information and practical implementation of flexibilities at the national level. Details were included in the annex to the document.

294. The Delegation of Australia enquired as to whether there was a time frame for Member States to provide comments on the database prior to its launch.

295. The Secretariat explained that a timetable was not foreseen as it had been requested to submit the contents of the database for prior consideration and approval by the Member States. In that context, any comments by the Delegation were welcomed and the Secretariat would take its guidance in terms of a timeline for publication and public availability of the database.

296. The Delegation of Mexico took note of document CDIP/7/3 and agreed with its methodology for providing information to Member States on the flexibilities available under TRIPS. It confirmed that the information contained in the annex on its national legislation was correct and up to date. It would also continue to cooperate with the Secretariat in the provision of information.

297. The Delegation of Bolivia emphasized that work on IP flexibilities was key to the implementation of the Development Agenda. The information contained in the annex on the impact of activities on patents and utility models did not provide details as to whether flexibilities had been taken into account in the provision of legislative assistance to Member States. On future work, the Delegation proposed to include work on challenges and barriers to the implementation of flexibilities and how those were addressed at the national level.

298. The Delegation of Panama, speaking on behalf of GRULAC, emphasized the importance of IP flexibilities for the region. That included, in particular, the use and application of patent related flexibilities in key areas such as public health where those were required to enhance access to medicines. The Secretariat was requested to continue its work on patent related flexibilities and to prepare additional documents for that purpose.

299. The Delegation of South Africa, speaking on behalf of the African Group, observed that although IP systems had been in existence for a long time, the available literature indicated that most developing countries had yet to fully benefit from IP. In that context, the use of flexibilities could potentially allow more countries to derive real gains from IP. A key challenge for most developing countries was in determining how flexibilities could be fully and effectively used in support of development and public policy objectives. It proposed that that be addressed by WIPO through a work program, in accordance with Recommendations 1, 13, 14, 17, 22, 25 and 45 of the Development Agenda. The objectives of the proposed program would be to strengthen conceptual understanding of the various IP flexibilities and their implementation in key areas of public policy such as public health, food security and agriculture; identify legal, institutional and administrative constraints in the implementation of flexibilities, including insufficient disclosure in patents; requirements for the creation of a conducive environment for the effective implementation of flexibilities to promote development and public policy objectives; and the development of a technical/legislative assistance tool to address the challenges faced by countries in implementation. The activities could include the following: 1. National and regional seminars to share practical experiences and information on the use of flexibilities. The participants should include representatives from IP authorities, development related agencies including the ministries of health, agriculture, science and technology, and research institutions; 2. Development of a webpage dedicated to the provision of information on seminars, including video recordings, materials, presentations and seminar reports; 3. Publication of a report on national experiences in the use of flexibilities based on information derived from the national and regional seminars; and 4. Preparation of a technical/legislative assistance tool to assist countries at different stages of development in the effective implementation of IP flexibilities in the various areas of public policy.

300. The Delegation of Poland, speaking on behalf of the European Union and its Member States, recalled WIPO's role in providing legal and technical assistance to countries for the establishment of national IP frameworks which were consistent with development objectives and international obligations, including the TRIPS Agreement. The document provided an excellent tool and further work would be of use in that regard. However, the document should continue to be balanced. It should not prejudge outcomes or exceed the mandate of WIPO. The European Union and its Member States also agreed with the suggestion to explore how flexibilities were actually implemented as practical experiences often provided useful inputs for policy making. That would also allow for the sharing of experiences on the difficulties encountered and the solutions adopted for each. It would also facilitate information sharing on policy options for the implementation to suit a country's needs. On the future work program on IP flexibilities, the European Union and its Member States were of the view that the other areas of IP within TRIPS could also be addressed. However, that should take into account work carried out by other committees to avoid duplication. In a similar vein, the results of any future work by the Committee should also be made known to the relevant bodies within WIPO through the appropriate channels.

301. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, expressed its support for the document. Determining how IP related flexibilities could be fully and effectively implemented in accordance with development objectives was a key challenge for most developing countries and LDCs. That was why the Development Agenda Group had requested for work on flexibilities. That work should continue, and in that context, it supported the objectives and elements of the work program proposed by the African Group.

302. The Delegation of Japan underscored the need for WIPO to provide objective, practical and concrete advice on the use of flexibilities in relation to the TRIPS Agreement. That would be of tremendous assistance to developing countries and LDCs. On the activities included in the annex, the Delegation requested the Secretariat to provide further details on how each was related to the subject of flexibilities.

303. The Delegation of Venezuela endorsed the statements made by Panama on behalf of GRULAC, and Algeria on behalf of the Development Agenda Group. It emphasized the importance for work to continue through further studies and seminars to promote better understanding of the flexibilities, particularly in relation to patents, as that was relevant to public health, access to medicines, and the right to life. It agreed with the proposal by the Delegation of Bolivia to continue work on the provision of information. It would also be useful to provide examples of how IP flexibilities were implemented in industrialized countries.

304. The Delegation of Uruguay suggested for work to continue on patent related flexibilities as the list was not intended to be exhaustive. It also expressed its interest in continuing work to reach agreement on a future work program.

305. The Delegation of the USA supported the Secretariat's proposal to create a web page that would include a facility similar to the IP Advantage database to enable countries to share their experiences and best practices in the implementation of flexibilities. That was subject to the requirement that the information should be made available on a voluntary basis. Member States would also have the discretion to decide whether or not to participate, and on the extent of their participation. On copyright related flexibilities, the Delegation reiterated its opposition to additional work in light of the extensive work program on exceptions and limitations in the SCCR. The proposed database could either incorporate or be linked to the SCCR studies. On trademarks and designs, it was unclear what flexibilities might be examined and it looked forward to suggestions by Member States in that regard. On the second study on patent related flexibilities, document CDIP/7/3, the Delegation indicated its preference for the document not to be publicly posted pending finalization.

306. The Delegation of Pakistan, speaking on behalf of the Asian Group, reiterated the statements made by other delegations on the challenges encountered by developing countries and LDCs in determining how IP related flexibilities could be fully and effectively implemented in accordance with development and public policy objectives. That should be addressed by WIPO in accordance with the Development Agenda Recommendations. The Asian Group was of the view that current work in that area was insufficient. There was a need to move forward on a work plan on IP flexibilities. In that regard, it affirmed the objectives and elements of the work program proposed by the African Group.

307. The Delegation of Morocco, speaking on behalf of the Arab Group, noted that the key areas of concern to developing countries, particularly for those in its region, were security, health and access to knowledge. In that context, it believed that technical assistance for the effective implementation of flexibilities would assist developing countries to achieve their objectives in those sectors. The development of the web page was useful in that regard. However, it should also be made available in Arabic to allow countries in its region to fully benefit from the information provided.

308. The Delegation of Colombia aligned itself with the statement made by the Delegation of Panama on behalf of GRULAC on a future work program on IP flexibilities. As that was a very important area, work that was underway should continue. It was important to share real experiences in the implementation of flexibilities. For that reason, the Delegation was looking forward to the meeting on flexibilities in Bogotá next February.

309. The Delegation of Jamaica attached great importance to the issue of IP flexibilities for developing countries. In that regard, it associated itself with the statement made by Panama on behalf of GRULAC as well as the statements made by Bolivia, Venezuela and others. It requested the Secretariat to examine complementary analytical and empirical works to identifying further flexibilities to complete the review of document CDIP/8/5. It also encouraged the Committee to allow for sufficient time for the consideration of the document. It was of the view that the work undertaken by the Secretariat on IP flexibilities was still a work in progress, and should not be seen as an exhaustive and conclusive outcome. In that context, the Delegation supported continued work in that area within the Committee.

310. The Delegation of Egypt affirmed the importance of the ongoing work on IP flexibilities. WIPO should continue with an effective and meaningful work program in that key area in order to support developing countries in their pursuit of important public policy objectives. In that regard, it endorsed the recommendations made by the African Group, the Development Agenda Group and the Arab Group. The publication of relevant national legislation provided a good starting point for the database. That could be enhanced through the incorporation of additional information on national experiences, best practices, links to studies and commentaries by other specialized agencies and international organizations such as the WHO and FAO. Links could also be provided in relation to court cases and the interpretation of legal provisions. The materials developed by the WIPO Academy for training on the effective use of flexibilities could also be incorporated. In addition to patents, it was also important to include flexibilities in relation to other areas of IP. The Delegation also supported the request for the webpage to be made available in Arabic. It stressed the importance for WIPO's technical assistance in that area to be improved and aligned with the relevant recommendations contained in document CDIP/8/INF/1.

311. The Delegation of Brazil agreed with the statement made by GRULAC and endorsed the work program proposed by the African Group and the Development Agenda Group. The Delegation felt that the work on IP flexibilities should continue on a permanent basis. There was a need to make available information on flexibilities to assist countries in making policy decisions, particularly in key sectors such as public health. It was also important to exchange views on practical experiences in the implementation of flexibilities.

312. The Delegation of El Salvador supported the statement made by the Delegation of Panama on behalf of GRULAC. It was very important for work to continue in that key area.

313. The Delegation of Argentina aligned itself with the comments made by the Delegation of Panama on behalf of GRULAC. In that context, it also expressed its interest in future work on that issue. That included work on a conceptual and strategic database on the use of flexibilities in the intellectual property system. The Secretariat should also prepare a presentation to promote better understanding of IP flexibilities, the Delegation added.

314. The Delegation of Trinidad and Tobago noted that the policy space available for developing IP systems in developing countries was restrictive in comparison to what was available in the past to developed countries. IP systems in most developed countries were allowed to evolve in step with economic interests and capacities. Developing countries with fledgling economic systems were now required to embrace mature IP systems. It was, therefore, imperative that those countries be encouraged to explore and exploit the limited policy space left in various flexibilities in the IP system. As such, the Delegation agreed with the statement made by Panama on behalf of GRULAC with regard to future work on IP flexibilities.

315. The Delegation of Cuba supported the statements made by GRULAC and the Development Agenda Group.

316. The Delegation of Cambodia supported the Secretariat's work on IP flexibilities and the statements made with regard to that issue. Its authorities were currently preparing a draft law on compulsory licensing and TRIPS flexibilities. In that context, it requested for the organization of a national seminar on TRIPS flexibilities to promote better understanding of their full and effective use in support of development objectives.

317. The Delegation of Canada agreed with the statement made by the Delegation of the USA and stressed that the contribution of Member States should be voluntary. The publication of the current document was also premature as it was still subject to completion.

318. The Delegation of Oman supported the statement made by the Delegation of Morocco on behalf of the Arab Group with regard to the translation of the webpage into Arabic. It contained important information that could assist their countries in making better use of IP flexibilities.

319. The Delegation of Switzerland shared the opinions expressed by the Delegations of the USA and Canada, particularly with regard to the webpage containing provisions on flexibilities included in national laws. It was also necessary for the Committee to avoid engaging in new activities that would merely duplicate work done or underway in other committees.

320. The Delegation of Ethiopia attached particular importance to the use of IP flexibilities for development. It endorsed the recommendations made by the African Group and the Development Agenda Group. On the database, the Delegation informed that it would be submitting comments on the relevant provisions of the Ethiopian patent and industrial property laws.

321. The Delegation of Nigeria agreed with the statement made by the Delegation of South Africa on behalf of the African Group. It reiterated the importance of IP flexibilities in relation to national development policies. Those would be taken into account by its authorities in its current efforts to develop new laws.

322. The Delegation of Pakistan supported the proposals made by the Development Agenda Group. The Secretariat was requested to identify areas where there was no duplication in order for work to proceed accordingly.

323. The Delegation of Zimbabwe aligned itself with the statements made by the Delegation of South Africa on behalf of the African Group and by the Delegation of Algeria on behalf of the Development Agenda Group. The Delegation requested for information on IP Advantage and the contributions by Member States as it was proposed that the database would include a similar facility.

324. The Delegation of the Russian Federation stressed the importance of work on IP flexibilities. The organization of seminars and other forms of technical assistance in that area would assist in promoting a better understanding of the use of IP flexibilities.

325. The representative of Third World Network (TWN) noted that the document contained a summary of WIPO activities in the area of IP flexibilities and drew the attention of the Committee to some of the findings of the recent external review on WIPO's technical assistance. The review highlighted several shortcomings in that area. For instance, on IP flexibilities, it was observed that WIPO's technical assistance tended to promote accession to WIPO administrative treaties with limited practical and proactive advice on the use of TRIPS flexibilities. The review also poorly rated WIPO's efforts to provide advice on the use of flexibilities. That provided the justification for a comprehensive work program in WIPO on TRIPS flexibilities. As noted on many occasions, the IP system pertained not only to the rights of the IP holders but also covered various flexibilities to enable countries to achieve the right balance to support development objectives. As such, the TWN supported the call for the

organization of increased activities to promote the use of flexibilities. There was also a need for transparency with regard to WIPO's activities in that area. Opportunities should also be provided for civil society to provide inputs in relation to that important area of work.

326. The Secretariat explained that the proposals put forward in document CDIP/8/5 were agreed to by Member States. That included the organization of national and regional seminars. The Secretariat would continue to revise document CDIP/7/3 on the further five patent related flexibilities, and would apply the new WIPO language policy to the website in accordance with the comments of a number of delegations, in particular Egypt, Oman and Morocco. On the database, efforts would be made to include case studies and country experiences provided by Member States on a voluntary basis, as well as materials produced by other WIPO committees, in particular the SCCR, so as to avoid duplication between the work of the Committee and other committees. Information contained in document CDIP/7/3 on the further five patent related flexibilities would not be included at that stage. On the question raised by the Delegation of Japan in relation to the annex to document CDIP/8/5, information with regard to work on flexibilities was gathered from colleagues through extensive consultations in which the discussions of the Committee and its request for information in relation to flexibilities was conveyed and discussed. The information contained in the Annex was provided by those colleagues with the assurance that the activities were directly related to the discussions on flexibilities in the Committee. On legislative advice, that was provided upon request to Member States on a bilateral basis and was confidential. There was no model to fully take into account the flexibilities and options that were available to Member States in the implementation of national IP laws. There was certainly room for improvement and to provide further clarity with regard to the annex. Links would be provided to the relevant materials. Efforts would also be made to incorporate material produced by the WIPO Academy. The Annex to the document would be posted on the flexibilities webpage. Links would be provided between the Annex and the actual activities so as to allow users to obtain further information on those activities. The Secretariat also noted that several new proposals were made in relation to future work on flexibilities.

327. The Chair suggested that the Secretariat prepared a list of the new proposals in document form for submission at the next session of the Committee.

328. The Delegation of Pakistan referred to the proposal for the development of a tool kit for legislative assistance and while noting that legal advice given to the Member States was between WIPO and the requesting Member State, it noted that that was intended for the general use of all Members States. The Delegation requested for details as to how work would proceed in relation to the further five patent related flexibilities. It also requested for clarification on the proposals to be included in the list suggested by the Chair.

329. The Chair explained that the new proposals made in relation to future work would be included in the suggested document. That was intended to assist in the development of the work plan for future work.

330. The Delegation of South Africa observed that there was convergence on some proposals, including the proposal for the organization of national and regional seminars, as noted by the Secretariat. As such, there were proposals which could be agreed at that session and others which could be discussed at the next session. On the proposed tool kit, the Delegation did not view that as controversial in light of the support expressed by various other delegations for the proposal.

331. The Vice Chair clarified that the new proposals she had referred to were not included in the Secretariat's document. Those required further deliberation and agreement by the Committee for inclusion in the work plan. In the meantime, work would continue on the agreed activities mentioned in the document and by the Secretariat.

332. The Delegation of Algeria agreed with the observation by the Delegation of South Africa that there were several proposals for which there appeared to be agreement. The most important proposal was the legislative tool kit for the use of flexibilities. Although it did not appear to be controversial, it would be useful to hear from other delegations their views on that proposal.

333. The Delegation of the USA reiterated its position that it did not currently support the idea of a manual or legislative tool kit, but would be happy to include that on the list of proposals for discussion at the next meeting.

334. The Chair noted that there was agreement on the suggestion for the Secretariat to prepare a document listing the new proposals. That would be submitted for discussion at the next session.

335. The Secretariat responding to the Delegation of Pakistan informed that document CDIP/7/3 on patent related flexibilities should remain open for comments until the suggested deadline of 6 February. The document would be revised for discussion at the next session.

#### Consideration of Document CDIP/8/7

336. The Chair invited the consideration of document CDIP/8/7: Project Paper for the Project on Intellectual Property and Technology Transfer: Common Challenges - Building Solutions. The project on Intellectual Property and Technology Transfer was approved by the CDIP at its sixth session and provided for the first step, being the preparation of a project paper including a detailed description of the components of the project for approval by the Committee. The annex of document contained the above mentioned project paper. The Chair requested the Secretariat to introduce the document.

337. The Secretariat (Mr. Ali Jazairy) recalled that the Project Paper gave a brief description of the logic for the project. It included an introduction describing the background and contained a definition of technology transfer together with the ultimate project objectives. The second part undertook a thorough literature review of the existing work within WIPO and the work made by other organizations in the area of technology transfer and well as the description of studies and case studies needed. The last component concerned the project deliverables with the details description of the project stages and timelines. In addition, Appendix 1 and 2 contained the Terms of Reference (TORS), composition criteria with respect of the Regional Consultation Meetings and the experts tasked to elaborate the various studies, as well as a provisional model program for the Regional Consultation Meetings. The Secretariat held meeting with the Regional Group coordinators on September 28 and October 6, 2011, regarding the TORS, and the composition criteria for the experts for the first Regional Consultation Meeting, intended to take place in the Philippines. It was decided to discuss the document at the eighth session of the CDIP. The steps forward were dependent on the agreement and approval of the present project paper.

338. The Delegation of Pakistan sought confirmation of its understanding that the project paper and its annexes had to be approved for the project implementation?

339. The Chair confirmed that the Delegation's understanding was correct.

340. The Delegation of Pakistan appreciated the Secretariat for the preparation of the project paper and recalled the consultations during the General Assembly where the document could not be approved as the delegations were busy and also the document needed improvements. With regard to the project deliverables, the Delegation sought confirmation of its understanding that the five regional consultations would be held in five different regions and the elaboration of

a number of peer-reviewed analytical studies, and the concept paper on building solutions would be the basis for discussions at the High-Level Expert Forum which was going to be held and also the establishment of the web forum. The Delegation wished to know the sequencing of the regional meetings and the studies that would contribute towards the High Level Forum, noting that the first of five consultation meetings would be organized in the first quarter or the second quarter of 2012 and the rest would be 2013. The Delegation agreed to the terms of reference and composition criteria for Regional Consultation Meetings. With regards to the program, the Delegation expressed its interest to include more local speakers including from non-governmental organizations as that it be very interesting to listen to their view point with regard to the very important issue of technological transfer. With regard to the studies that to be conducted, it was the understanding of the Delegation from the meetings of coordinators, that the process for commissioning studies would immediately start and the money which had been allocated for the project would be utilized for those studies and would not lapse. The Delegation sought reconfirmation of that understanding.

341. The Delegation of Algeria stated that on the consultations and the terms of reference the Development Agenda Group had already gave its support for the project. The document explained well the objectives of the project and it was clear how the project could be really helpful for the developing countries to examine that issue of technological transfer. The five regional meetings in different regions as well as the participation of different speakers with different background would reflect the different interests of development.

342. The Delegation of Egypt expressed its full support for the project and the importance of the technology transfer element of the Development Agenda. It stressed the necessity for the issue of technology transfer to take place within the UN family as a whole, especially in collaboration with UNIDO. It urged the approval of the project by the Committee.

343. The Delegation of Germany stated that the project was agreed in the sixth session of the Committee and its implementation was delayed. In the term of reference, some of the issues dealt with in general in the project paper had been clarified and changed a little bit. As an example, in the original planning, there were five meetings planned within six months and now those were stretched over six years. The Delegation wished to ask for the updated timelines, as requested by the Delegation of Pakistan, as well as the revised budget with an assurance that the envelope stayed the same, but the distribution in time might change. The Committee could then look at that issue in the next CDIP, and also address the issue of how the money was originally planned for 2011 and how it could be used as normally that amount should lapse.

