

Committee on Development and Intellectual Property (CDIP)

Ninth Session Geneva, May 7 to 11, 2012

REPORT

adopted by the Committee

1. The ninth session of the CDIP was held from May 7 to 11, 2012.
2. The following States were represented: Afghanistan, Algeria, Argentina, Armenia, Australia, Austria, Bangladesh, Barbados, Belgium, Bolivia (Plurinational State of), Botswana, Brazil, Bulgaria, Burkina Faso, Burundi, Canada, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, France, Gambia, Georgia, Greece, Guinea, Holy See, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Kazakhstan, Kenya, Kuwait, Lebanon, Madagascar, Malaysia, Mali, Mauritius, Mexico, Monaco, Morocco, Myanmar, Nepal, Netherlands, Nicaragua, Nigeria, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Slovakia, Slovenia, South Africa, Spain, Sudan, Swaziland, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Kingdom, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zambia (96).
3. The following intergovernmental organizations (IGOs) took part as observers: Food and Agriculture Organization of the United Nations (FAO), United Nations Conference on Trade and Development (UNCTAD), European Union (EU), African Intellectual Property organization (OAPI), Eurasian Patent Organization (EAPO), European Patent Office (EPO), World Health Organization (WHO), African Regional Intellectual Property Organization (ARIPO), Organisation Internationale de la Francophonie (OIF), South Centre, World Trade Organization (WTO), African Union (AU), and Organization of Islamic Cooperation (OIC) (13).

4. Representatives of the following non-governmental organizations (NGOs) took part as observers: Association for the Protection of Intellectual Property (AIPPI), Association IQSentato (IQSentato), Chamber of Commerce and Industry of the Russian Federation (CCIRF), Communia, International Association on the Public Domain (COMMUNIA), Creative Commons Corporation, CropLife International, Education International (EI), European Law Students' Association (ELSA International), Free Software Foundation Europe (FSFE), Ibero-Latin-American Federation of Performers (FILAIE), Institute for Intellectual Property and Social Justice (IIPSJ), International Centre for Trade and Sustainable Development (ICTSD), International Chamber of Commerce (ICC), International Committee for the Indians of the Americas (INCOMINDIOS), International Federation of Film Producers Associations (FIAPF), International Federation of Pharmaceutical Manufacturers Associations (IFPMA), International Federation of the Phonographic Industry (IFPI), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), International Video Federation (IVF), Internet Society (ISOC), Knowledge Ecology International (KEI), Latin Artis, Library Copyright Alliance (LCA), *Médecins Sans Frontières (MSF)* and Medicines Patent Pool (25).

5. The Committee unanimously elected Ambassador Mohamed Siad Doualeh, Permanent Representative of Djibouti, as Chair, and Mrs. Alexandra Grazioli, Senior Legal Advisor, Swiss Federal Institute for Intellectual Property, who was elected during the previous session, continued as Vice-Chair.

Agenda Item 1: Opening of the Meeting

6. The session was opened by the Deputy Director General, Mr. Geoffrey Onyeama. He invited the delegations to nominate candidates to chair the CDIP.

Agenda Item 2: Election of Officers

7. The Delegation of Egypt, speaking on behalf of the African Group proposed to elect H.E. Ambassador Mohamed Siad Doualeh, Permanent Representative of Djibouti as Chair of the Committee.

8. The Delegation of Iran (the Islamic Republic of), speaking on behalf of the Asian Group, expressed its support for the proposal by the Delegation of Egypt to elect Ambassador Mohamed Siad Doualeh.

9. The Deputy Director General, on the basis of those statements, and in the absence of any objections, declared H.E. Ambassador Mohamed Siad Doualeh as elected. He then called on the delegations to nominate candidates for the position of a Vice-Chair. No nominations were however made. Ms. Alexandra Grazioli, Senior Legal Advisor, Swiss Federal Institute for Intellectual Property, who was elected at the eighth session of the CDIP, served as the sole Vice-Chair.