344. The Delegation of the USA, speaking on behalf of Group B, referring to the statement made by the Delegation of Algeria, stated that it had not agreed to the terms of reference in the regional coordinator's meeting during the General Assembly. What had been agreed there was to take up the consideration of the document in the eighth session of the CDIP. The Delegation further pointed out that the document, the study, the project paper and the revised terms of reference, were not available until last week and it did not have enough time to give it much thought.

345. The Delegation of Poland, speaking on behalf of the EU and its Member States, stressed the importance of technology transfer as one of the key elements of the Development Agenda, but also of the need for Member States to have document sufficiently in advance of meeting in order to be able to consider them fully. Poland supported the statement of the USA which said that the document was made available at the very end of last week and there was not enough time to digest its contents and to discuss it in the meeting.

346. The Delegation of South Africa noted that the document was released on the October 26. It was not a voluminous document and could not be compared with the technical assistance review for instance which was about 220 pages and at the regional coordinators' level, Member



States were made aware of the document and that it would be considered by the CDIP. The Delegation expressed its surprise that the Committee could not actually comment on it, nor decide on the way forward. It thought that it was not good for the work of the Committee as it seemed that it was deferring everything to the next session. As the delegates had gone through the document which was basic, had clear sections and clear terms of reference, the Delegation did not see where the difficulty lay. For the Delegation, that was a good paper and it liked to hear the Secretariat's response to the questions posed by the Delegation of Pakistan. It encouraged other delegations to be constructive in the engagement as it did not feel that the document was difficult to go through and if there were any difficulties the Committee could discuss those.

347. The Secretariat thanked delegations for their comments and suggestions. Addressing the comment from Pakistan regarding the local speakers, it confirmed that local speakers would be included as mentioned in the document in paragraph 7 which stated that "local speakers as well as invited Government representatives will be encouraged to participate in the meetings". On studies, the Committee needed to approve the project paper, the terms of reference and the composition criteria for the Regional Consultations Meetings in order to start commissioning studies. Concerning the timelines, it stated that indeed initially the Regional Consultations Meetings were thought to be done more or less back-to-back, but it would be constructive to have meetings spaced out so that each meeting could learn from the experiences of previous meetings. On question from Algeria, the Secretariat explained that the request of other speakers was also reflected in the Annex 2 in the program, adding that the model program was not a one-size fit for the different regions as there was the need to tailor every meeting on the specific needs of every single region. Also topics contained in the program were indicative and might be adapted depending on the region and/or the request formulated by Member States as mentioned in paragraph 4 of Appendix 1. Regarding the question by Germany, the Secretariat agreed to include in the project paper an updated timeline and budget to redistribute the funds. The Secretariat (Mr. Baloch) added that any money unspent for the Development Agenda thematic projects during the current biennium, in accordance with the budgetary process approved last year, would be available during the next biennium.

348. The Delegation of Bolivia regarding the review of existing literature and the work undertaken by other organizations thought that it might be useful to take that section out of the project document and present it as additional information. That would allow commenting and making suggestions regarding that part and it could remain open for further additions. As to the studies, the Delegation wished to add a number of different studies and asked for the chance to open the list as it wanted to add new studies focused on other subjects or new additional initiatives.

349. The Delegation of Ecuador said that the project was of particular interest to developing countries and technology transfer was critical for the socio-economic development of Ecuador. The Delegation strongly supported all progress in that area and urged other Member States to contribute positively to the implementation of such a project as quickly as possible.

350. The Secretariat responding to the Delegation of Bolivia stated that additional studies, as mentioned in paragraph 54 of the paper on "new relevant studies" could be included in the list after approval of the project paper by Member States.

351. The Delegation of Nigeria reaffirmed its support for the project in view of its high importance for developing countries and invited all delegations to approve it in order to make progress on that issue. Nigeria strongly believed that the project paper provided a detailed description of the various components and activities for the project.

352. The Delegation of Pakistan, on the timeline of the studies, inquired as to how those fit into the High Expert forum. Secondly, it recalled that delegations had met twice with the Secretariat

during the General Assembly and the terms of reference were not approved, but those were close to be approved. However, the CDIP had to approve them now. The Delegation believed that it was not something too voluminous and would not take much time and given the strong supports from the floor it believed that the Committee could move ahead with its approval.

353. The Secretariat replying to Pakistan on the studies stated that those would be commissioned as soon as the project paper was approved and their completion would need approximately six to eight months. Concerning the consultation meetings, the first of the five regional meeting was scheduled in February in a region to be decided later. At that stage, the Secretariat was only able to give an overall picture and as the studies became available, those would be incorporated into the Agenda for the Regional Consultation Meetings.

354. The Delegation of Poland stated that there was a constructive spirit with all Members of the CDIP in regard to cooperate and to remain flexible in order to allow some movement on the project and asked if it was possible to have some time to discuss the paper informally and come back to the Committee the following morning with a more clear position.

355. The Chairman thanked Poland for that statement and sought opinions on how to make progress on the project, as even though there was a lot of support for the project, several Delegations seemed not to be able to accept it at that moment. The Chair proposed to accept the European Union's offer and to come back to the document the following day in order to allow Member States a little more time to study the paper.

356. The Delegation of Pakistan agreed with the proposal of the Delegation of the European Union for the very positive and constructive engagements in the process.

#### Consideration of Document CDIP/8/INF/1

357. The Chairman invited the Committee to move to the discussion on document CDIP/8/INF/1 "An External Review of WIPO Technical Assistance in the Area of Corporation for Development" and requested the Secretariat to introduce the document.

358. The Secretariat (Mr. Baloch) recalled that the external review of WIPO's technical assistance had been undertaken in the context of the project on the Enhancement of WIPO's Results Based Management Framework. It was an external review and the Secretariat invited Mrs. Carolyn Deere, one of the authors of the report to introduce the document.

359. Mrs. Carolyn Deere thanked all members of the Committee for the invitation to present the first independent External Review of WIPO's Technical Assistance' in the area of Cooperation for Development. To introduce the report she provided a background of the review process, and then an overview of the content of the report. In terms of the review process, it involved the collection of relevant data, evidence and perceptions, a desk review of relevant WIPO documents and reports, interviews with WIPO staff from old programs involved in development and cooperation activities, a survey of developing country Member States which received 33 responses, six country visits conducted by the co-authors which involved visits to a diversity of government and non government stakeholders in the Dominican Republic, Indonesia, Panama, Senegal, Tanzania and Vietnam. It also involved consultations with Geneva base missions, a request for input from stakeholders and a literature review. The review covered the three year period from 2008 to the end of 2010, with a longer period for country visits. The report was submitted to the WIPO Secretariat for factual corrections from mid July to the end of August and was published on WIPO's website in September. The authors of the report thanked all of those from the Secretariat, Member States and stakeholders organizations that provided input. She outlined a number of factors that constrained the review process which might serve as a useful context for the Committee's deliberations. First, it was the first time that such a comprehensive substantive external review of WIPO's development activities had been conducted. Second, the

report called for a macro level review of the entirety of WIPO's development activities. The terms of reference were extremely broad, with many components to it. As the report showed, WIPO had a vast diversity of activities for developing countries, from many different constituencies, within them, with a variety of objectives. Those included very large scale projects and many activities with smaller budgets. Some of those activities with smaller budgets, all which involved largely the human resources in terms of WIPO Secretariat staff, might still have potentially great impact or implications for countries. The authors tried to capture some of those variations in the report. Third, shortcomings in WIPO's internal processes for defining, measuring, and monitoring the distribution of its budget and expenditure for development activities in the period under review, and the absence of systematic internal processes for evaluating and reporting on them, limiting the empirical bases for detailed impact assessment or a detailed evaluation of orientation trends over time, or the relative distribution and intensity of activity by category. There was, for instance, no internal stock of existing evaluations to draw upon, nor a comprehensive database of activities with detailed information on the objectives, content, budget, and results of activities which could be used. As such to produce a meaningful and credible analysis the authors were obliged to invest considerable time drawing together an overview of the budget and content of activities that otherwise did not exist in a narrative form in one place; hence the length of the report. Fourth, neither WIPO nor its activities were static. Many of the reviewed activities were in a pilot phase, under review, or as in the case with many CDIP projects the implementation was still under way. Accordingly, it was too early to judge the results or the degree with which those had been mainstreamed. The review took place amidst an important organizational change. The Organization was amidst major reforms to management in the context of the SRP, the implementation of the Development Agenda was an evolving work, and shifting the Organization from the legacy of past practices was a time consuming challenge. Thus, the review covered only the period until the end of 2010. To acknowledge the fact that there were some subsequent improvements, the authors tried to make some observations about those, for example, improvements made in the context of the 2012/13 Program and Budget process. While some of those ongoing initiatives for improvement simply required more time to yield results, there were still areas where more structural and underlying problems needed to be addressed. The report offered findings and recommendations around five core themes: orientation and relevance, impact, management, efficiency, and internal and external coordination. To analyze the content of assistance the diversity of WIPO's activities were brought into categories. For purposes of the report six main pillars of activities were discerned, which were presented and analyzed in the report. The first pillar concerned the development of national IP strategies, policies and plans in developing countries, including needs assessments. The second concerned work related to the development of global, regional, and national legislative regulatory and policy frameworks to promote a balanced IP system. That included activities related to research and support for the engagement of developing countries in global decision making and dialogue. The third area was that of building the state-of-the-art national IP administrative structure. The fourth concerned support system for users of the IP system in developing countries. The fifth concerned activities related to the promotion of innovation and creativity, access to knowledge and technologies in developing countries. And the sixth pillar concerned training and human capacity building in developing countries. The report contained an extensive finding in each of those areas. Mrs. Deere stated that if the Committee wished to discuss them in detail she could certainly do so. In terms of recommendations, the report contained extensive recommendations concerning both the what, and the how of WIPO development assistance. Many of the recommendations related to the contents of WIPO's development activities. In that sense they related to decisions about the content of WIPO's Program and Budget, that were a combination of input from Member States and from the Secretariat. They also relied on decisions taken by Committees such as the CDIP. Many other recommendations called for improvements on process for which the Secretariat was responsible, particularly in terms of internal planning and management that affected the orientation and impacts of WIPO's development activities. Some of the recommendations did require any additional resources; some represented opportunities for cost savings. There were also some recommendations where implementation would require

allocation of new resources. In the context of ongoing reform processes within WIPO, there were efforts to address some of the recommendations provided. In some of those instances, initiative was being taken by individual staff activities or programs, but there was still a long way to go before they institutionalized the norm. Mrs. Deere thanked for the opportunity to present the report on behalf of the co-author Mr. Santiago Roca and herself, hoping that the Committee would find the Report a constructive basis for further discussion and decide to take some of those recommendations forwards.

360. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, congratulated the authors of the report for the excellent work done and also for the presentation of the document as it gave the background of the detailed report. The Delegation believed that such document would really help WIPO to improve the technical assistance work in the Organization, and enable the Member States to answer quite a lot of questions. The document contained lots of elements that were of immense interest to developing countries and there were many recommendations that were interesting and deserved to be taken into account and applied. The Delegation stated that it was necessary to discuss the various parts of the document in the Committee and to dedicate to it all the necessary time. However, as there was not so much time available to the Committee, the decision concerning the best way to examine that document was up to the Chairman. The Development Agenda Group proposed to organize a meeting that would be specifically dedicated to examining that document, as a working group.

361. The Delegation of Poland, on behalf of the European Union and its Members States, thanked the Secretariat for preparing the document CDIP/8/INF/1 which contained the External Review of WIPO Technical Assistance in the Area of Cooperation for Development undertaken by Dr. Carolyn Deere Birkbeck and Dr. Santiago Roca. The European Union and its Member States recognized the valuable recommendations contained in the review which would surely help to improve WIPO's technical assistance activities in the area of cooperation for development, and to identify ways to develop the result based management framework to facilitate the monitoring evaluation of the impact of activities on development. EU and its Members States acknowledged that there was the need to proceed in an efficient manner, but it also realized the importance that Member States had time to fully consider and discuss the report and the implementation of the recommendations. Therefore, the Delegation invited the Secretariat to prepare a response to that report to be presented and discussed in the next session of the CDIP because at that stage, it would be premature to recommend further actions.

362. The Delegation of Brazil welcomed the report of the External Review on WIPO Technical Assistance in the Area of Cooperation for Development produced by Dr. Carolyn Deere Birkbeck and Dr. Santiago Roca. The document was available for discussions on the implementation of the Developing Agenda. It also represented the commitment of WIPO to the changes that must be done in order to fully incorporate into the Organization the principles and objectives on the Development Agenda. Brazil noted a high degree of convergence between the challenges and recommendations identified by the external review and the ones already pointed out by Brazil and other Member States since the beginning of the Development Agenda negotiations. In fact, those perceptions were part of the motivations for the adoption of the Development Agenda and that problems related to WIPO budgetary process regarding areas of cooperation for development and to the monitoring and reporting of WIPO activities, were already identified by Member States more than once during the discussions of the CDIP. Brazil stressed that the most important advance in the study was its capacity to systematize all that information in one document, with a view to helping the revision of how WIPO worked. The Delegation supported most of the recommendations suggested in the report and was of the view that those complex and diverse recommendations should be discussed in details by WIPO and its Member States. In conclusion, the Delegation asked for clarification on how the WIPO Secretariat intended to organize discussions on the external review which should not be a matter for one CDIP session only, and to incorporate those recommendations into WIPO

activities. Brazil fully supported the proposals to better organize discussion including the creation of a working group as proposed by other delegations.

363. The Delegation of China thanked the two consultants for the quality report and stated that from 2004, the idea to have such kind of a report was put forward for the Development Agenda. Time had passed and during that period WIPO had made considerable efforts to mainstream development into its work, and had achieved great progress. Most of the 19 recommendations were being fully implemented, and at that stage it was very important to examine and assess WIPO's activities in that area. The Delegation noticed that in the report there was a description of the main trends, management and effectiveness of WIPO. In that context, the Delegation supported most of the recommendations contained in the report. It hoped that those recommendations would be taken into account by WIPO to improve its work in a more flexible and efficient way. Because of the extreme importance of the report, the Delegation expressed its interest in seeing it translated into Chinese in order to be able to study it in a more detailed way.

364. The Delegation of South Africa, speaking on behalf of the African Group, thanked the authors for the excellent document. The African Group analyzed the document and had a positive reaction. In relation to the future work, it was in favor to have a working group at least to look at the recommendations which were made, because there were several of them, and some were quite important as other delegations had already mentioned. The Delegation found the definition technical assistance contained in the report as important, adding that the same could be used by WIPO. The criteria used for reaching that definition was acceptable. The Delegation fully supported the proposal made by the Development Agenda Group proposing a Working Group, or alternatively the Committee could look at allocating sufficient time to the consideration of the report at the next session of the CDIP.

365. The Delegation of Bolivia joined other Delegations in congratulating the authors for the excellent work. Bolivia recognized the high importance of the study on a subject such as the reform of technical assistance. The Delegation stressed the excellence of the study and its recommendations and believed that the report would help Member States to carry out consistent action in the area of technical assistance. In fact, very often there had been technical assistance projects and now, thanks to that document there would be a comprehensive view of what was done in that area. The Delegation supported the proposal by the Development Agenda Group and the African Group to have a working group with the aim to examine the document. The Delegation was interested to know more from the authors about the orientation of technical assistance. As regards the results, the Delegation highlighted that only 15% of the budget was devoted to Development Agenda objectives, and there were few activities that promoted the views of the TRIPS flexibilities, access to medicines, and education. It stressed that WIPO had few technical assistance activities to reduce the knowledge gap between the developed and the developing countries. Consequently, the report highlighted the problems which WIPO still had in the events that it organized. WIPO continued to invite mainly experts who had their own vision of intellectual property or people who represented the industry. The Delegation stressed the necessity to have a more balanced representation of points of view in WIPO seminars. The results of the report stated that experts aimed mainly at promoting access by countries to intellectual property treaties while there was limited practice in promoting the use of flexibilities. In conclusion, the Delegation mentioned two recommendations in which it wanted to have a major elaboration by the author i.e. the establishment of a team of external experts to examine legislative assistance given by WIPO, and the setting up of a panel of independent experts, particularly from Academia, to examine all the educational materials used by WIPO in its technical assistance.

366. The Delegation of Pakistan observed that WIPO's technical assistance was a central component of the Organization's deliberations, particularly in the context of the Development Agenda. Numerous recommendations also highlighted the need for WIPO's technical

assistance to be development-oriented, responsive to the priorities and needs of developing countries, accountable and transparent. However, with little information and impact analysis available, most of the technical activities were shrouded in obscurity. A lot of technical assistance activity had taken place for the period under review, but there was a need for a higher impact analysis. It thanked the efforts of Dr. Carolyn Deere and Dr. Santiago Roca for that ground-breaking and comprehensive study which represented the first example of an in-depth analysis of WIPO's technical assistance activities and shed some light on the effectiveness, efficiency and relevance of WIPO's technical assistance activities for the period under review. The Delegation supported the proposals made by the Development Agenda Group. In terms of moving ahead, it proposed to have a broad presentation during the session in order to help the Committee in absorbing what was presented in the study.

367. The Delegation of the USA, speaking on behalf of Group B, thanked Dr. Carolyn Deere and Dr. Santiago Roca for the very long, but very thorough report. Group B had eagerly awaited the release of the report which was originally scheduled to occur before the CDIP/7, but was not released until early September, and Delegations had had little time to adequately review and analyze it. Group B suggested that the Committee proceeded logically and efficiently with respect to the report and all its recommendations. As an initial step, the Secretariat was requested to thoroughly review the report with special emphasis on the recommendations. It noted that the report's data and information ended in 2010, and there might be recommendations that were no longer relevant. From a cursory review, the Delegation noted that there were some general recommendations not relevant to the CDIP. For example, in the summary of recommendations on page xxii, the authors suggested that WIPO should swiftly conclude a gap analysis to understand where it lacked skills, competencies and expertise relevant to improving the orientation impact and management of the development cooperation activities. The gap analysis, not only for development cooperation activities, should already be part of the broader WIPO human resources mandate. The Delegation questioned what the authors meant by the "recruitment and PMSDS processes should be harnessed as opportunities to align the Organization's human resource management with development goals". The human resources management should primarily be aligned with hiring and retaining the most qualified IP professionals. At that time, Group B could not support Algeria and others' call for a working group in order to consider the report's recommendations, as it believed that the Committee should undertake discussions on the report after a through review by the Secretariat.

368. The Delegation of Morocco, on behalf of the Arab Group, reaffirmed the Group's commitment to the creation of all necessary mechanisms and conditions for the best possible implementation of the Development Agenda Recommendations. It emphasized the need to have the translation of all of the documents into Arabic particularly with regard to that Committee. It recognized the efforts that the Secretariat to that end, nevertheless, sometimes documents were published only in English. The Delegation suggested a revision of the Program and Budget for 2012/2013, in order to enlarge the resource allocation to program 8 and program 9 for the African, Arab, Latin America and the Caribbean, Asian and the least-developed countries. It asked for strengthening the programs 8 and 9, because of the important knock-on effects with regard to technical assistance provided by WIPO to developing countries. It also requested to provide the necessary personnel to the offices in the Arab region in order to ensure adequate resources to carry out the work in a satisfactory manner and called upon the Director General to appoint a Director for the Arab region. The Group requested for an effective timetable for the implementation of the recommendations contained in the study under consideration with the aim to achieve the results planned by next session and that that item should remain on the agenda for the next session of CDIP. Arab Delegations welcomed the study and congratulated the authors and assured their full support to bring fruits to that work.

369. The Delegation of South Africa, making a statement in its national capacity supported the statements made by the African Group and the Development Agenda Group. It was the first comprehensive study that involved not only the role of WIPO, but also the role of the Member

States through their governments, different institutions and stakeholders at the national level and in collaboration with WIPO and other Member States who had achieved the developmental goals. The Delegation found the study to be of exceptionally high value for the achievement of the Development Agenda goals. The study covered a range of issues on technical assistance and made meaningful recommendations. The overall views of South Africa on WIPO technical assistance were presented in 2007 in the Development Agenda. Many of the recommendations were universally accepted by Member States, namely that the technical assistance must be development oriented, responsive to the priorities and needs of developing countries, and most important, accountable and transparent. The Delegation was not sure to what extent WIPO had achieved that goal as very little information existed. Much of the confusion was clouded in WIPO's cooperation assistance like workshops, material development, etc. as opposed to technical oriented assistance. It was, therefore, important that a proper needs analysis of priorities of developing countries was undertaken by WIPO. Whilst the demand drive requests must be balanced with a particular Member State's development plan, high on the shopping list of developing countries was the need for the development of legislative, regulatory and policy frameworks. To what end had that been achieved? Member States needed to develop a more workable definition of what constituted technical assistance and its workplan be linked to success indicators as well as a transparent monitoring and evaluation tool. What was critical for the African Group, as well as for South Africa was the development of national IP strategies, policies and the building of modern state-of-the-art national IP administration infrastructure. That went beyond the registration mechanism to assess an examination system. The Delegation noted from the General Assembly 2011/2012 report that a very small %age was allocated for technical assistance. There was also a lop-sided attention to technical activities relating to matters other than industrial property. The IGC on the protections of the GRs, TKs and TCEs received the least assistance. Any assistance received by developing countries in that regards was for cooperation matters and one which was halted in the past year. The impact of WIPO's assistance must be evaluated periodically, possibly on a biennial basis rather than on a protracted longer period. As indicated, the management of projects was subject to much criticism, given that there was no monitoring and evaluation in place which brought into questions issues of accountability and transparency, cost effectiveness, duplication and overlapping of roles. South Africa considered the following recommendations entirely as most welcome to bring significant improvement in implementation of the Development Agenda: WIPO Secretariat to devise development guidelines providing specific details on how to plan and implement more development-oriented assistance both in terms of substance and process based on the Development Agenda principal; improved prioritization and balance of activities undertaken; The WIPO Secretariat and its Member States needed to devise clearer objectives and priorities for its development cooperation activities; A process for prioritization activities, and criteria for determining what activities fell within those priorities; A key prerequisite for such prioritization was for all development activities and resources to be integrated into WIPO's regular Program and Budget process; Improved demand management, partnership and outreach for development cooperation; The WIPO Secretariat needed to improve outreach and guidance to Member States on the range of development cooperation activities it offered; Whilst pushing support efforts to build knowledge and expertise within and beyond the Organization on the relationship between various IP systems, rules, policies and practices and their development impact at varying levels and for different sectors; Strengthen results and impact monitoring, evaluation and reporting; WIPO should render support to national approaches to the creation, and or, digitization of databases of traditional knowledge. The Delegation hoped that the recommendations made in the study were indeed implemented and supported the proposal by the African Group to establish a working group to discuss the recommendations.

370. The Delegation of Spain drew the attention of the Committee to one of the main conclusions of the report which was the need to present the budget in a more transparent way and provide details rather than just the global sum with regard to each project budget within the Development Agenda and also the accounts of the Development Agenda projects as a whole.

The Delegation highlighted the need for a better desegregation of the projects and the biennial budgets of WIPO to make it much more understandable.

371. The Delegation of Egypt reiterated its support to the proposal made by the Development Agenda Group concerning the establishment of a working group for the evaluation of the report.

372. The Delegation of Zimbabwe recognized the importance of the document which covered what had not been covered before and believed in the Secretariat's ability to summarize or produce reports or studies. However given the nature and the dynamics of the subject under discussion, it felt that the most appropriate way out would be to constitute a working group to examine inconsistencies or issues that had been overtaken by events. There were many issues highlighted by the report that deserved serious consideration by the Member States, but given that during the Committee's agenda was overcharged, the logical thing to do was to give enough time for Member States to consider and to examine the details of the study in a smaller working group.

373. The Delegation of Oman expressed the support to the statement made by the distinguished representative of Morocco on behalf of the Arab Group and supported the request for further in-depth study. The Delegation agreed to the idea of having a working group in order to analyze the document in terms of its practicality and logic.

374. The Representative of TWN thanked the reviewers for that external evaluation which provided a rare insight into the workings of WIPO's technical assistance which in the past largely remained in obscurity. The Delegation noted that the review found in many of the activities there was a lack of development orientation, for instance, on legislative assistance, on the WIPO treaties, on the use flexibilities and on the advice to national authorities. The review also highlighted the lack of detailed information available on the activities provided, the lack of transparency, as well as, of an appropriate accountability and evaluation mechanism. For instance, on transparency, out of the listings of 57 regional or global events on WIPO's website, there was no public information on the nature of discussions that took place. The results of the meeting, evaluation results, cost or expected follow up, and for more than half of those 57 events, there was no information about speakers or available presentations. The Delegation mentioned that many of those issues were already raised on many occasions by civil society and by Member States and it was clearly the time to work to address deficiencies and shortcomings identified in the delivery of technical assistance and to translate many of the recommendations into concrete actions.

375. Mrs. Deere thanked the delegations for their comments on the report. Given the time constraints, she felt that it was not the appropriate moment to go into the detail of the findings and recommendations and also as there would be subsequent discussions on the report at where the authors would present the findings in details and also to have time to give a response to the concerns raised by Member States. The only particular issue that Mrs. Deere wished to respond was on the selection of countries as mentioned by the Delegation of Morocco that there was not an Arab case study. In fact, as noted in the report, the Secretariat had selected seven countries for the country visits, one of which was Tunisia. In mid-January the evaluators were supposed to visit Tunisia, but unfortunately the political events did not allow for that visit to materialize and it was not an omission.

376. Mr. Geoffrey Onyeama, Deputy Director General, stated that there were two issues before the Committee on how to proceed. The Secretariat was willing to be guided by the Member States as to how to move forward. Some delegations felt that the Secretariat should respond to the report and of course that could be done. As had been stated, the period of the report ended in 2010, and some of the recommendation had already been implemented. He recognized that a lot of the recommendations were very pertinent, very helpful and very useful and as a number of delegations had noticed, it was a very comprehensive report. One of the ways was for the



Secretariat to address each and every single recommendation indicating those that were already implemented, and indicating those that were not, and could start to implement. In any case, the Secretariat could prepare a thorough and comprehensive response, and present that to the Committee which could decide, having studied that, on how to proceed. Some delegations also felt that a working group should be constituted and the Secretariat would be guided by the Committee. Some delegations had raised particular recommendations and Mr. Onyeama felt that that was not an appropriate moment to go into the details of the report and respond to the particular recommendations. To remind delegations, he stated that the WIPO Technical Assistance Program was demand-driven. The Organization did not set the priorities of the activities that were carried out. Those were done in consultation with the Member States. Some delegations had spoken about the lack of strength in depth of some of the Bureaus that were carrying out Technical Assistance program, but it was appropriate to remember that the whole objective, one of the key tenants of the development agenda was to mainstream development within the Organization and a number of delegates had mentioned that in the past, that mainstreaming meant that it should not just be a particular sector of the Organization that dealt with technical assistance, but it should be mainstreamed across the whole Organization. When talking about Bureaus not having sufficient resources to carry technical assistance, it must be remembered that the regional Bureaus were not silos within the Organization, but the Technical Assistance in response to the development agenda was actually being addressed across the whole Organization. The whole Organization was engaged in development. The questions of resources were addressed during the Program and Budget that was adopted by the Member States. Mr. Onyeama felt that the CDIP might not necessarily be most appropriate or indeed might not be the forum or even had a mandate to discuss the questions of resources within a particular division in the Organization as that was done already and approved during the General Assembly. The Secretariat was ready to be guided by delegations as to how we proceed and go forward with respect to that very comprehensive, very detailed and very useful document. The Secretariat did not claim that the program was perfect and by Member States driven, it meant that the program should be informed by the Membership; the delegations should tell the Secretariat how to structure it. Developing the workplan was undertaken in consultation with the Membership. The issues of where the priorities should lie, what activities should be undertaken, where the emphasis should be put in the legislative advice and so forth, those the Secretariat would take guidance from the Member States as the work plans were developed on a consultation basis with Member States. It was for the Membership to indicate to the Secretariat, the activities and the priorities. And of course there was not a one-size-fit-all approach. As the Secretariat developed IP strategies with particular countries, the purpose of those strategies was recognition that each country had its own roadmap to develop and together the priorities were identified. But those were identified by the countries and WIPO implemented them accordingly.

377. The Chair, giving a summary of discussions, said that the Committee appreciated the study. It was quite clear from all the statements that Delegations indicated the need to have more time in order to study the content of the document and to discuss it amongst them. There was also a request to the Secretariat for preparing a response in order to explain what had happened since the end of the study. With regard to a proposal of how continue the study of that document, the Chair thought that at the next CDIP one day could be foreseen to examine the document in depth. The Chair also proposed that in addition to CDIP/8/INF/1, the document prepared by the Secretariat served as one of the basis of discussion as it added helpful information to understand and evaluate what was done with regard to the recommendations. The Chair suggested, as previously stated by the Delegation of Pakistan, to invite the author of the study to give a more substantive presentation of the various elements with the aim to enable Delegations to get more details on the study as well as information.

378. The Delegation of South Africa commenting on the proposal made by the Chair stated that it wanted to avoid confusing the process. The document was before the Committee and presented by the author. What was needed was for the Member States to have time to study

the document and then go through it section by section. The Committee did not need too many documents to consider and from the reading of the document, it was clear as to what was defunct and what was not. The Delegation felt that the working group could do its work and thrash out what was possible.

379. The Chair thought that there was the need to know what had happened since that document was published. The document would not replace the Study, but at the same time it might be interesting to go to the next meeting with a more effective work. The Chair stated that the idea was that the document should be pure informative in nature; something that could be interesting for the Committee, but still not a real study. The Chair also highlighted the Commitment of the Secretariat to prepare a draft for the next CDIP session.

380. The Delegation of Pakistan stated that the focus should be on the current document. The Delegation did not see the document as allegations which required responses, but rather a normal process of improvement. It believed that the Secretariat's help was critical in order to find out about the events which had overtaken due to the time. But at that stage, as mentioned by South Africa, delegations had not even read the document, and therefore it was not sure whether there was the need to go into details and ask for some responses from the Secretariat. Concerning the way forward, the Delegation re-stated the need to focus on the document and to form a working group that, with the help of the Secretariat, could make more understandable the events which had been overtaken by time.

381. The Delegation of Algeria stated that there were elements on which there was a broad agreement. First, the importance and usefulness of the document. Second there was a consensus on the need to continue work on that document. Third to find a way to continue within a framework and to continue the consultation process. There had been several proposals by various delegations and groups. The Delegation wished to see a working group tasked with studying the issue and that proposal of the Development Agenda Group was supported by several delegations. It had taken the Committee a lot of time in the past and often it meant that other documents suffered for it did not have enough time to deal with some documents. Delegations were constantly reminded by the Chair, and of course understandably, to be brief and concise because there was not enough time. That was why the Delegation felt that a working group should be established where delegations would be able to contribute effectively and to have contribution from all countries. That was really the ideal way of going forward. The second proposal which was also supported by various delegations and groups, if there was a real problem with the establishment of the working group, was to extend the next CDIP by two days. In that context, the Delegation sought clarification from the Chair if the proposal was that at the next CDIP one or more days would be in addition to the CDIP or would it be within the existing five days. If the Chair's proposal was to examine the document within the allocated time of the CDIP, the Delegation felt that it would be a struggle, given the number of documents, projects and that document. On the issue of responses from the Secretariat, the Delegation stated that the goal was to fully benefit from the review and to make the most of it. If there were very many documents on the table, there was a risk of confusion. Of course, that did not mean that the Secretariat could not participate in the review very actively, responding to the various questions raised.

382. The Chair thanked Algeria for the comments and informed that the assumption was that the review should be done during the normal time period of CDIP meeting, but of course, that was a decision to be taken by the Committee as the whole.

383. The Delegation of Bolivia noted that the debate concerned fifteen recommendations of the Development Agenda related to the technical assistance which was an issue of high importance and it was necessary to pay lot of attention and to spend quite an amount of time on their analysis and review. It supported the suggestion of holding a working group which could allow studying the review and recommendations fully. Secondly, the Delegation believed, as for other

delegations, that for the moment the study was still in a premature phase of analysis. Consequently, there was confusion and the proposal about the Secretariat's response was a little bit early. Finally, the Delegation invited the author to present the study during an information meeting for missions or in a parallel event in order to have an in-depth presentation.

384. Mr. Onyeama concerning the two proposals on the procedure for the review of the recommendations noted that there was no preference for the Secretariat, and that it was up to the Membership to decide and to conduct the Committee to a resolution.

385. The Delegation of the USA, speaking on behalf of Group B, stated that as pointed out by the delegation from Pakistan and South Africa and others, that was merely a first reading and it was too early to determine whether or not the Committee needed to convene a working group or it needed to extend dates of the CDIP session. Reiterating its initial proposal, which was also supported by the EU, it suggested that the Secretariat should look at the report as a whole, with special emphasis on the recommendations and try to reduce them. Some of those had perhaps already been implemented or were no longer relevant. Reducing those was not trying to get rid of the review itself. There would be two documents: one would just be for ease of reference, and the other would be the complete document. On the move to create a working group, the Delegation did not see the necessity at that time as a lot of delegations had stated that that was the first reading. The document was just released in early September; there was the PBC; there was the General Assembly and a lot of delegations just did not have time to digest it. The Delegation suggested a more measured approach. On the idea of extending the CDIP, it did not see much of a need to do that at that time without fully digesting what the report said. The Delegation felt that the Committee could devote one day and with better time management, it could actually get through the agenda even if one day was devoted to discussing the report.

386. The Delegation of Egypt stated that document CDIP/8/2 was deliberated by the CDIP over three days. From that point of view, it would be quite a surprise if CDIP/9 could analyze even a longer document over the course of one day. In the interest of time efficiency, the Delegation believed that the setting up of a working group as mentioned by the Development Agenda Group and the African Group would be more practical.

387. The Delegation of Germany stated that the report stopped at the 31st of December 2010, i.e. one year ago. After the report was published, the Secretariat took additional changes and that aspect had to be taken into account otherwise it would not be of value anymore. That was essential to explain why it would be necessary to have a report from the Secretariat.

388. The Chair noted that at that stage it was not possible to reach an agreement and in spite of efforts, diverging positions remained. The Chair felt that it would be hard to find a solution in the plenary and proposed to suspend the current item given that there were other matters to be dealt with.

389. The Delegation of Cote d'Ivoire stated that the Committee clearly needed to distinguish two things: the results and the time period. In the Delegation's view time was not a problem as it was not a race. The Committee had work to do and the time factor should not disable it in its work.

390. The Delegation of Zimbabwe stated that in other forums there was a practice called the 'management of response' to reports and inquired about the practice in WIPO. According to what usually happened in other organizations, the Secretariat should produce a report in response to what was contented, but then Member States examined the details of the report itself.

391. The Chair, on the point related to what the Delegation of Zimbabwe said that it appeared that all Delegations spoke about the same thing. All members of the Committee wanted to work

on the review of the study and the information provided from the Secretariat would be along the same line to that of the management response that was mentioned by the Delegation of Zimbabwe. The main focus of the study was its review, and then additional information could be offered by the Secretariat which would help Delegations to better understand how things evolved.

392. Mr. Onyeama appreciated the statement by the Delegation of Zimbabwe and recalled that the last report was made by an outside independent body Price Waterhouse on the basis of a management response, and essentially the Organization focused on the implementation of that report which was validated by the Membership. Mr. Onyeama noted that the present situation was different in so far as there was more than a question of structuring of the Organization. In addition, the Development Agenda Sector was relatively new, so there was not a specific practice yet to solve that kind of matters.

393. The Delegation of Algeria drew the attention of the Committee to the fact that it was the last day of the CDIP and given that there were at least two other documents to be discussed, it might be better to discuss some new documents and forward the conclusion of that discussion to the next meeting. The Delegation expressed its support to the Chair in finding a solution to the impasse.

394. The Delegation of Pakistan expressed its support for the Chair's proposal to postpone that issue for further discussion and to move forward to the next items on the Agenda.

395. The Delegation of the USA underlined that the language of the underlying project stated that "the full and final review will be provided to WIPO Member States together with the comments of the WIPO's Secretariat" (document CDIP/4/8 section 2.3 page 10). The Delegation further stated that since the project was approved, it required that the WIPO Secretariat should make comments on the findings and recommendations of the report.

396. The Chair thanked the Delegation of the USA for the comment and proposed to have a meeting with interested Delegations to see how to make progress and to resolve the issue. The Chairman also asked to the Member States to consider the proposal concerning a briefing session where the authors could give some more detailed explanations of the review.

397. Dr. Deere thanked delegations for the great interest shown in the report. Speaking also on behalf of Mr. Santiago, she added that they were glad to go along with whatever process the Membership decided and informed of her availability to facilitate the Committee's work.

#### Consideration of Document CDIP/8/INF/2

398. The Chair invited the consideration of the next document CDIP/8/INF/2 concerning the Feasibility Study on the Establishment of National Patent Register Databases and Linkage to PATENTSCOPE, and invited the Secretariat to introduce the document.

399. The Secretariat (Mr. Lutz Mailander) informed the Committee that the presented study was done by WIPO in collaboration with a retired expert from the European Patent Office (EPO) who provided a lot of insight, in particular for the INPADOC database. The study was also based on some experience gained during the collaboration with the medicines patent pool. The medicines patent pool established a patent database where they included a couple of patent documents related to essential HIV medications, and requested WIPO to look into the legal status of those key patents which they needed to know for procurement purposes. The Secretariat highlighted that the study was composed of several parts. The main part was an executive summary and some annexes. It contained a couple of recommendations - some of those were rather technical. The annexes to the document actually referred to a survey which WIPO conducted internally. Moreover, a questionnaire was sent to all the Member State Offices

in order to research the availability of national patent registers. The complexity of legal status was linked to the very nature of legal status data. There were three different categories under which legal status data could be considered: the availability of the legal status data, the reliability, and the comparability of the data. The Secretariat stressed that those data were quite important because they finally told if a patent was in force. The basic questions that legal status could answer were whether a patent was in force; the problem with the legal events or actions; was a patent in force; was it valid; and for example, did one take into account procurement activities if, for example, one wanted to buy certain medications that might be protected by a patent right. The problem with those legal events or actions was that they were defined differently in different jurisdictions. The second problem was linked to the fact that they were related to events. Events meant that was something that took place in time and actually it depended, the smallest time unit that was relevant was one day. Thus from one day to the other day actually, the validity of a patent might change. Hence the time dimension, the changing nature of legal status data made it very different from regular patent information data, for example a patent specification. That possessed particular problems with maintaining and updating that data because it could constantly change. There were three sources of legal status data and that was explained in detail in the study in two different major categories. The primary sources and the so-called secondary sources. The availability of the primary sources was investigated by a survey which was sent out to IP offices and WIPO received almost 90 replies which was a very high rate of responses in comparison to other questionnaires or WIPO had conducted. The detailed results could be found in the survey, in the annex of the study. The major conclusion was availability from primary sources, was not very favorable at that point of time from many countries. The Secretariat stated that that was the situation for the primary sources and availability of data from the primary sources and as mentioned earlier that was a challenging situation because of the complexity. The Secretariat stated that the secondary sources of legal status data were sources that compiled, collected, retrieved the information from the primary sources, and made those available in a central database, a so-called one-stop shop and they were not too many. There was one major secondary source which was the INPADOC database which was run by the European Patent Office. So if you want to know validity in many different countries, you could retrieve it from that secondary source for about 50 different jurisdictions. There were a couple of other databases that collected some information from legal status, for example, WIPO Patentscope. There was also some legal status aggregated from different countries in Patentscope but was mostly related to PCT national phase entry or non-national phase entry. All the other databases, commercial databases, like Questelle, which also gathered some of that information, but they mostly retrieved the information from the EPO. The Secretariat went through the recommendations and the conclusions of the executive summary. In many IP offices there was the need to pay more attention to the availability of legal status data. It was a challenging technical task, but it had to be tackled because legal status data was the basis for defining the public domain. Only when the status of patents was known, one could know the extent of the public domain, whether one could procure, for example, medicines at low cost. WIPO would play a role in the in the context of office modernization, because it was a challenge for the implementation of office modernization measures, but on the other hand it also required considerable attention and also resources from the national offices or from decision-makers that attributed resources to the patent offices. As for the access to secondary sources WIPO was going to develop a platform for accessing the primary sources. It would be a platform which would link the existing primary sources which would create a one-stop shop to link to the primary sources. That would be the first exercise if that recommendation in the executive summary of the study was approved. There were a couple more recommendations, some of them quite specific and the Secretariat expressed its willingness to discuss them, should any Delegation so wished.

400. The Delegation of Egypt thanked the Secretariat for preparing the document and for the presentation and gave its full support for establishing that link.

401. The Delegation of Spain stated that the full text of the document was not available in Spanish, but only the translation of the summary was available. It expressed the wish to have a whole study as well as for the previous document (CDIP/8/Inf.1) translated into Spanish.

402. The Delegation of the USA expressed its appreciation to the Secretariat for the preparation of the study. The United States recognized the importance of improving the availability, reliability and comparability of legal status information and supported WIPO's efforts in that area. The Delegation offered several comments on the recommendations. The United States Patent and Trademark Office (USPTO) provided basic, up-to-date patent validity and legal status information online free of charge. However, due to the complicated nature of patent validity and enforceability proceedings in the USA, some legal status data such as litigation information was not readily accessible. While commercial databases collected and provided legal status information including litigation information for a fee, the USPTO did not collect or provide such information, even upon request. In addition, since the USPTO did not impose a requirement to record patent assignments and did not review assignments for legal sufficiency, or any other reason, the data collected by the USPTO pertaining to patent ownership might not be complete or accurate. With respect to the recommendation to include national register licensing related information, the Delegation expressed a few concerns. It believed that a mandatory license recordation system would increase cost for businesses, would place an undue financial and administrative burden on IP offices to examine the recordation documents for authenticity and increase the liability exposure for IP offices if documents were not authentic, but recorded anyway. In addition it would decrease certainty for IP owners and businesses if the license was not accurately recorded, and lead to potential loss of rights for IP owners and licensees or potential loss of standing for infringement claims mainly based on failure to record. On the other hand, it was uncertain what the benefits of recordation were, and who would enjoy those benefits. While licensing itself promoted technology transfer, requirements for mandatory licensing information or recordation did not. Instead they created an undue burden on both the IP office and IP owner. In addition, formal requirements changed from country to country and recording requirements were often technical and complex, both procedurally and substantively.

403. The Delegation of Japan thanked the Secretariat for the explanation of the new idea of the Patentscope. Japan appreciated the feasibility of the study in helping that delegation to understand the current direction of the development of Patentscope. Japan's expectation on Patentscope was to utilize a Member States' established databases in an efficient and fruitful manner. In that sense, the Delegation's understanding was that the Secretariat recognized the possibility to create a global portal in Patentscope with links to existing national patent registries. Given the presence of the project manager of Patentscope, the Delegation asked for some more explanations from the Secretariat with regard to Patentscope, the future direction, and in relation with whether Patentscope was assumed to include other information linked to the URLs of the existing national patent registries.

404. The Delegation of Brazil welcomed the feasibility study and shared some information on Brazil's own experience on that subject. The Brazilian Patent Office, INPI, developed an electronic system called IPANENTI with a view to creating digital platforms to optimize and modernize the management of patent examination procedures. That contributed to reduce the backlog, to improve the quality of the technical examination, to reduce costs and to provide better services. Another part of the patent project was the EPTOS system which had been developed in partnership with the EPO. That system included new digital platforms to receive, manage and publish patent applications and related documents in a digital format. All those new systems would contribute to further disseminate patent information to the benefit of national development and innovation. The discussion on technical aspects related to patent legal status information had a bigger objective, which was the dissemination of patent information. Discussions on the development of a globally accepted and applied classification or taxonomy for both basic legal events and legal status could be useful in that regard as highlighted by the study. The Delegation noted that the discussion should also evaluate the costs of building and

adopting a common standard, especially for developing and least-developed countries. Finally, it was also important to remind that the existing WIPO standard ST17 could be a good basis for discussion, although it was not universally adopted. Brazil, for example, did not apply that standard nationally. In that regard, national experiences should be considered in such a discussion.

405. The Delegation of Russian Federation thanked the Secretariat for the preparation of the document which gave a good understanding of the direction of activities in that area. The study represented also an interesting analysis of an overview of the existing databases and activities of the organizations. The Delegation informed that in order to increase availability of information, the Russian Patent office, within the framework of information exchange agreement was providing access to the national database of patents of Russia and hoped that it would be able to continue to work together with WIPO in order to achieve the common objectives for development of the structure for intellectual property.

406. The Delegation of Australia agreed with the statement of Brazil that the work in the area referred to in paragraph 120 - taxonomy of legal status - should take into account of national experiences. The Australian Patent office was also working in that area and the Delegation found the idea of taking account of national experiences interesting. The Delegation in principle saw value of patentees being able to voluntarily provide information on their inventions regarding licensing of their technology, emphasizing the voluntary aspect, of being able to signal to the market what their inventions were if they chose to do so.

407. The Secretariat responding to the comments stated that to include licensing information was recommended in the study due to its very high relevance to research on technology transfer. To some extent one might understand the concerns from the USA with respect to the burden to maintain that information or to put that information might be required also voluntary contributions from the right owners, but technology transfer when scientifically researched, licensing was actually an extremely important aspect, data or licensing, and there were almost no resources for licensing. That was basically the reason why that recommendation was included in the study. With respect to taxonomy, that was a very important component, but a very challenging task. Currently in INPADOC more than 8,000 different codes were used for identifying different legal events or statutes. The task would be to somehow harmonize or to create taxonomy or some sort of a sorting, a classification of those 8,000 different codes. That was highly desirable because only such taxonomy would finally be able to compare the legal status from different countries of different jurisdiction. That was actually an essential tool for improving the comparability, and it was demanded from many different sites. Thus on the one hand from people who maintained or run the patent databases, on the other hand from the people who used the information, the legal status information and companies for example, because they had difficulties sometimes to understand what was really the legal status in that country in comparison to the other country, and was there perhaps still a means to remedy for example a lapsed patent. Hence some sort of taxonomy was an important first step to improve comparability of legal status from different countries, but it was a heavy task to be undertaken and would require considerable resources, not only from WIPO, but also from the patent offices and required particular attention from decision-makers. The next important aspect was the creation of an XML standard for legal status as the exchange of data was currently not so easy. But again for an XML standard some sort of description of those many different codes was needed which could be transferred for example. The CWS should also be invited to look into the creation of including in the current development of an XML standard for the exchange of patent information and the legal status data component. With respect to other legal status that also Brazil mentioned, there was also a need for example of including or publishing or making available, of legal status data relating to the examination status. That was also a recommendation to expand the availability of legal status data in respect to examination status. With respect to Patentscope, the Secretariat informed that while Patentscope was the work of another area in WIPO, it could offer some comments, adding that when the study was drafted,

Patentscope still had different meaning. It addressed the WIPO web portal with all the information related to patents and it in particular, in a narrower sense, the database which WIPO ran, which included traditionally the PCT data, patent information from the PCT applications which was now expanded to include also patent information from all the national collections. A couple of months ago there was a decision to call the patent database Patentscope. All the other services that were previously also covered by that expression were now excluded. That portal which WIPO was going to include on the websites would not be an integral part of the patent database for the time being, simply because the patent database was used for searching patent information. The portal would link to the other places where one could search the authoritative patent information from the primary sources. In the long run some sort of integration would be envisaged that would allow search of the actual legal status from the Patentscope database. For some countries that was already to some extent included, but it would require all the other countries to pay particular attention to making their registers searchable on line and not only make them accessible, and searchable online, but also making it possible to send automatically a URL request with a particular patent document that automatically retrieved, for example, the legal status of that particular patent information. The other functionality to automatically request that by linking from a database from another was even further in the future, but it was also something that should be achieved because that really would facilitate the use of legal status data, the easy checking whether a patent was valid or not valid and it would facilitate to put in a broader context to define very quickly the extent of the public domain.

408. The Delegation of Australia had some concerns on the global applied XML standard. The Delegation wondered if that sort of work was something that would be better considered in a CWS rather than be decided in the CDIP.

409. The Delegation of Switzerland agreed with the idea of setting up a registry with links. However it noted that in order to have a joint registry it was needed to provide data on a compulsory basis and that compulsory nature would constitute a problem for the Delegation. In fact, Switzerland wanted to ensure that data provided would be not more than those currently published and provided at national level in order to avoid legal problems together with problems of resources. Finally, the Delegation stressed the significance of WIPO's role in the development of standards in that area.

410. The Delegation of Mexico recognized the high importance of the document in order to unify the codes used to describe events on the global level, but, at the same time, it underlined the necessity to be careful and to pay attention to each recommendation and their implementation. The Delegation referring to the evaluation carried out by WIPO stated that even if 80 countries had databases on the legal status of patents and many IP offices were making databases available to the public online, the availability of data and the legal status was currently limited to only 20 countries.

411. The Delegation of Canada expressed support for the position expressed by Switzerland, the USA and Australia regarding the obligatory nature of the database.

412. The Secretariat (Mr. Baloch) briefly responded to the observation made by the distinguished Delegation of Spain about the availability of the study in the Spanish language. He referred to the document WO/PBC/15/9, adopted in July 2011, in which paragraph 40 and 41 dealt with WIPO's language policy, and which stated that "exceptionally voluminous documents and support papers, studies, surveys, that might be commissioned by certain committees, would be made available only in the original language, with a summary to be prepared by the Secretariat in all six languages. However, if a Member State or a group of Member States expressly manifested the interest in one of such documents, the Secretariat would translate it in full text into the required language". Accordingly, the availability of the CDIP documents was done in accordance with the language policy approved by the Member States,



first at the Program and Budget Committee and after by the General Assembly. The Secretariat (Mr. Mailander) briefly clarified that there was nothing in the study that made contribution of certain specific data compulsory beyond, for example, the data that were already published on the national registers. In addition, there was nothing in the current recommendations that would prevent Member States from accepting them with respect to any compulsory contributions in that respect.

413. The Chair stated that the discussion was very useful and assured that the elements that had emerged from the floor would be incorporated in the document. The Chairman closed the debate on the document CDIP/8/INF/2 and requested the Secretariat to provide a summary report on the outstanding documents.

414. The Secretariat (Mr. Baloch) provided a status as to where the Committee stood with regard to the consideration of the various documents. Under agenda item 3 the Committee had discussed document CDIP/8/6 on the description of contribution of the relevant bodies. Member States had undertaken to discuss the follow-up of that document amongst themselves and revert to the Chair. Accordingly, the document was outstanding and the Chair waited to hear from Member States. Under agenda item 4, the Committee had discussed document CDIP/8/3, which pertained to the project proposal on IP and informal economy. The Secretariat informed that the document had already been revised and was available outside the meeting room. The third document under agenda item 4 was CDIP/8/7, which pertained to the project paper on intellectual property and transfer technology. Again the Member States had wanted to consult amongst themselves as regards follow up of that document and the Chair waited to hear from them. The last was the document CDIP/8/INF/1 on the external review of WIPO's technical assistance. Again, informal consultations were to be undertaken on that document.

#### Consideration of Document CDIP/8/7 cont'd.

415. The Chair opened discussions on document CDIP/8/7, Project Paper for the Project on IP and Technology Transfer: Common Challenges - Building Solutions.

416. The Delegation of the USA, speaking on behalf of Group B, agreed with the terms of reference, but emphasized the need for future documents to be released in a timely manner to allow for adequate review by Member States. That was essential particularly in view of the need to avoid duplication where possible.

417. The Delegation of Poland, speaking on behalf of the European Union and its Member States, endorsed the statement made by the Delegation of the USA on behalf of Group B.

418. The Delegation of the USA, speaking on behalf of Group B, reiterated its request for the Secretariat to revise the paper with regard to the timing and budget for the project.

419. The Delegation of Pakistan, speaking on behalf of the Asian Group, agreed with the remarks made by the Delegation of the USA on behalf of Group B, on the timeliness of documents. That was applicable to all documents put forward to Member States in all WIPO committees. On the project, it understood that with the adoption of the terms of reference, the Secretariat would go ahead with the project. The process would not be halted by the need to revise the timing and budget for the project.

420. The Secretariat (Mr. Baloch) noted the approval of the terms of references for the project paper. That would allow for the implementation of that part of the project. The time schedule and budget for the project would be modified and the revised document discussed at the next session of the Committee.

Consideration of Document CDIP/8/3 cont'd.

421. The Chair opened discussions on document CDIP/8/3, IP and Informal Economy, revised by the Secretariat. He invited the Secretariat to introduce the amendments to the document.

422. The Secretariat (Mr. Wunsch) explained that there were two significant amendments to the project proposal and a few minor changes to the formalities. The first was contained in footnote 1 of the revised document. Previous discussions had noted that the project could be approached from two different angles. A broad approach would require the identification of informal sectors, such as handicrafts and herbal medicines, where creative or entrepreneurial activities were taking place in developing countries. That would be followed by an assessment of the extent to which IP protection could influence activities in the selected sectors. An alternative approach would be to examine the imitative industries in countries where piracy and counterfeiting were significant economic activities. From the discussions in the previous session, it was understood that the former approach would be adopted. That was reflected in footnote 1. The second modification was mostly procedural and took into account observations made in yesterday's discussions. In that regard, it was understood that many Member States had suggestions for case studies or would like to know more before committing to specific studies. Thus, the project proposal was amended to allow for an interval between the start of the conception study and the beginning of the case studies. That would provide an opportunity for the Secretariat to prepare a list of potential case studies for discussion at the next session of the Committee. In that regard, the Secretariat could enter into consultations with Member States that wished to propose case studies for their countries. The project could be approved with the exception of the specific case studies to be included in the project.

423. The Delegation of Poland, speaking on behalf of the European Union and its Member States, requested for more time to determine whether further amendments were required to address all the concerns raised by the Delegation in its intervention.

Consideration of Document CDIP/8/INF/4

424. The Chair opened discussions on document CDIP/8/INF/4, Interaction of Agencies Dealing with Intellectual Property and Competition Law: Summary of Replies of Member States, and invited the Secretariat to introduce the document.

425. The Secretariat (Mr. Carvalho) explained that the project on IP and Competition Policy produced four studies and two survey reports. The topics for the surveys on Measures to Address the Interface between Antitrust and Franchising Agreements and on Compulsory Licenses Granted by WIPO Member States to Address Anti-Competitive Uses of IP Rights were approved by the Committee through its approval of document CDIP/4/4. The topics for the studies were decided in consultation with the four programs involved in the project, namely the Innovation and Technology Sector, the Development Sector, the Brands and Designs Sector and the Culture and Creativity Industries Sector. The advice of the Chief Economist was also taken into account. The overall terms of reference for the studies were set out in document CDIP/4/4, "The focus will be primarily on the collection and analysis of Member States' experiences, such as legal developments, jurisprudence and legal remedies in that respect in different countries and regions". That approach was adopted in the studies on exhaustion, IP as a barrier and sham litigation. However, it should be noted that views could diverge in the examination of jurisprudence or classification of national statutes and treaties. The fourth study on the interaction of national agencies dealing with IP and competition law was also a survey report. The information included in document CDIP/8/INF/4 was based on responses to a question included in the questionnaire on compulsory licenses. IP was inherently pro-competitive as it allowed for the differentiation of companies, goods and services. IP in all its various forms also enabled consumers to make choices. IP might be contrary to the concept of perfect competition, but it allowed for real competition. However, appropriate doses were

required for IP to be pro-competitive. Excessive or insufficient protection could lead to confusion and the destruction of competition. Similarly, the abusive use of appropriate IP rights could also destroy competition and erode the capacity of consumers to make choices. As such, it was important for competition and IP agencies to coordinate efforts to ensure that IP worked in tandem with the principles and values of free competition. Document CDIP/8/INF/4 provided details of how such coordination was facilitated in various Member States. All four studies were based on work commissioned to external sources. The conclusions and recommendations did not necessarily reflect the views of the Secretariat on those issues. On June 14, 2011, a symposium was held in Geneva to discuss the study on IP as a barrier. Another was held on October 10, 2011, to discuss the study on sham litigation. Participation was open to Permanent Missions, IGOs, NGOs, IP and competition law communities. A telephone conference line was also kept open for the second symposium to allow those who could not be present to participate. The contribution of Member States was essential to improve the quality and accuracy of the studies. In that context, Member States were invited to submit written comments to the Secretariat by February 15, 2012, for those to be incorporated in the documents for the next session of the Committee. The studies, including a draft of the study on sham litigation, were available on WIPO's website.

426. The Delegation of the USA thanked the Secretariat for its work on the project and for preparing the note. This was a new area for WIPO and the Delegation realized that it was an uncharted territory. The Delegation had several comments and questions. First, the note suggested that the survey responses addressed compulsory licensing generally, not just compulsory licensing used to remedy anticompetitive uses of IP. In the Delegation's view, relations between IP and competition agencies were more complex than what the Secretariat's note suggested, having many aspects that went beyond compulsory licensing. The note did not provide that broader context. Additionally, the note did not sufficiently stress that in many countries IP Authorities did not decide whether licensing contracts harmed competition. Instead they left competition issues to competition experts. The Delegation further asked some questions. First, was there a strong Member State demand for further work in that area? The Delegation recalled that it had raised that issue earlier in the week while commenting on the progress report on that project and wondered if the Secretariat had further thoughts on that issue. The Delegation then asked if the low survey response rate indicated a lack of interest among Member States, or whether it was simply a result of the fact that IP and competition agencies had historically not worked well together and that the surveys fell between the cracks. The Delegation also invited the Secretariat's thoughts on whether that exercise was magnifying a small technical aspect of compulsory licensing as a remedy to anti-competitive practices. What was the justification for focusing on it? Would follow-on work be justified in light of the need to conduct in-country fact finding missions? How would the results of the proposed additional study be useful? What selection criteria would be used to determine which countries would be visited for fact finding missions? Finally, was there strong Member State interest in follow-on work? If so, the Delegation requested a written proposal outlining how that work would be carried out, including anticipated financial commitments.

427. The Delegation of Japan stated that section 3, page 5 of the Annex of the document, in paragraph 2, read that a "deeper and wider assessment of the mechanism available for national IP and competition authorities be carried out" and it also stated that "the purpose of this additional exercise would not be limited to institutional or administrative matters, but should rather focus on the substantive and more fundamental aspects". The Delegation pointed out that the description of footnote 3 of the same page referred to a list of practices to be avoided by parties and the circumstances under which they ought to be avoided of the proposed, but never adopted UNCTAD International Conduct on the Transfer of Technology. The listed 14 practices were however not agreed to as mentioned in the document and the Delegation emphasized that such controversial list of practices was not appropriate as a starting point of such future work if any.

428. The Delegation of Mexico considered it's necessary to present the conclusions of the regional seminars that were held so as to supplement the replies from Member States, adding that in the present case the survey was incomplete. The Delegation also thought it important to continue to carry out studies in order to be practical and achieve the aim. The Committee, needed to be quite sure whether those were of use or whether they should be discarded, and therefore, one needed to find out whether there were points in common. The Delegation further felt that the work should be undertaken jointly between the intellectual property authorities and the competition authorities.

429. The Secretariat, replying to the observations made by delegations stated that it would be very brief even though the issues raised were very relevant and complex and required more time. Referring to the comment by the Delegation of the USA, the Secretariat recalled that the topic of compulsory licenses was chosen by the CDIP at its third session when there was a discussion about the possibility of the Secretariat to produce guidelines and that work was a result of the debate among Member States to take that issue into account in one of the survey exercises. The criteria for selecting countries would be voluntary so countries would be contacted and asked for the future surveys. The Secretariat would not adopt the recommendations of all the documents as WIPO's recommendations, and it was not intended to follow-up those recommendations. There was a different work program for the next biennium as discussed with Member States in the Program and Budget Committee. There was a decision that the matter would be mainstreamed in the work of the Organization and though under the guidance of the three recommendations it would be undertaken through a specific project.

430. The Chair stated that the Secretariat had taking note of all the points that came from the floor concluded the consideration of the document.

431. The Secretariat (Mr. Baloch) informed the Committee on its agenda there was a document number CDIP/7/5 that contained a revised project on patent and the public domain. That document was discussed in the last session of the Committee and due to a lack of agreement it had been carried forward to the present session of the CDIP. The Secretariat had been approached by a certain interested delegations that seemed to have arrived at some degree of agreement. The document had accordingly been revised and was available outside the meeting room for the Chair to take up the consideration of that document in due course.

#### Consideration of Document CDIP/8/INF/5

432. The Chair invited the Committee to consider document CDIP/8/INF/5 entitled Interface between exhaustion of Intellectual Rights and Competition Law and requested the Secretariat to introduce the document.

433. The Secretariat (Mr. Carvalho) informed that it had already included introduction of that document in its earlier presentation. It, however, wished to remind the delegates that when the Secretariat made an invitation for comments and corrections until February 15, 2012, that included all the other documents prepared for the project as well as the survey reports, i.e. the document on exhaustion as well as the next document on IP as a barrier were included in that invitation.

434. The Delegation of Spain addressing the Secretariat stated that the document under consideration had not been translated into Spanish, nor they had been translated into the rest of the official WIPO languages.

435. The Delegation of the USA expressed its appreciation to the Secretariat for the preparation of the study. The Delegation noticed that the title of the paper omitted the word "Property" and instead referred only to "Intellectual Rights". The Delegation wished to know if the omission of the word "Property" was intentional. Second, as noted earlier in the week during

the Committee's review of the progress reports, it believed that it would be useful for Member States to be given the opportunity to comment on papers that summarized the state of law in those States before they were finalized and published so as to avoid inaccuracies and the additional work that was required to correct them. That was especially important for papers dealing with such complicated areas of the law as patent law and anti-trust law and policy. Several U.S. agencies had reviewed the study with some care, and concluded that it did not fairly characterize U.S. law, in particular the distinction between national and international exhaustion in the USA. The Delegation, therefore, welcomed the opportunities to submit written comments to the Secretariat on that and other aspects of the study by February 15.

436. The Delegation of Japan shared the comments made by the USA, especially the description of each country's situation back in the national situation. In that sense, there was also the mentioning of the Japan Supreme Court case in the document, in paragraphs 57 to 60 in the annex. The Delegation wished to make a suggestion bilaterally to the Secretariat.

437. The Delegation of Brazil welcomed the study on the interface between exhaustion of Intellectual Rights and Competition Law which compiled and compared several international experiences. It was highly appreciated by the relevant authorities of the Brazilian government. The Delegation considered that the studies carried out by the Organization upon Member State requests must have the purpose of providing elements to the discussions of the relevant committees and also of helping Member States when addressing their national policies. That was basically aligned with the objective described in paragraph 5, annex page 1, and also paragraph 17, annex page 7 of the document. The Delegation favored the adoption of a holistic approach on the studies, taking into account the different positions on the field. A proper appreciation or dispositions was a welcome tool to understand the pros and cons of the different models adopted by countries. In that sense it considered that providing specific recommendations towards the adoption of any given model went beyond the objectives of that report. The Delegation recognized that the report refrained to do so, based on prudential grounds, in paragraph 64, page 21 of the annex. But there was the expression "at this stage" so it considered that the study basically should have a broader approach and not exactly enter into a given specific recommendation on what should be or not adopted by countries. That comment referred to paragraph 6, page 4 to the annex, the Delegation added. That paragraph stated "one could, however, submit that the TRIPS Agreement has overcome this idea in the sense that it acknowledges in the very first paragraph of its preamble the both a lack of effective and adequate protection of intellectual property rights on the one hand, and in appropriate measures and procedures to enforce intellectual property heights on the other, are the real causes of distortions and impediments to international trade". That particular interpretation of the preamble of the TRIPS agreement was controversial and in the Delegation's view not consistent with the principles underlying the TRIPS Agreement. In fact, it found it difficult to argue that the real causes of distortions to international trade were the lack of effective and adequate protection of IP rights and inappropriate enforcement measures.

438. The Secretariat stated that that was exactly the kind of comments and suggestions that it would like to invite Member States to make in the future in more detail. It acknowledged and appreciated that. Perhaps those documents should have been distributed widely before they were published, but the experience in inviting detailed information on specific issues had not been the best, and even though it took some risks of disclosing documents that were far from being perfect, they still could improve and they would be re-issued in a revised form.

439. The Delegation of the USA stated that its curiosity was piqued by the omission of the word "Property" in the title and requested the Secretariat to address that point.

440. The Secretariat, while apologizing for forgetting to address that question stated that it was of course an oversight and the word Intellectual Property should be there.

441. The Delegation of Chile believed that it was an extremely relevant issue and aligned itself with Spain's statement and asked the Secretariat why that document was not available in Spanish. Further, unlike of the Delegation of the U.S. which said that some of its officials had analyzed the document, the Delegation stated that it had not been able to do so because it was not available in Spanish. The Delegation sought an answer to its question and wished to know when it would be available in Spanish.

442. The Secretariat (Mr. Baloch) stated that as mentioned yesterday, the translation of documents in the various languages for the session on the CDIP had been done in accordance with the language policy that had been approved by the Program and Budget Committee and the General Assembly that year. According to that policy voluminous documents were kept in their original language. However, there was an option that if a Member State or a group of Members States made a specific request a document could be translated into other languages.

443. The Delegation of Spain stated that the Secretariat said that according to the language policy set in the PBC, in cases of voluminous documents they would only be made available in their original language. That was fine, but as the Secretariat said in those cases a summary would be provided in each of the official languages of WIPO and in that case, however there was no summary of that document. Also the Delegation pointed out that that document was not particularly long, the English version being only 20 pages long.

444. The Secretariat agreed with the delegation of Spain and stated that a summary of the document would be prepared. It further stated that the limit that had been set internally was 10 pages for working documents. Any studies and other documents which went beyond 10 pages were not translated. It reiterated that the Secretariat would prepare a summary of that document and keep it available in all languages.

445. The Delegation of Morocco stated that it spoke on behalf of the Arab Group and recalled that the Arab Group had often asked the same question, but unfortunately it seemed like no one was listening. The Delegation wished that the document under consideration be translated into Arabic so that the Arabic speaking countries could benefit from its content.

446. The Delegation of Panama joined other delegations, and on behalf of the GRULAC, requested that that the document be translated into Spanish.

447. The Delegation of the Russian Federation associated itself with the previous speakers as a number of documents which were being discussed at that session had not been translated so far into Russian as far as it could judge from the WIPO website. It stated that course it was significantly more difficult to work on those documents and analyze them and expressed the hope that in the future there would be a timely translation of all documents into Russian affording an opportunity to look at them in detail.

448. The Secretariat (Mr. Carvalho) stated that it would be happy to provide Member States with a summary of the documents. One of them, the document on Sham Litigation would come already with an executive summary. However, the documents produced by the Center on Law and Information Policy of Fordham University (CLIP), was just a compilation and could not be summarized, but in case of all other documents it promised that summaries would be provided.

449. The Delegation of Ecuador expressed its support to the request for translation as it believed that not having the translations available for documents as important as those, made it very difficult for to work. The Delegation wished to avoid that kind of problem in the future and joined Chile in its question as to when the documents would be available.

450. The Secretariat (Mr. Baloch) stated that it would require a month to prepare the document summaries, with the exception of the second document mentioned earlier. The summaries would require translation and the documents could be made available within three months.

#### Consideration of Document CDIP/8/INF/6

451. The Chair opened discussions on document, CDIP/8/INF/6, Report on an Analysis of the Economic/Legal Literature on the Effects of IP Rights as a Barrier to Entry.

452. The Secretariat recalled that the document had been discussed. On the proposal by the Delegations of Chile and Ecuador on the way forward, for those countries that required the documents or at least their summaries in languages other than English, the Committee could decide on a later date for them to submit their comments.

453. The Delegation of Brazil confirmed that it would be submitting written comments on the document.

454. The Delegation of the USA observed that the title of the study, specifically the phrase, "IP rights as a barrier to entry", appeared to be prejudicial and against a balanced survey of the topic. Although IP could act as a barrier to entry along with many other factors, such as advertising costs, capital costs, that was only half the story. IP could also create markets. For example, the iPhone and other similar products, had unleashed an entire industry devoted to writing application software. In doing so, those IP protected products had created a dynamic market where none existed before. In addition, new entrants could, and often did, invent around existing IP rights in order to enter the market with innovative products that did not infringe. The study's focus on barriers did not allow for a more balanced view of IP to be adequately addressed. As such, the Delegation suggested that the term "barrier" be omitted and an alternative, such as the "effects of IP rights on market entry", be used as the title for the study. Although the research team appeared to have followed a careful methodology, it was clear that the results depended entirely on the formulation of the search terms used to survey available literature. Different search terms, including those that focused on the market-creating effects of IP would have resulted in a more balanced study. On the proposed work program for follow on research, the Delegation reserved its right to comment on those recommendations at a later stage.

455. The Delegation of Japan referred to paragraph 120, on page 71 of the study, and noted that the surveyed literature did not explicitly refer to IP "as a barrier to entry," but rather addressed issues that did indeed affect market entry. On further work, the study recommended that research that sought to more clearly articulate rights and practices as "barriers to entry" in the context of particular conflicts would be useful. In that context, a set of six empirical studies were specifically included and deemed to be extremely valuable. The Delegation underlined the need for those studies, if carried out, to be factual and neutral in its standpoint. It was regrettable that Member States were not consulted on the scope and preparation of the study. The phrase, "barrier to entry", was included in the title and did not reflect the crucial incentives in the patent system to encourage innovation and creativity. That could also have resulted in an information bias with regard to the post-grant effects of patents. The Delegation believed that further studies, if any, might also be affected by such biases. In that regard, it agreed with the views expressed by the Delegation of the USA. A biased approach would not lead to credible conclusions. The Delegation was absolutely convinced that strong IP protection would significantly benefit developing countries and promote economic growth. The implementation of IP systems encouraged foreign direct investment, domestic innovation, technology acquisition and transfer. Expanded IP protection had the potential for long term economic development and technological innovation in developing countries despite its high initial cost. These views were mentioned in paragraph 48 on page 27 of the study. On the six empirical studies listed in paragraph 121 on page 71 of the study, items (b), (c) and (f), would cover specific market

sectors or industries. In that context, it requested for information on the potential sectors or industries to be included and the underlying reasons.

456. The Delegation of South Africa enquired as to whether observers would be allowed to comment on the document.

457. The Representative of the TWN also requested for clarification on whether observers and other members of the public would be allowed to provide written comments on the studies.

458. The Delegation of Pakistan, speaking on behalf of the Asian Group, enquired as to whether the Secretariat would be incorporating the observations in the revised document as it was not sure it could agree with some comments that were made.

459. The Secretariat reiterated that the studies were open for written comments. These would be incorporated in revised documents. On the title, a question mark would be added to the end of the phrase, IP as a barrier to trade. It should also be noted that the document included the various opinions on that issue and was neutral in its approach.

#### Consideration of Document CDIP/8/8

460. The Chair opened discussions on document CDIP/8/8, the project proposal by Burkina Faso.

461. The Delegation of Burkina Faso explained that its proposal was on the strengthening of the audio-visual sector in Africa and was related to the implementation of certain Development Agenda recommendations. The Pan-African Film Festival of Ouagadougou was held earlier that year. During the festival, a roundtable discussion involving representatives from the International Federation of Film Producers Associations, African audio-visual industry and other relevant institutions was also held. The discussions concluded that the development of the African audio-visual sector would require strengthened legal frameworks and stable professional structures. New models for funding were also required in view of the lack of available public funds. It was also necessary to combat piracy. New initiatives were required to address those issues and to market African cinema abroad. The African audio-visual sector should benefit from digital technologies and online distribution. The Pan-African festival in Ouagadougou began in 1969, and since 1979, was held every two years. As that was a major event in Africa, the roundtable participants believed that Burkina Faso could play a central role in the development of a program to strengthen the audio-visual sector in Africa. All interested countries could benefit from the results of that project. In that regard, the project was aimed at contributing to the implementation of the Development Agenda through providing assistance to allow the African audiovisual sector to finance, produce and distribute audiovisual works based on improved professional structures, markets and legal certainty. The Delegation referred to Recommendations 1, 2, 3, 4, 10, 11, 12, 13, 14, 35, 37, 39, 43 and 45 of the Development Agenda. The project should lead to an improvement in the operating conditions for the audio-visual sector and contribute to the development of the African region as a whole. In the context of a public-private partnership with the governments of interested African countries, specialized regional organizations, industry, development agencies and other stakeholders, the WIPO Secretariat would undertake the following actions: (a) Conduct an assessment of the audiovisual sector's contribution to the cultural, social and economic development in participating countries; identify and assess challenges; propose a series of solutions and recommendations for national and regional IP-related strategies; project evaluation and impact assessment; (b) Organize training programs on copyright and copyright-related aspects of film financing, production and distribution; promote voluntary model contract clauses and professional networks; contribute to the specialization and development of the film sector as an industry; (c) Develop methodologies and training programs for evaluating film rights assignment structures, distribution support and a film's economic potential for a producer, investors and



donor institutions; (d) Participate in developing domestic African film markets; develop other channels for the sale of African film rights; (e) In cooperation with competent national authorities, adopt recommendations for more effective copyright protection, especially in response to growing infringement of African film rights in Europe and the USA, and to strengthen regional cooperation in Africa; address unlicensed broadcasting of films by television operators; develop independent statistics; (f) Contribute to improving the infrastructure and other facilities for collective bargaining and management in the field of copyright in the audiovisual sector; foster regional and international cooperation and know-how transfer; (g) Organize copyright awareness campaigns through local media, training modules and the WIPO Academy; promote licensing schemes in the informal economy; and (h) Foster synergies among stakeholders, existing projects and expertise centers and contribute to developing a framework for improved cooperation between African governments, regional organizations, development agencies, donors, the audiovisual sector and WIPO. The Committee was requested to take note and make substantive contributions to improve the project for future adoption.

462. The Delegation of South Africa, speaking on behalf of the African Group endorsed the project and looked forward to hearing comments with a view to augmenting the project for future adoption.

463. The Delegation of Algeria supported the project. The audio-visual sector in Africa required substantial technical assistance. That would also assist in the ongoing negotiations in the SCCR.

464. The Delegation of Barbados drew attention to the fact that the challenges faced by the audio-visual sector in Africa were also applicable to some countries in the Caribbean. For that reason, it proposed that the project be extended to include all interested Member States and the words, "in Africa", deleted from the title. That would obviate the need for similar project proposals from other regions.

465. The Delegation of Nigeria agreed with the statement made by the Delegation of South Africa on behalf of the African Group. That was a very important project for Africa, and in particular, for Nigeria as it was third leading country in the world, after India and the USA in terms of audio-visual production.

466. The Delegation of Morocco associated itself with all the positive comments made on the project. It supported the project as it highlighted the difficulties faced by performers and the audio-visual sector in Africa.

467. The Delegation of Egypt endorsed the project. The film industry was important to Africa and the project was an example of how WIPO could assist labor intensive industries in the continent.

468. The Delegation of Kenya expressed its full support for the project.

469. The Delegation of Senegal expressed its support for the project.

470. The Delegation of Mexico expressed its support for the project.

471. Thanking the Delegation of Burkina Faso, the Chair informed that the project would be discussed in the next session of the Committee and opened discussions on document CDIP/8/INF/3, Study on Patents and the Public Domain, and invited the Secretariat to introduce the document.

Consideration of Document CDIP/8/INF/3

472. The Secretariat (Tomoko Miyamoto) explained that the study was prepared under the project on Intellectual Property and the Public Domain (document CDIP/4/3/rev.1). The study was focused on the patent system and the role of patent information in the identification, access, use and preservation of public domain material. The study was prepared by a group of external experts. It comprised an overview of patents and the public domain, together with a number of country-specific accounts concerning the relationship between the public domain, national patent law and relevant information-retrieval mechanisms. The first part of the study was prepared by an expert from the United Kingdom, Mr. Jeremy Philips. It explored the nature of patent information and the features of certain provisions of the patent system which might be used to identify subject matter that had either fallen into the public domain or which, through the restrictions imposed by the criteria of patentability and the exclusions which specified what was beyond its protection, might be described as never having left the public domain in the first place. It should be noted that the study did not recommend or prescribe any form of action to be taken by policy makers. The country specific studies were prepared by five experts, Mr. McLean Sibanda from South Africa, Mr. Hossam El Saghir from Egypt, Mr. Ernesto Rengifo García from Colombia, Mrs. Olena Pavlina Orlyuk from Ukraine and Mr. Calab Gabriel from India. The experts described the structure of the patent system in their respective countries and access to information within the context of its patent system. The utility of the tools for accessing that information and the extent to which the resources of the public domain had been harnessed by those were also analyzed. The national studies did not share the same format. They highlighted the unique focus of each expert and illustrated the wide range of issues in the public domain and its relationship with the patent system.

473. The Delegation of Egypt supported the proposal included in the first paragraph on page 50 of the study where it was stated, "In view of the foregoing, there might be scope for WIPO and UNESCO to consider whether a joint initiative should be undertaken with regard to at least two objectives: the development of a technique or methodology for identifying and categorizing elements of public domain information that are worth a greater level of protection than might be available through mere chance, and to ensure that there is a dovetailing of the respective organizations' activities and no risk of duplication in the deployment of efforts and resources".

474. The Delegation of Chile highlighted the importance of that issue for developing countries. It was one of the first to support its inclusion in the Development Agenda. However, it had not been able to do a proper analysis of the study as it was not available in Spanish. Although the summary had been translated into Spanish, it was too sketchy and did not adequately reflect the substantive analysis included in the first part of the study. The Secretariat was requested to either translate that part into Spanish or to provide a more in depth summary. The use of statistics and analysis of specific cases would also be useful to assist policy makers in identifying, promoting and providing enhanced access to material in the public domain.

475. The Delegation of Mexico believed that the study was well focused and covered all the required issues. As a follow-up, a check should be carried out to ascertain whether the case studies included all the types of laws found in the different regions. That was required in order for it to be of use to all Member States.

476. The Delegation of Japan referred to page 114 of the study. The Japanese Patent Office had obtained the agreement of the Indian authorities to access the latter's Traditional Knowledge Digital Library. Information on the agreement would be conveyed in writing to the Secretariat.

477. The Delegation of Spain associated itself with the statement made by the Delegation of Chile on the summary. It requested for a much more detailed summary to allow for an adequate review of the study.

478. The Secretariat agreed to provide a more detailed summary which would be translated into all official working languages to allow for a better analysis of the document.

479. The Delegation of Australia disclosed that the Australian Patent Office was also using India's Traditional Knowledge Digital Library. Information would shortly be provided, including the month and year of accessibility.

480. The Delegation of South Africa observed that the study did not adequately address certain issues within the context of the Development Agenda. The role of IP offices as repositories of patent information in the public domain was not clearly defined. To the best of its knowledge, most established IP Offices, including the South African Patent Office, maintained extensive patent records. The Delegation did not share the view that there was no evidence that any value was derived from inventions that had fallen in the public domain. Patent information was beneficial to the public. For instance, it allowed for searches to be carried out to determine novelty, prevent infringement of patent rights or reinvention and so on. The patent system was based on the principle of territoriality. That meant that inventions which were protected in a specific territory were not protected in another if patent protection was not sought in that territory. For those reasons, it could not be said that there was no evidence of any value coming from inventions that had fallen into the public domain. However, the statement made in the study that public policy should be sector specific was valid. In that regard, further studies on patents and the public domain in relation to specific sectors in a cross section of developing countries would be extremely useful.

481. The Secretariat noted the observations adding that those would be forwarded to the authors and all responses would be communicated to the Committee.

#### Consideration of Document CDIP/7/INF/2

482. The Chair opened discussions on document CDIP/7/INF/2, Scoping Study on Copyright and Related Rights and the Public Domain, and invited the Secretariat to present the document.

483. The Secretariat (Mr. Baloch) recalled that the study was reviewed in the previous session of the Committee. It was decided that the recommendations included in the study should be subject to further discussion in the current session.

484. The Delegation of the USA, speaking on behalf of Group B, indicated its preference to discuss the document a little later as discussions were still ongoing within the Group.

485. The Delegation of Poland, speaking on behalf of the European Union and its Member States, reiterated its observation that the study and its recommendations merely reflected the views of the author. As such, it did not believe that it was necessary to consider implementation of the recommendations at that stage. However, it acknowledged that some Member States would like to hold further discussions on certain recommendations. In that regard, only recommendations 1C, 1F and 2A should be considered for discussion.

486. The Vice-Chair noted that most studies, including the one under discussion, reflected the views of the authors, as experts in their respective fields. The contents of these studies, including their recommendations, were subject to discussion. In that context, the Committee provided the right forum for discussion and it was up to its members to analyze the contents of the study and its recommendations.

487. The Delegation of South Africa agreed with the suggestion by Group B to delay discussions. On recommendations for discussion, there was a need to further reflect on recommendations included in pages 70 and 71 of the study.

488. The Delegation of Chile reiterated that the references included in the study on its national legislation were out of date and required amendment.

489. The Delegation of Pakistan believed that there were many recommendations which could provide the basis for further work. In that regard, there might also be areas of convergence where work could already begin.

#### Consideration of Document CDIP/8/3

490. The Chair opened discussions on document CDIP/8/3, Project Proposal on IP and the Informal Economy, and invited the Secretariat to present the document.

491. The Secretariat (Mr. Baloch) recalled the brief discussion on the document. A revised project proposal had been placed outside the room for the consideration of Delegations. The Secretariat (Mr. Wunsch) had held consultations with interested Delegations. Following the consultations, further revisions were made to the project proposal. On the conceptual study, the words “and innovation” would be added after the phrase, “this study would draw on the existing academic literature on the informal economy”, included in the first paragraph on page 3 of the proposal. That was intended to clarify that innovation aspects would be explicitly covered under the study. The rest of the paragraph would be amended to read as follows, “If such an expert exists, the author will be a recognized social scientist with a credible track record of research on both the informal economy and innovation. In the elaboration of the study, the researcher would be assisted by the WIPO Economics and Statistics Division.” On the case studies, the following sentence would be added to the second paragraph on page 3, “It is understood that the case studies will not cover activities in the informal economy which relate to counterfeiting and piracy (see footnote 1)”.

492. The Delegation of Poland, speaking on behalf of the European Union and its Member States, expressed its support for the project as its concerns were fully addressed in the proposed amendments to the document. Issues concerning counterfeiting, piracy and enforcement could still be examined by the Committee in future, in accordance with relevant Development Agenda Recommendations.

493. The Delegation of Algeria, speaking on behalf of the Development Agenda Group emphasized that with the acceptance of the amendments proposed by the Secretariat, the case studies would not be related to counterfeiting. Implementation would also not be emphasized in the studies as the objectives of the project were to explore the integration of the informal economy in the economic activities within developing countries, and to understand the workings of the informal markets without focusing on the enforcement of laws. That was the understanding of the Group in relation to the suggested amendment to the second paragraph on page 3 of the proposal.

494. The Delegation of Egypt endorsed the statement made by the Delegation of Algeria on behalf of the Development Agenda Group.

495. The Chair announced that the project had been approved by the Committee. The Chair opened discussions on document CDIP/7/5, Revised Project on Patents and the Public Domain, and invited the Secretariat to introduce the document.

Consideration of Document CDIP/7/5

496. The Secretariat (Mr. Baloch) recalled that the revised project was considered by the Committee at its seventh session and it was decided to resume discussions at the eighth session due to the lack of understanding and agreement on the project. The Secretariat was informed by some delegations that progress had been made in that regard and a revised document had also been made available by those delegations.

497. The Delegation of the USA was keen for the project to be adopted in the current session. It informed the Committee that it had worked with a number of delegations and had provided the Secretariat with a revised project paper which was available to Member States for review. The project should consist of a focused and balanced study which could produce useful information for Member States, but would not include norm-setting components. When completed, the Secretariat would be requested to solicit comments from Member States and those would be appended to the study.

498. The Delegation of Poland, speaking on behalf of the European Union and its Member States, stated that while the proposed methodology for the implementation of the first phase of the project was acceptable, the same could not be said of the second phase. The latter appeared to pre-judge the outcome of the former. It was based on the assumption that the study would indicate that norm-setting activities on patents and the public domain should be pursued. It also appeared to require Member States to consider norm-setting without a prior review of the study and a decision on whether such actions should be pursued. For those reasons, phase two of the project should be deleted. The results of the study should be made available to the SCP for consideration and action, where appropriate.

499. The Chair confirmed that the revised text excluded norm-setting.

500. The Delegation of Bolivia observed that norm-setting activities had been removed from the revised text. It had agreed to that to achieve consensus and had no objections to the current text.

501. The Secretariat (Ms. Miyamoto) referred to information which had been omitted from the current text. That was related to the review, evaluation and timeframe for the implementation of the project. The said information was included in the annex to document CDIP/7/5. Should the Committee decide to limit the scope of the project to the micro-level study on patents and the public domain, the objectives, outputs and review schedule for the project would also require revision to reflect that change. The points related to the expert panel or conference on the issue of norm-setting would be removed from the outputs and objectives. The budget would also be revised to an estimated 50,000 CHF as only experts were required to implement the project.

502. The Delegation of South Africa, speaking on behalf of the African Group, requested for a summary of the agreed elements, prior to the adoption of the project.

503. The Secretariat noted the proposal for the project to be restricted to the micro-level study on patents and the public domain. The study would analyze, in particular, the impact of certain enterprise practices in the field of patents. The revised document contained a non-exhaustive list of issues to be covered in the study. Those included non-practicing issues relating to non-practicing entities, patenting incremental improvements, patent donations, defensive protection through the publication of patent applications, placing patents in the public domain and combinations thereof. The study would be based *inter alia* on a survey of available literature. The analysis should take into account the specific legal, social and business environment in which business activities were conducted by enterprises, including legal mechanisms that existed under current national or regional laws to curb questionable practices. The study would be conducted in a balanced and neutral manner, and would reflect a broad spectrum of views.

The findings and conclusions of the study would be reported to a future session of the Committee.

504. The Chair announced that the document was adopted, following the clarifications by the Secretariat. The Chair opened discussions on document CDIP/7/INF/2, Scoping Study on Copyright and Related Rights and the Public Domain.

Consideration of Document CDIP/7/INF/2 cont'd.

505. The Representative of CSC, speaking on behalf of CSC and Communia International Association explained that Communia was funded by the European Commission from 2007-2011 and was recently incorporated as an international association. Its most implemented output was a public domain manifesto which had been translated into more than 20 languages and signed by individuals and associations worldwide. The author of the scoping study was also a member of its network. It welcomed the recommendations included in the study. A vibrant and well-defined public domain was of vital importance to the international copyright framework and the Development Agenda, in particular, Recommendations 16 and 20. The identification of public domain boundaries was of paramount importance to business and cultural organizations. An increasing number of enterprises were using public domain material to offer value added services. Cultural organizations such as museums and libraries held vast amounts of public domain material which they could not use without a clear understanding of the boundaries. For those reasons, it believed that the Committee was the right forum to discuss the study and its recommendations. The use of public domain material was beneficial to society as a whole and was important for culture, innovation, access to knowledge and education, and for the development of all countries.

506. The Delegation of the USA referred to the specific recommendations included in the study and suggested that it would be productive for the Committee to explore recommendations 1(c) and 2(a). It was also interested in exploring the possibility of moving forward on recommendation 1 (f) which provided that international endeavors should be devoted to developing technical or informational tools to identify the contents of the public domain, particularly as far as the duration of copyright was concerned. In that context, it sought clarification on the scope of tools, funding sources, measures to ensure accuracy, and the level of obligations which would be required of Member States in that regard. It could support an approach that required only the preparation of a study on the issue. However, it would first require answers to the aforementioned questions, if it was required to consider anything further.

507. The Delegation of Pakistan believed that all the recommendations were important and required the due attention of the Committee. It questioned whether it would be appropriate to just move ahead with one or two, or whether a more holistic approach was required.

508. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, echoed the views expressed by the Delegation of Pakistan. It also requested the Delegation of the USA for clarification on whether the recommendations it had selected were merely the first step or were they the only ones the Delegation could accept for implementation.

509. The Representative of the Creative Commons informed that he had been consulted and cited by the author on the Costa Rican section of the study. The Creative Commons considered the study to be of vital importance to the international copyright framework. As indicated in the study, there were great disparities in the application of the public domain across jurisdictions. To address the legal void in several jurisdictions, the Creative Commons had introduced a tool called CC0 to allowed authors to unilaterally renounce their rights if they so wished. It also shared the concerns of the author with regard to orphan works. It urged the Committee to consider all recommendations, and in particular, to take all necessary steps to implement recommendations 1(c), 1(e) and 1(g).

510. The Delegation of Bolivia agreed with the statements made by the Delegations of Pakistan and Algeria. Measures should be taken to allow for an analysis of all recommendations included in the study.

511. The Delegation of South Africa was keen to move forward on areas where there was consensus. It agreed with the items identified by the USA and the European Union. However, there were also other normative recommendations which should be considered at a later stage, and whether those should be referred to the SCCR as it did not believe that the Committee was able to elaborate on technical issues such as those included in recommendation 1(g) and others on page 71 of the study. The Delegation also emphasized that agreement to move forward on a few recommendations was only a step forward. All other recommendations would remain open for consideration in the next session.

512. The Delegation of Egypt reiterated the importance of a rich and accessible public domain. It endorsed the idea of moving forward on common areas, with the understanding that other items would be open for consideration in the next session.

513. The Delegation of Canada agreed with the statement made by the Delegation of the USA. On recommendation 2(a), any work undertaken in cooperation with UNESCO should focus on non-IP related matters.

514. The Delegation of the USA suggested that the Committee could request the Secretariat to flesh out recommendations for which there was consensus. In that regard, the Secretariat could propose little projects to provide an indication of the research paths. Those could be discussed in the next session. The list would also remain open for consideration of other recommendations which delegations might wish to discuss.

515. The Secretariat (Mr. Paolo Lanteri) noted that there was general agreement to move forward on recommendations 1(c), 1(f) and 2(a), on the understanding that further discussions would be undertaken in the next session of the Committee. As proposed, the Secretariat could identify future activities to implement or develop further work with respect to the three recommendations. Those activities could be undertaken through the budget of the copyright sector or alternatively, as CDIP projects. It was a matter for the Committee to decide.

516. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, observed that the Committee was converging on the idea of prioritizing some recommendations for implementation. In addition, it also understood that the door would be kept open for other recommendations to be considered and implemented in the next session of the Committee. Although the Group would like all recommendations to be implemented as soon as possible, if others would like to prioritize the implementation of some, it could be flexible in that respect. However, in addition to the three said recommendations, the Group would also like to include recommendation 1(g), as proposed earlier, as well as 2(d). The Committee could request the Secretariat to begin with their implementation. The rest would be discussed in the next session of the Committee.

517. The Delegation of Switzerland agreed with the proposal made by the Secretariat. On the implementation of recommendations, it reiterated its statement at the previous session that the study represented the views of an expert and those had not been fully analyzed. It agreed that the Committee could move forward on the three recommendations. The other recommendations required further analysis in order for work to continue on the document.

518. The Delegation of Nigeria enquired as to whether the additional items suggested by the Development Agenda Group could be acceptable to the Committee. If so, it could move forward on all the agreed items.

519. The Delegation of Poland, speaking on behalf of the European Union and its Member States, reiterated its previous statement that it was ready to discuss the contents of certain recommendations, in accordance with the views of other delegations. However, that did not include implementation of any recommendations at that stage.

520. The Delegation of the USA agreed with the remarks made by the Delegation of Poland on behalf of the European Union and its Member States. Its intention was also to engage in a fuller discussion of the three recommendations for which there appeared to be consensus. These were at the stage of discussion, not implementation. Fleshing out the recommendations would assist in advancing those discussions.

521. The Delegation of Pakistan expressed its confusion as the initial proposal by the European Union and the USA was for further work to be undertaken on recommendations 1(c), 1(f) and 2(a). However, they had now clarified that further work referred to further discussions by the Committee. It sought confirmation as to whether its understanding was correct in that respect. If so, discussions should be held on all recommendations included in the study.

522. The Delegation of South Africa, speaking on behalf of the African Group, had also been under the impression that the Committee was talking about implementation as the Delegation of the USA had requested the Secretariat to look into possibilities for moving forward. Following the latest clarifications, it would be preferable for all recommendations to be discussed as these were all relevant. The Group had previously thought that the three recommendations were a priority for immediate implementation by the Secretariat. However, if that was not the case, discussion was required on all recommendations.

523. The Delegation of Poland responded to the query from the Delegation of Pakistan by reiterating the European Union's position on that matter. It repeated the statement it made earlier in the morning on behalf of the European Union and its Member States that it did not believe that there was any need to consider implementation of the recommendations at that stage. However they recognized that some Member States would like to discuss the content of some recommendations further. Therefore, discussions on the recommendations, 1(c), 1(f) and 2(a) could be envisaged.

524. The Delegation of Pakistan thanked the Delegation of Poland for the clarification. It requested the Secretariat for its view on how the Committee could proceed with its discussions on certain recommendations, would those be limited to interventions by Member States or would substantive work be presented for the Committee's consideration.

525. The Secretariat recalled that the study and its recommendations were presented two years ago and the issues were discussed in at least two sessions of the Committee. The Secretariat sought the guidance of Member States on how to proceed with that project.

526. The Delegation of Chile believed that there was an inclination for all delegations to continue discussions on that topic. In that regard, there seemed to be consensus on some recommendations and for work to continue initially on those. The discussions could be advanced by requesting the Secretariat to prepare a document which would provide more information on the three said recommendations so as to allow for an informed discussion at the next session on the three items. It would not preclude work on other recommendations included in the study. That could provide a way forward taking into account everything that had been said on the subject.

527. The Delegation of Egypt informed that it had also thought that the Committee was moving forward with the implementation of the three said recommendations. A discussion on whether those should be subject to discussion was somewhat lengthy.



528. The Delegation of Algeria remarked that it had also misunderstood that the discussion was on the implementation of the recommendations proposed by the Delegation of the USA. However, as the Committee was merely talking about the discussion of those recommendations, that should be applied to all recommendations. In view of the lack of time, it was important to examine all those in the next session. The Committee's decision on what to do with those recommendations was subject to consensus. However, it did not seem appropriate to merely single out a few for discussion. In that regard, the Delegation sought guidance from the Chair on how things could proceed.

529. The Delegation of Poland, speaking on behalf of the European Union and its Member States, thanked the Delegation of Chile for its constructive proposal. The discussions had indicated that there were three recommendations for which there was consensus for further discussion at the next session of the Committee. In that context, it would be useful for the Secretariat to prepare a document to provide further information on those recommendations to facilitate discussions at the next session. In response to the question from the Delegation of Algeria, discussions could end at that juncture and resumed at the next session of the Committee.

530. The Delegation of South Africa referred to the proposal by the Delegation of Chile. Perhaps the Committee could find a way forward with the Secretariat being mainly responsible for implementation. Some recommendations required more in-depth thought in terms of implementation. As such, the consideration of a document containing practical proposals with a view to implementation could provide a positive way forward rather than a continuation of the ongoing discussion. Other recommendations would also be kept open for further discussion.

531. The Chair noted the protracted discussions. There was a fundamental difference in the words, implementation and discussion. As there was no consensus, discussions could be concluded for now and the document would be considered in the next session of the Committee.

532. The Delegation of Chile drew attention to its proposal. The project was of great importance. As substantial differences had not been expressed with regard to its proposal, perhaps some convergence could be found to enable the Committee to achieve some progress in that session. That would be the best outcome for all delegations.

533. The Delegation of Algeria requested the Delegation of Chile to repeat its proposal.

534. The Delegation of Spain supported the proposal made by the Delegation of Chile. It was a good way to achieve progress on the three recommendations and many delegations had thought it useful to consider. In response to the said proposal and the comments made by the Delegation of Poland, it would indeed be helpful for the Secretariat to prepare a document with further details to assist the Committee in its consideration of the three recommendations.

535. The Delegation of Chile reiterated its proposal. The discussions had indicated that there was consensus on the three said recommendations. An option for moving forward on those recommendations would be to request the Secretariat to prepare a document which would provide further information on the three items to facilitate discussions on these at the next session. The other recommendations would also remain open for discussion at that session.

536. The Chair understood that there was no convergence on the three items as some delegations had requested for all recommendations to be discussed.

537. The Delegation of Brazil agreed with the proposal made by the Delegation of Chile. If there was agreement to initiate work on the three recommendations, that would be an important first step and would not require delaying all discussions to the next session of the Committee.

538. The Delegation of Mexico also endorsed the proposal made by the Delegation of Chile. Brief consultations could be held with interested delegations to determine whether there was genuine consensus on the three recommendations.

539. The Delegation of Spain supported the statements made by the Delegations of Brazil and Mexico.

540. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, believed that the proposal made by the Delegation of Chile was worthy of examination. The Development Agenda Group had also proposed adding recommendations 1(g) and 2(d) to those recommendations. On the request for the Secretariat to prepare a document with further information, it enquired as to the kind of information to be provided. It should include extended coverage of the implementation of the five recommendations. The other recommendations should also be examined in future sessions of the Committee. The Development Agenda Group did not want to limit matters on the implementation of recommendations. However, it was ready to accept the Chair's proposal in view of the lack of agreement on that matter.

541. The Delegation of Morocco was in favor of beginning with the recommendations for which there was consensus. However, it understood from the Chair that there was no consensus on either discussion or implementation of those recommendations. In that regard, it requested the opinion of the Secretariat on the difference between discussion and implementation. Although the Delegation was ready to start, the list must remain open as discussions should continue on all recommendations.

542. The Delegation of Switzerland was ready to move forward on the three recommendations as it was keen to achieve progress. Discussions on all other recommendations should be postponed until the next session.

543. The Delegation of Poland, speaking on behalf of the European Union and its Member States, agreed with the Chair that there was no convergence on the two different approaches to the recommendations. It reiterated its position that it did not wish to go beyond discussing the three said recommendations and that was not going to change between now and the next session of the Committee.

544. The Delegation of South Africa emphasized that the information to be provided by the Secretariat should assist in the implementation of the three recommendations. As such, there was a need to determine the kind of information to be included in the Secretariat's document for that purpose.

545. The Chair underlined the urgent need for a decision on how to proceed on that matter.

546. The Delegation of Chile suggested the way forward might be for the Secretariat to prepare a document on the substantive issues related to the three recommendations. If the Secretariat was able to do so by the next session, the next steps could be defined in that session.

547. The Secretariat noted that the recommendations generally indicated a need for further research. In that regard, the Secretariat would prepare an information document on the scope and possible implications of implementing the three recommendations.

548. The Delegation of Pakistan supported the proposal so as to move things forward. However, it also emphasized that discussions on all recommendations should continue in future sessions of the Committee.

549. The Chair announced that the Committee had agreed to the three identified elements and the Secretariat would provide additional information as mentioned. The Chair opened discussions on document CDIP/8/6, Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations.

#### Consideration of Document CDIP/8/6

550. The Secretariat (Mr. Baloch) stated that it was not aware of the current position on that issue. A number of delegations had requested the Secretariat to compile information contained in the reports of the various committees and to present that to the next session of the Committee. An issue was also raised in relation to the relevant WIPO bodies. Interested Member States had also been in touch with the Chair. The Secretariat did not have any information as to whether there had been any progress following those discussions.

551. The Delegation of Pakistan, speaking on behalf of the Asian Group, recalled that it had made the request for information to be compiled. The idea was to consolidate and summarize the information contained in the report as well as the comments made by all delegations. That would help facilitate discussions at the next session as the Committee would have a better idea of the work of the work of the relevant committees.

552. The Chair understood that the information was required in a structured table or format.

553. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, endorsed the statement made by the Delegation of Pakistan made on behalf of the Asian Group. More time was required as discussions were ongoing among the various groups and there was no solution as yet.

554. The Delegation of the USA, speaking on behalf of Group B, agreed with the statement made by the Delegation of Algeria on behalf of the Development Agenda Group that more time was required to consult on that issue and the broader coordination mechanism. The Delegation requested the Chair for some time for consultations. After the break, the Delegation of the USA, speaking on behalf of Group B, informed that the regional coordinators and other interested parties had held consultations. It was decided that informal discussions would continue between now and the next session to try to get closer to a resolution.

555. The Delegation of Algeria, referred to the summary by the Secretariat. There was a divergence of views on the elements to be included in that document. Some delegations were not in favor of the Secretariat intervening on the substantive proposals and statements made by Member States. As such, informal consultations were taking place on a suggestion to request Member States to submit proposals on document CDIP/8/6 and to examine their statements to ascertain what they wished to have included in the proposed document. These would be communicated to the Secretariat for inclusion in the document. It would be circulated by the Secretariat as an informal document for discussion at the next session of the Committee.

556. The Delegation of Pakistan referred to document CDIP/8/6 and requested for it to remain on the table for discussion at the next session. That was in addition to the proposal made by the Delegation of Algeria.

557. The Chair proposed that the discussion be concluded with the understanding that informal discussions would continue and the outcome communicated to the Chair for consideration in the next session of the Committee.

558. The Delegation of Algeria agreed with the proposal made by the Delegation of Pakistan for document CDIP/8/6 to be discussed at the next session. It also noted that its aforementioned proposal had not been opposed.

559. The Chair requested the Delegation of Pakistan to repeat its proposal.

560. The Delegation of Pakistan reiterated its proposal for document CDIP/8/6 to be included in the agenda for the next session. That was in addition to the proposal made by the Delegation of Algeria. Informal consultations would also continue on modalities for the coordination mechanism.

561. The Chair announced that discussions on document CDIP/8/6 would resume in the next session of the Committee. Informal consultations would also continue on the coordination mechanism and the results presented to the next session of the Committee. The Chair then opened discussions on document CDIP/8/inf/1, an External Review of WIPO Technical Assistance in the Area of Cooperation for Development.

#### Consideration of Document CDIP/8/INF/1 cont'd.

562. The Delegation of the USA, speaking on behalf of Group B, stated that informal consultations had resulted in an agreed paper on modalities for the *ad hoc* working group on document CDIP/8/INF/1. It was understood that that would be incorporated in the report. The said paper included the following paragraphs: 1. The *ad hoc* working group will be open to regional coordinators and other interested delegates and facilitated by the Secretariat. The setting of this *ad hoc* working group will not set any precedent. 2. There will be no budgetary implications associated with the *ad hoc* working group. 3. The work of the Secretariat in the form of the management response, as directed by the project CDIP 4/8 (section 2.3, component 2(c), page 10), and its accompanied terms of reference, can feed into the work of the *ad hoc* working group. The Secretariat shall ensure the early completion of its response. 4. The *ad hoc* working group will commence its work after CDIP 8 with the commitment to present a report on its findings to CDIP 9. If the CDIP 9 deems that it is necessary to extend the *ad hoc* working group, it should do so by consensus. 5. The *ad hoc* working group should strive to review CDIP 8/inf/1, with the emphasis on identifying recommendations that are redundant or are no longer relevant without any prioritization of recommendations. The *ad hoc* working group may also choose to discuss the other elements of the study in an effort to save time for discussions during CDIP 9. 6. The report to be presented shall not duplicate the work of the CDIP nor direct the CDIP to take action, but only serve as a tool to expedite the discussions within the CDIP. 7. At least one day should be set aside in CDIP 9 to discuss the *ad hoc* working group's report, the management response of the Secretariat and CDIP8/INF/1.

563. The Delegation of Nigeria requested for clarification on the rationale behind items 1 and 2 of the paper and whether there could be a possibility for similar groups to be established in future.

564. The Delegation of the USA, speaking on behalf of Group B, explained that the concept of not setting a precedent was included to try to avoid setting up a working group every time the Committee encountered a tricky issue. The issue on the table was extraordinary and there had not been enough time for a proper examination of the report. There were many recommendations included in that report. Although some were important, others might be redundant or already implemented. The creation of the working group should not set a precedent for working groups to be established for every tricky issue in future.

565. The Delegation of Nigeria did not see the necessity for it to be included in the document. It did not serve any purpose and might cause difficulties for the Committee in future.

566. The Delegation of Pakistan clarified that the agreed paper was a complete package as reflected in the items included. However, it took on board the concerns expressed by the Delegation of Nigeria.

567. The Delegation of Nigeria was satisfied with the explanation.

568. The Chair announced the adoption of the agreed statement read out by the Delegation of the USA.

569. The Delegation of Pakistan stressed that timelines had not been set for the convening of the working group. That was left to the Secretariat to decide in consultation with the group coordinators.

#### Consideration of Document CDIP/6/12 Rev.

570. The Chair opened discussions on document CDIP/6/12 Rev., Proposal for a CDIP New Agenda Item on IP and Development.

571. The Delegation of Brazil recalled that it had made the proposal on behalf of the Development Agenda Group at the sixth session of the Committee. It called for the creation of a new agenda item to discuss matters covered under the third pillar of the 2007 General Assembly decision on the establishment of the Committee. The third pillar covered the discussion of IP and development related issues, as agreed by the Committee as well as those decided by the General Assembly. The list of items included for discussion under the proposed new agenda item was not exhaustive and new items should be added in future. The proposed items included a report on the discussions of the WIPO Seminar Series on the Economics of IP, WIPO's contribution to the UN MDGs, and preparations for the upcoming conference on IP and development. On the said conference, it reiterated its suggestion for the preparation process to be handled by the Committee. The Committee should discuss the date, venue and agenda for that conference. That should also be preceded by substantive and detailed preparations. On the necessity for the new item to be added to the agenda for the Committee, the Delegation reiterated that it was reflected in the third pillar of the Committee's mandate. It should also be considered as a standing item for discussion as the relationship between IP and development was not something that could be restricted to a specific number of meetings as there would always be developments in relation to that topic. Additional issues could be included for discussion under the proposed new agenda item in future sessions of the Committee.

572. The Delegation of Egypt supported the statement of the Delegation of Brazil. The proposed agenda item was required to satisfy the third pillar of the Committee's mandate.

573. The Delegation of Pakistan, speaking on behalf of the Asian Group, considered the Committee to be remiss until and unless it completed the third pillar of its mandate. The first two elements of its mandate were already reflected in the agenda, but not the third on IP and development. That had to be included in the agenda. The Group also believed that there were already documents in the agenda which could be included under that item. Its introduction would result in a more structured and comprehensive format for the Committee's agenda for future sessions.

574. The Delegation of Algeria affirmed that the proposal was drafted by the Delegation of Brazil, when it was the coordinator for the Development Agenda Group, and tabled on behalf of the Group. It also drew attention to the fact that the Committee should be implementing a decision of the General Assembly. Although the Committee did not previously have time to discuss the matter, that could be included in the agenda for the next session and sufficient time

allocated to allow for a proper discussion. The Delegation requested for its statement to be reflected in the Chair's report.

575. The Delegation of the USA, speaking on behalf of Group B, noted that it had been mentioned on many occasions by some delegations that the third pillar incorporated a standing agenda item on IP and development. It did not. Although the third pillar stated that IP and development would be discussed, there was no mention of a specific agenda item. The Group believed that everything discussed by the Committee, within the plenary sessions, was on IP and development. As such, it failed to understand the need for a specific Agenda item. Perhaps the suggestion was to maybe identify specific items, and to include those in the Chair's summary for inclusion in the forthcoming agenda. The Group was willing to continue the discussion. If better or stronger arguments could be brought on why there was a need for a standing agenda item, it would be willing to entertain those, but it was not willing to accept one at that point.

576. The Delegation of Argentina supported the proposal from the Development Agenda Group. That was part of the Committee's responsibility, based on the need to ensure a balance between IP protection and social, economic and cultural development. Development was an integral part of WIPO's work and was reflected in both its mission and vision. The Delegation believed that the inclusion of an agenda item on IP and development could not be avoided.

577. The Delegation of South Africa, speaking on behalf of the African Group, supported the proposal made by the Development Agenda Group. That was long overdue. It was important for the Committee to be constructive in its engagement on that item which had been on the agenda for some time. It was time for serious consideration. If the Committee did not agree with its implementation, perhaps guidance could be sought from the General Assembly on its decision. It was not helpful to repeatedly hear the same argument, which could only be entertained if there were compelling reasons. The decision of the General Assembly was agreed to by all WIPO Member States and not just the developing countries. All had agreed that the Committee should have three pillars and so far there were two, or perhaps only one and a half, as the modalities for the coordination mechanism were still under discussion. Constructive engagement on the proposal was very important. It was disappointing that it had to be deferred again to the next session. There was a need for a decision, either way, in the next session, failing which the matter should be referred back to the General Assembly.

578. The Delegation of Poland, speaking on behalf of the European Union and its Member States, reiterated its position expressed in the sixth and seventh sessions of the Committee on the creation of a new standing agenda item on IP and development. It maintained its view that the overriding role of the Committee was to discuss IP and development related issues. The addition of a new agenda item to that effect would not only repeat the title of the Committee, but would also suggest that it existed to discuss issues other than IP and development. It would be more effective to include, on an *ad hoc* basis and where necessary, specific agenda items related to individual issues coming under the general aegis of IP and development. For these reasons, the European Union and its Member States did not see the need to introduce a new standing agenda item, as proposed by the Delegation of Brazil.

579. The Delegation of Pakistan stated that in light of the earlier interventions and the discussions of the informal meeting where there was broad agreement on the need to avoid a similar situation in the next session, informal meetings might be held between now and the next session to resolve the matter.

580. The Delegation of Mexico believed that the third pillar was already being implemented by the Committee. That was a continuing and recurring discussion within the Committee. However, it also believed that the points raised by the Development Agenda Group were very important. That could be included in the agenda under the item, "monitor, assess, discuss,

report on implementation of all Development Agenda recommendations”. It would avoid duplication and the proposal could be considered in that context.

581. The Chair understood that there was no convergence. Prior to a decision on the document, delegations were invited to comment on the conference on IP and development.

582. The Delegation of South Africa, speaking on behalf of the African Group, was of the view that a decision could be taken to allocate time to discuss the conference at the next session as it was to be held in the next biennium. It would be discussed as a separate issue from the proposal made by the Development Agenda Group on the agenda item on IP and development.

583. The Chair concluded that there was a need to continue discussions on the document, and it would be included in the agenda for the next session of the Committee.

#### Agenda Item 5: Future work

584. The Chair opened discussions on agenda item 5, Future Work, and invited the Secretariat to introduce some of the elements which might be considered for that purpose.

585. The Secretariat (Mr. Baloch) stated that based on the Committee discussions and the reporting requirement, it would like to suggest the following items for the next session of the Committee: 1. The Director General’s annual report to the Committee. 2. General statements. The Chair had introduced the tradition for delegations to make general statements. It was up to the Committee to decide whether that should be included in the agenda. 3. Project completion and evaluation reports for projects which were underway. As mentioned by the Director General and the Deputy Director General, Mr. Onyeama, a number of projects would be coming to completion and evaluation reports would be presented to assess the follow up for those projects. 4. Progress report on projects funded through Funds in Trust. That was further to the request made by the Republic of Korea and supported by the Delegation of Japan. 5. Project proposal from Burkina Faso. The project was earlier introduced by the Ambassador of Burkina Faso. It was decided that the proposal would be considered in the next session. 6. Compilation of new elements in relation to the work program on flexibilities. It was recalled that in the discussions on the document concerning the future work program on flexibilities, the Committee had agreed to the contents of that document, and at the same time, had also decided that the Secretariat should provide a list of new elements. 7. Document CDIP/7/3. The deadline for submission of comments from the interested Member States was extended to February 15. The document and submitted comments would be presented to the next session. 8. Studies and results of projects which were underway. The Secretariat did not have a comprehensive list of studies and other outcomes that might be ready by the time documents would be prepared for the next session. However, whatever was available would be presented to the Committee. 9. Project paper on IP and technology transfer. The Secretariat would provide a revised implementation schedule and an updated budget for the project. 10. Document CDIP/7/INF/2, Scoping Study on Copyright and Related Rights and the Public Domain. Discussions on the document, or to be more precise, its recommendations, would continue in the next session. The Secretariat would provide an additional document describing the scope and implications of recommendations 1(c), 1(f) and 2(a). 11. Document CDIP/8/6, Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations. 12. Document CDIP/8/INF/1. The document would be considered together with the management response, as agreed earlier by Member States. Member States were invited to inform the Secretariat and the Chair of any other elements which should be included in the list which was proposed for adoption as future work.

586. The Delegation of South Africa enquired on the possibility of having the list in writing as it wanted to see what was being approved for future work. Perhaps some would be included in the Chair’s summary.

587. The Secretariat was prepared to type and e-mail the document to interested delegations. Some of it would also be included in the Chair's summary.

588. The Chair concluded the discussions with the adoption of the list proposed by the Secretariat for future work.

#### Agenda Item 6: Summary by the Chair

589. The Chair opened discussions on the Chair's summary and invited the Secretariat to read out the document.

590. The Secretariat explained that due to the need for translation, some of the latest decisions taken by the Committee were not included in the versions which were made available to delegations. The latest draft of the Chair's summary was read by the Secretariat as follows:

1. The eighth session of the CDIP was held from November 14 to 18, 2011. The session was attended by 98 Member States and 31 Observers.
2. The session was chaired by Ambassador Md. Abdul Hannan, Permanent Representative of Bangladesh, Mr. Garikai Kashitiku, First Secretary, Permanent Mission of Zimbabwe, Vice-Chair and Ms. Alexandra Grazioli, Senior Legal Advisor, Swiss Federal Institute for Intellectual Property, who was elected as Vice Chair during the session.
3. The Committee adopted the Draft Agenda, as proposed in document CDIP/8/1 Prov. 2, with some amendment.
4. Under agenda item 3, the Committee considered document CDIP/8/2 entitled "Progress Reports" and took note of two completed projects and progress reports on 16 projects under implementation. The Committee also took note of progress reports on the implementation of 19 recommendations for immediate implementation, and appreciated the improved structure of the document.
5. With respect to document CDIP/8/6 entitled "Description of the Contribution of the Relevant WIPO Bodies to the Implementation of Respective Development Agenda Recommendations", the Committee agreed to continue consultations at the level of group coordinators in the intervening period before its next session. The Committee agreed to continue discussions on the document at its next session.
6. Under agenda item 4 the Committee considered document CDIP/8/3, Project Proposal on Intellectual Property and the Informal Economy, and adopted the project as amended, taking into account the comments of various Delegations. The Secretariat should make the revised project document available after the session.
7. With respect to document CDIP/8/4, the Committee took note of the report on assessing WIPO's contribution to the achievement of the Millennium Development Goals and requested that based upon the comments of the Committee, the report be further revised and presented to a future session.
8. The Committee considered document CDIP/8/5 entitled "Future Work Program on Flexibilities in the Intellectual Property System", and agreed that the Secretariat should implement the activities suggested in the document, taking into account the comments of Member States. The Secretariat was requested to submit a document containing a compilation of new elements suggested by various Member States for consideration by the Committee at its next session.



9. The Committee considered document CDIP/8/7 entitled “Project on Intellectual Property and Technology Transfer: Common Challenges - Building Solutions (Recommendations 19, 25, 26 and 28)”, and approved the terms of reference, composition criteria with respect to the regional consultation meetings, and the experts tasked to elaborate the various studies as well as the provisional modal program for these regional consultations meetings. The Secretariat should provide a revised project paper with redistributed budget and updated timeline for the next session of the Committee.

10. With respect to document CIDP/8/INF/1, the Committee considered an external review of WIPO Technical Assistance in the area of Cooperation for Development, and agreed to discuss this document at its next session. The committee agreed to establish an *ad hoc* Working Group on the External Review of Technical Assistance (CDIP/8/INF/1) with the following modalities:

- (i) the *ad hoc* Working Group will be open to regional coordinators and other interested delegates and facilitated by the Secretariat. The setting of this *ad hoc* Working Group will not set any precedent;
- (ii) there will be no budgetary implications associated with the *ad hoc* Working Group;
- (iii) the work of the Secretariat in the form of the management response, as directed by the project (CDIP/4/8, section 2.3, component 2, paragraph C.10) and its accompanied terms of reference, can feed in the work of the *ad hoc* Working Group. The Secretariat shall ensure the early completion of its response;
- (iv) the *ad hoc* Working Group will commence its work after the current session with the commitment to present a report on its findings to the ninth session of this Committee. If the Committee deems that it's necessary to extend the *ad hoc* Working Group, it should do so by consensus at its ninth session;
- (v) the *ad hoc* Working Group should strive to review CDIP/8/INF/1, with the emphasis on identifying recommendations that are redundant or no longer relevant, without any prioritization of recommendations. The *ad hoc* Working Group may also choose to discuss the other elements of the study in an effort to save time for discussions during the ninth session of the Committee;
- (vi) the report to be presented shall not duplicate the work of the committee nor direct the Committee to take action, but only serve as a tool to expedite the discussions within the Committee; and
- (vii) at least one day should be set aside during the ninth session of the Committee, to discuss the *ad hoc* Working Group's report, the management response of the Secretariat and CDIP/8/inf/1.

11. With respect to document CDIP/8/Inf/2, the Committee took note of the Feasibility Study on the Establishment of National Patent Register Databases and Linkages to Patentscope and various delegations made comments that were responded to by the project manager.

12. With respect to document CDIP/8/3, the Committee noted the study on Patents and the Public Domain and requested the Secretariat to prepare a more substantive summary of the document to be made available in all official United Nations languages.

13. The Committee discussed document CDIP/8/inf/4 entitled “Interaction of Agencies Dealing with Intellectual Property and Competition Law: Summary of Replies of Member States”, document CDIP/8/inf/5 entitled “Interface between Exhaustion of Intellectual Property Rights and Competition Law” and document CDIP/8/6 entitled “Report on the Analysis of the Economics/Legal Literature on the Effects of IP Rights as a Barrier to Entry” and made suggestions for their improvement. The Secretariat would provide the Member States with an executive summary of these studies, except for the report on the

Analysis of Economics/Legal Literature, and the summaries would be made available in all official United Nations languages. Upon distribution of these summaries, the Member States will provide written comments and suggestions to the Secretariat within 2 months. The Secretariat will endeavour to incorporate all comments and suggestions into the documents for consideration by the Committee at its next session.

14. With respect to document CDIP/8/INF/7, the Committee considered the Taxonomy-Analytical Study for the Project on Open Collaborative Projects and IP Based Models. The Committee decided that interested Member States should send their written comments to the Secretariat by January 31st 2012, enabling the Secretariat to finalize the study and further implement the project.

15. With respect to document CDIP/8/8, the Committee considered a new project proposal from the Delegation of Burkina Faso for the strengthening and development of audiovisual sector in Africa for the implementation of certain recommendations relating to the Development Agenda. The Committee agreed to discuss the project at its next session.

16. With respect to document CDIP/7/5, the Committee considered the revised Project on Patents and the Public Domain and adopted the project with amendments agreed by the Members.

17. With respect to document CDIP/7/INF/2 entitled "Scoping Study on Copyright and Related Rights and the Public Domain", the Committee agreed that the Secretariat would prepare an information document clarifying the scope and possible implications of the implementation of recommendations 1(c), 1(f) and 2(a) for discussion at the next session. The Committee agreed that the remaining recommendations would remain open for further discussion at its next session.

18. With respect to document CDIP/6/12 rev, on a proposal for a CDIP new agenda item on IP and development, the Committee decided that the issue should remain on the agenda for discussion at its next session and that informal consultations should continue during the intercessional period. The committee decided that time should be allocated during its next session to discussion on preparations for the international conference on IP and Development.

19. Under Agenda Item 5 on Future Work, the Committee considered a number of suggestions and broadly agreed upon the issues to be included in the draft agenda for the next session.

20. The CDIP noted that a draft report of the eighth session would be prepared by the Secretariat and communicated to the Permanent Missions of the Member States and would also be made available to Member States, IGOs and NGOs in electronic form, on the WIPO website. Comments on the draft report should be communicated in writing to the Secretariat as soon as possible, preferably eight weeks before the next meeting. The draft report will then be considered for adoption at the ninth session of the CDIP.

21. This summary will constitute the Committee's report to the General Assembly.

591. The Secretariat stated that it was informed by the Delegation of Algeria that document CDIP/6/12 and the conference on IP and development, were not included in the list of issues read out by the Secretariat on future work. It also did not mention the revision of the three studies on IP and competition policy which the Secretariat had undertaken to revise and submit to the next session of the Committee.

592. The Delegation of the Republic of Korea stated that further to its proposal, which was supported by the Delegation of Japan and the Asian Group, it had been agreed that there would be a briefing on Development Agenda related activities funded through extra budgetary resources in the ninth session. However, there was no language to that effect in the current draft. The Delegation requested the Chair to reflect what had been discussed and agreed on that issue in his summary.

593. Mr. Onyeama took note of the remarks by the Delegation of the Republic of Korea, adding that that would be reflected in the Chair's revised summary.

594. The Delegation of Egypt referred to paragraph 11 on linking national patent register databases to Patentscope. It was under the impression that the Program Manager had earlier requested the consent of the membership on the establishment of the said link and there had been no objection.

595. The Delegation of South Africa referred to paragraph five on document CDIP/8/6. That included language on continued consultations among regional coordinators. However, it should be noted that although that was raised during the discussions on document CDIP/8/6, the consultations were in relation to the coordination mechanism and not on the document. Thus, in the interest of clarity, the words "on the coordination mechanism" should be inserted after the word "consultations" in paragraph five. In addition, there was also a proposal from the Delegation of Algeria to invite Member States to comment on the document.

596. The Delegation of Poland proposed an amendment to paragraph 17. The third line of the first sentence of that paragraph included the phrase, "the Secretariat would prepare an information document clarifying the scope and possible effects of the implementation of recommendations 1(c), 1(f) and 2(a) for discussion at the next session". The Delegation would like to amend the phrase to read as follows, "the Secretariat would prepare an information document clarifying the scope and possible implications of recommendations 1(c), 1(f) and 2(a) for discussion at the next session". The words "effects of the implementation" would be deleted and replaced with the word "implications".

597. The Delegation of Algeria referred to paragraph 18. In that paragraph, the sentence which began with the phrase, in French, "The Committee decided that time should be allocated during its next session", should be amended to read as follows, "The Committee decided that sufficient time should be allocated during its next session to examine that question including preparations for the international conference on IP and Development". The Delegation agreed with the remarks of the Delegation of South Africa on its proposal for Member States to submit comments on document CDIP/8/6. It also believed that a further document containing those comments would be discussed at the next session.

598. The Delegation of South Africa reiterated its proposal to include the words "on the coordination mechanism" after the word "consultations" in paragraph five to reflect the fact that the consultations were in relation to the said mechanism and not on document CDIP/8/6.

599. The Delegation of Algeria suggested the inclusion of the following in Paragraph 18, "Member States may provide the Secretariat with their observations on the document. The Secretariat could compile those observations and circulate them as a document for the next session."

600. The Delegation of Pakistan referred to agenda item CDIP/8/2 on progress reports. That document was prepared by the Secretariat following a request from the Development Agenda Group and many delegations. The document had assisted delegations in understanding the speed and level of progress with regard to the respective projects. With that in mind, the Delegation suggested the inclusion of a new sentence after the first sentence in paragraph 4.

That would read as follows, "While taking note of the tabulated paper on progress reports, the Committee stressed the need for timely completion of all the ongoing projects and full and optimum utilization of resources allocated". On paragraph 5, it noted that the Delegation of South Africa had mentioned that with respect to document CDIP/8/6, it was agreed that discussions would continue on that document. To reflect that, the Delegation suggested the inclusion of the following sentence in paragraph 5, "With respect to document CDIP/8/6 entitled, "Description of the Contribution of the Relevant WIPO Bodies to the Implementation of Respective Development Agenda Recommendations", the Committee agreed to continue discussions on the document in the next session." The language proposed by the Delegation of Algeria with regard to the submission of comments by Member States could be included after that sentence. The paragraph could then mention that the Committee had also agreed to continue consultations on the coordination mechanism at the level of group coordinators.

601. The Delegation of Switzerland referred to the proposal made by the Delegation of Pakistan on paragraph 4. It was perhaps contradictory to refer to the full and optimal use of resources. Perhaps only the term "optimal" should be used as there was no obligation to use all available resources. In view of the need to make the best possible use of resources, ongoing projects should make optimal use of allocated resources.

602. The Delegation of Poland referred to paragraph 5. It was a little lost following the amendments by the Delegations of Algeria and Pakistan. It requested the Secretariat to read the paragraph as amended in order to understand the changes. It believed that the proposal by the Delegation of Algeria included a reference to the compilation of observations. It did not remember the Committee agreeing to that during the meeting.

603. The Chair stressed that his summary was not a matter for debate. There were no intentions to distort the decisions and understandings reached. He invited the Secretariat to read the written text submitted by the Delegation of Algeria.

604. The Secretariat explained that the Delegation of Algeria had provided a note in French. That would be read by the Delegation. The Secretariat would read the changes proposed by the Delegation of Pakistan. There was one sentence in the middle provided by the Delegation of Algeria and the Secretariat would read the remaining. It was proposed that paragraph 5 would begin as follows, "With respect to document CDIP/8/6, entitled "Description of the Contribution of the Relevant WIPO bodies to the Implementation of Respective Development Agenda Recommendations", the Committee agreed to continue discussion on the document in the next session". That would be followed by the sentence suggested by the Delegation of Algeria.

605. The Delegation of Algeria proposed the inclusion of the following, "Member States will make comments on document CDIP/8/6. Such observations will be compiled by the Secretariat and introduced as an informal document at the next session of the Committee."

606. The Secretariat explained that the language proposed by the Delegation of Algeria would be followed by the sentence suggested by the Delegation of Pakistan, "The Committee also agreed to continue consultations at the level of group coordinators and interested delegations, in the intervening period before its next session. The Committee agreed to continue discussions on the document at its next session." The Secretariat noted the repetitive nature of the proposed sentence.

607. The Delegation of Germany referred to paragraph 4. It supported the statements made by the Delegations of Pakistan and Switzerland on that paragraph. The sentence proposed by the Delegation of Pakistan was necessary to reflect earlier discussions. The deletion suggested by the Delegation of Switzerland was required as the Committee was told that part of the problem

was due to the initial over-allocation of funds. The use of all over-allocated funds would not result in the efficient utilization of allocated resources.

608. The Delegation of Angola referred to paragraph 15. It suggested the inclusion of the phrase, "in view of its adoption" at the end of the sentence, "The Committee agreed to discuss the project at its next session". That was required as the Committee would discuss the proposal by Burkina Faso with a view to its adoption. On paragraph 17, it referred to the substitution of the words, "effects of the implementation", as proposed by the Delegation of Poland, on behalf of the European Union and its Member States. Those should be maintained as the Delegation was informed that the language was agreed in the discussions. On paragraph 20, it referred to the last sentence, "Comments on the draft report should be communicated in writing to the Secretariat as soon as possible, preferably eight weeks before the next meeting." As the preceding paragraph included a reference to the electronic form, the words "written form" could be used in that sentence. In addition, the words "as soon as possible" could be deleted as those were not necessary, in view of the fact that it was stated in precise terms that it was preferable for comments to be communicated eight weeks before the next meeting.

609. The Delegation of South Africa referred to paragraph 4 and supported the insertion suggested by the Delegation of Pakistan. On paragraph 17, it referred to the amendment proposed by the Delegation of Poland, on behalf of the European Union and its Member States. It believed that the current text reflected what the Secretariat could carry out on the information document. Determining the effects of implementation did not imply that implementation would take place. The word "implications" could be added, but the word "implementation" must also remain as it was necessary to determine the effects of implementing the recommendations. Perhaps that could be acceptable to the European Union. The phrase could, then, be read as follows, "implications of the implementation of recommendations".

610. The Delegation of the USA recalled the Chair's remarks on his summary and observed that the Committee was trying to renegotiate a lot of its elements. It referred to the amendment proposed by the Delegation of Angola in paragraph 15. To state that the Committee had agreed to discuss the project at its next session in view of its adoption, would be pre-judging the outcome. The original text was fine. Everything was discussed with eventual results in mind. As such, the words, "in view of its adoption" should not be included.

611. The Chair concluded the discussions and assured delegations that the Secretariat had taken note of all observations. The revised draft would be mailed to all delegations.

#### Agenda Item 7: Closing of the session

612. The Chair congratulated the Members States on a smooth and productive session. He thanked the delegations for their flexibility, understanding and cooperation. The session had contributed immensely to progress in mainstreaming the Development Agenda in all WIPO activities though the implementation of the 45 recommendations through concrete measures. He hoped that harmony and understanding would continue to prevail in future sessions of the Committee.

613. Mr. Onyeama thanked all the delegates, on behalf of the Director General. The Secretariat expressed its gratitude to all delegations for making that one of the more productive sessions of the Committee. They had shown how important it was to engage with substance, and how beneficial that would ultimately be for developing countries. The Secretariat thanked the delegations for the clear guidance given to the Secretariat in, as the Chair had said, mainstreaming the Development Agenda in the work of the Organization. That was a key priority for the Director General and the Organization. The Secretariat also thanked Ambassador Hannan for the outstanding manner in which he had chaired and guided the Committee in the past two years. He had been a brilliant leader and had overseen the approval of many

important projects that were making, and would continue to make, a very positive impact in developing countries. A great deal had been achieved in the Committee under his guidance. The Secretariat was extremely grateful for his important contribution. Although he had also been actively involved in other organizations, such as the WTO, Ambassador Hannan had always found time to lead and guide the Committee in its work. Although it had been extremely challenging, he had always managed, with his personality and skills, to steer the Committee. Although he was bowing out as the Chair, the Secretariat looked forward to Ambassador Hannan's continued involvement in the work of the Organization.

614. The Chair thanked the Secretariat for its remarks and stated that nothing would have been possible without the cooperation and understanding of the members of the Committee and the support of the Secretariat and his staff. All had done their best to make the Committee a success.

615. The Delegation of Algeria, on behalf of the Development Agenda Group, congratulated the Chair on his excellent work and thanked him for all his efforts and wisdom which allowed the Committee to achieve results in the various sessions chaired by him.

616. The Delegation of South Africa, on behalf of the African Group, thanked the Chair for his efforts, and in particular, for the resumption of CDIP/7 and its successful conclusion. It also thanked the Chair for allowing the Secretariat to work effectively, the two Vice-Chairs for their excellent work, and the members of the Committee for their constructive engagement.

617. The Delegation of Panama, on behalf of GRULAC, congratulated the Chair and thanked him all his efforts. The Group thanked the delegations for the flexibility shown in the Committee. It also associated itself with the remarks made by other delegations in that regard.

618. The Delegation of Morocco, on behalf of the Arab Group, thanked the Chair for all his efforts and expressed its satisfaction with the results of the various sessions chaired by him. As mentioned by the Secretariat, he was present when needed and had led the discussions with great vigor and diplomacy. The Group also thanked the Secretariat for its extraordinary efforts with regard to the preparation of documents. It thanked all the delegations and regional groups for their excellent work in achieving positive results.

619. The Delegation of the USA, on behalf of Group B, thanked the Deputy Director General, Mr. Onyeama, and the Secretariat for all the hard work, the Chair for carrying out the meetings in an efficient manner, and the two Vice-Chairs for stepping in when the Chair was unavailable. The Group also thanked the interpreters and delegations for their efforts.

620. The Delegation of Pakistan, on behalf of the Asian Group, thanked the Chair for his efforts. It was a deep honor that one of its members had chaired the Committee. The Group was proud of his leadership. It served as an inspiration for the members of the Group. A lot of progress had been made in the various sessions. The Group thanked the Deputy Director General, Mr. Onyeama, for his continued presence and guidance, and the Secretariat for its support. It also thanked the Development Agenda Coordination Division, interpreters and others involved in supporting the Committee in its work.

621. The Chair referred to the resumption of the session mentioned by the Delegation of South Africa. He was sorry that he had not been able to reach all delegations. He would definitely try to reach out more in other processes. He expressed his deepest appreciation and gratitude to all the Ambassadors and members for making the resumption successful. He reiterated his thanks to all the delegations and declared the session closed.

[Annex follows]

I. ÉTATS/STATES

(dans l'ordre alphabétique des noms français des États)/ (in the alphabetical order of the names in French of the States)

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Abdul Samad MINTY, Ambassador, Permanent Representative, Permanent Mission, Geneva

Selai Percival Ramapulana KHUELE, Deputy Director, Economic Relations and Trade, Department of International Relations and Cooperation (DIRCO), Pretoria

Nosisi POTELWA (Ms.), Counsellor (Economic Development), Permanent Mission, Geneva

Tshihumbudzo RAVHANDALALA (Ms.), First Secretary (Economic Development), Permanent Mission, Geneva

Mandiwole MATROOS, Second Secretary (Economic Development), Permanent Mission, Geneva

ALGÉRIE/ALGERIA

Ali CHABANE, directeur, Normes contractuelles tarifaires, Contrôle du réseau, Office national des droits d'auteur et des droits voisins (ONDA), Alger

Tarik SELLOUM, chef de service, Direction des marques, Institut national algérien de la propriété industrielle (INAPI), Ministère de l'industrie, de la petite et moyenne entreprise et de la promotion de l'investissement, Alger

Boumediene MAHI, conseiller, Mission permanente, Genève

ALLEMAGNE/GERMANY

Li-Feng SCHROCK, Senior Ministerial Counsellor, Federal Ministry of Justice, Berlin

Heinjoerg HERRMAN, Counsellor, Permanent Mission, Geneva

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Verónica LÓPEZ GILLI (Sra.), Secretario de Embajada, Dirección de Negociaciones Económicas Multilaterales, Ministerio de Relaciones Exteriores, Comercio Internacional y Culto, Buenos Aires

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AUTRICHE/AUSTRIA

Vera FUCHS (Ms.), First Secretary, Permanent Mission, Geneva

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Md. Abdul HANNAN, Ambassador, Permanent Representative, Permanent Mission, Geneva

Md. Nazrul ISLAM, Minister, Permanent Mission, Geneva

BARBADE/BARBADOS

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Urszula PAWILCZ (Ms.), Expert, International Cooperation Unit, Cabinet of the President, Patent Office of the Republic of Poland, Warsaw

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Luís Miguel SERRADAS TAVARES, Legal Counsellor, Permanent Mission, Geneva

QATAR

Khalifa Juma Khalifa AL-HITMI, Intellectual Property Specialist, Judicial Control Inspector, Intellectual Property Center, Ministry of Justice, Doha

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Santo Domingo

RÉPUBLIQUE POPULAIRE DÉMOCRATIQUE DE CORÉE/DEMOCRATIC PEOPLE'S  
REPUBLIC OF KOREA

KIM Tong Hwan, Counsellor, Permanent Mission, Geneva

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

Evžen MARTÍNEK, Lawyer, International Department, Industrial Property Office, Prague

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RÉPUBLIQUE-UNIE DE TANZANIE/UNITED REPUBLIC OF TANZANIA

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SAINT-SIÈGE/HOLY SEE

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Grega KUMER, Third Secretary, Permanent Mission, Geneva

SOUDAN/SUDAN

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TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO

Justin SOBION, First Secretary, Permanent Mission, Geneva

TUNISIE/TUNISIA

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TURQUIE/TURKEY

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URUGUAY

Gabriel BELLON, Consejero, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

VENEZUELA (RÉPUBLIQUE BOLIVARIENNE DU)/VENEZUELA (BOLIVARIAN REPUBLIC OF)

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ZAMBIE/ZAMBIA

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ZIMBABWE

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II. 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)

Ermias Tekeste BIADGLENG, Legal Expert, Intellectual Property Unit, Division on Investment and Enterprise, Geneva

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

Kent NNADOZIE, Senior Treaty Support Officer, Secretariat of the International Treaty on Plant Genetic Resources for Food and Agriculture, Plant Production and Protection Division, Geneva

UNION EUROPÉENNE (UE)/EUROPEAN UNION (EU)

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Servatius VAN THIEL, Minister Counsellor, Permanent Delegation, Geneva

David WOOLF, Seconded National Expert, Policy Officer, Directorate-General for Research, European Commission, Brussels

Delphine LIDA (Mrs.), Counsellor, Permanent Delegation, Geneva

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

Christopher J. KIIGE, Director, Industrial Property, Harare

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

Konstantinos KARACHALIOS, Representative, Directorate International Affairs, Munich, Germany

Clara E. NEPPEL (Ms.), Examiner, 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)

Rachid K. AL GHATRIFI, Deputy Director, Substantive Examination Directorate, Riyadh

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

Jayashree WATAL (Mrs.), Counsellor, Intellectual Property Division, Geneva

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

Peter BEYER, Senior Adviser, WHO Secretariat on Public Health, Innovation and Intellectual Property, Geneva

SOUTH CENTRE

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ORGANISATION DE COOPÉRATION ISLAMIQUE (OCI)/ORGANIZATION OF ISLAMIC COOPERATION (OIC)

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UNITED NATIONS UNIVERSITY

Paul OLDHAM, Research Fellow, Institute of Advanced Study, Yokohama, Japan

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

Association IQSensato (IQSensato)

Sisule F. MUSUNGU, President, Geneva  
Susan ISIKO ŠTRBA (Ms.), Expert, Geneva

Centre d'études internationales de la propriété intellectuelle (CEIPI)/Centre for International Intellectual Property Studies (CEIPI)

François CURCHOD, chargé de mission, Genolier

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

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Civil Society Coalition (CSC)

Amy KAPCZYNSKI (Ms.), Assistant Professor of Law, Berkeley Law School, United States of America

David HAMMERSTEIN, Representative, Brussels

Melanie DULONG DE ROSNAY (Ms.), Representative, Brussels

Patrick DURISCH, Representative, Lausanne

Creative Commons Corporation

Andrés GUADAMUZ, Representative, Edinburgh, United Kingdom

CropLife International

Tatjana R. SACHSE (Ms.), Legal Advisor, Geneva

Fédération ibéro-latino-américaine des artistes interprètes ou exécutants (FILAIE)/  
Ibero-Latin-American Federation of Performers (FILAIE)

Luis COBOS, Presidente, Madrid

José Luis SEVILLANO, Director General, Madrid

Miguel PÉREZ SOLIS, Asesor Jurídico, Madrid

Carlos LÓPEZ SÁNCHEZ, Asesor Jurídico, Madrid

Paloma LÓPEZ PELÁEZ (Sra.), Asesora Jurídica, Madrid

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

Benoît MÜLLER, Legal Advisor, Geneva

Scott MARTIN, Legal Advisor, Geneva



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

Andrew JENNER, Director, Intellectual Property and Trade, Geneva  
Guilherme CINTRA, Policy Analyst, Intellectual Property and Trade, Geneva  
Chiara GHERARDI (Ms.), Policy Analyst, Innovation, Intellectual Property and Trade, Geneva

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

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

Antoine VIRENQUE, secrétaire général, Paris

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

Bertrand MOULLIER, Senior Expert, Paris

Ingénieurs du Monde (IdM)

François ULLMANN, président, Genève

International Trademark Association (INTA)

Bruno MACHADO, Geneva Representative, Rolle

Knowledge Ecology International (KEI)

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Katy ATHERSUCH (Ms.), Medical Innovation and Access Policy Advisor, Geneva

Hafiz AZIZ-UR-REHMAN, Legal and Policy Advisor, Geneva

Medicines Patent Pool

Ellen't Hoen (Ms), Executive Director, Geneva  
Esteban BURRONE, Policy Advisor, Geneva  
Kaitlin MARA (Ms.), Communications Manager, Geneva

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

Jens BMMEL, Secretary General, Geneva

IV. BUREAU/OFFICERS

Président/Chair: Md. Abdul HANNAN (Bangladesh)

Vice-Présidents/Vice Chairs: Garikai KASHITIKU (Zimbabwe)

Alexandra GRAZIOLI (Mme) (Suisse/Switzerland)

Secrétaire/Secretary: Irfan BALOCH (OMPI/WIPO)

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

Francis GURRY, directeur général/Director General

Geoffrey ONYEAMA, vice-directeur général/Deputy Director General

Irfan BALOCH, secrétaire du Comité du développement et de la propriété intellectuelle (CDIP) et directeur, Division de la coordination du Plan d'action pour le développement/Secretary to the Committee on Development and Intellectual Property (CDIP) and Director, Development Agenda Coordination Division

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