10. The Chair welcomed all the delegations and thanked them for his election. He also thanked his predecessor, H.E. Ambassador Md. Abdul Hannan, Permanent Representative of Bangladesh, for his leadership of the Committee, and the two Vice-Chairs, Mr. Garikai Kashitiku, First Secretary, Permanent Mission of Zimbabwe and Ms. Alexandra Grazioli, Senior Legal Advisor, Swiss Federal Institute for Intellectual Property. He thanked the Director General and the Deputy Director General, Mr. Geoffrey Onyeama, for the continued efforts to mainstream the Development Agenda. The Chair highlighted the importance of the Committee and the subject of development and intellectual property. The Committee played a crucial role in this regard. Its current session was important as it marked the fifth year of the Development Agenda. With the close involvement and supervision of the Member States, significant progress

had been achieved in its implementation. The Committee would now deal with the fruits of some of this work, particularly through the consideration of evaluation reports for certain projects as well as various studies and recommendations resulting from the implementation of a number of Development Agenda projects. The cooperation and commitment of all delegations was required for the meeting to be conducted in an efficient and constructive manner. The Chair emphasized the need for consensus building and dialogue to achieve the desired outcomes.

11. The Deputy Director General informed the Committee that the Director General, Dr. Francis Gurry, could not be present as he was travelling and would attend the session upon his return. The Deputy Director General thanked the outgoing Chair, Ambassador Abdul Hannan, for his excellent work as Chair of the Committee. He also welcomed and congratulated the new Chair, Ambassador Mohamed Siad Doualeh, on his election and was certain that the Committee would continue to achieve good results under the Chair's leadership. The Director General's Report was among the documents to be considered by the Committee. That Report would provide an overview of the implementation strategy for the Development Agenda as well as progress being made in mainstreaming the Development Agenda into the Organization's activities. The Annexes to that Report provided further details of other developments. Additional information on what had and was being achieved, and what was planned was also included in various other working documents prepared for the Committee's consideration. This year marked five years since the Development Agenda was first agreed and adopted by the Member States. A new impetus was given to the Development Agenda process through the adoption of a project methodology in 2008. The Committee had approved and executed various projects to give concrete effect to the Development Agenda. To date, 23 projects had either been completed or were in the process of being completed. Six project evaluation reports would be presented to the Committee in the course of this session and the rest during the current Biennium. These reports would provide a picture of the effect given to the Development Agenda, and the potential for these concrete projects to assist beneficiary countries. The Development Agenda had also been integrated into the regular Program and Budget and was being effectively mainstreamed across all areas of the Organization's work. That process was likely to be completed next year. An effective Coordination Mechanism was also in place to enable other WIPO Committees to systematically and institutionally address the recommendations of the Development Agenda. This was one of the key achievements of the process to mainstreaming the Development Agenda into the work of the Organization. As a result, the Development Agenda was not only integrated within the Secretariat, it had also been mainstreamed into all the norm-setting Committees of the Organization. In concluding, the Deputy Director General expressed his hope that the Committee would continue to achieve progress and wished the delegations a very successful ninth session.

Agenda Item 3: Adoption of the Agenda

12. The Chair recalled that the work for the ninth session of the Committee had been determined during discussions on future work in the previous session. The draft agenda was prepared on the basis of those discussions and in accordance with Rule 5 of the WIPO General Rules of Procedure. During an informal briefing session on April 25, 2012, the Secretariat had been requested to revise an earlier version of the Agenda in order to include document titles. As a result, these were included in document CDIP/9/1 Prov. 2. As there were no objections from the Committee, the Chair declared the Agenda as adopted. He then suspended the meeting to allow for consultations with Group Coordinators.

Agenda Item 4: Accreditation of Observers

13. The Chair invited the Secretariat to introduce the document.

14. The Secretariat introduced document CDIP/9/12 on the Accreditation of Observers and informed the Committee that Communia, International Association on the Public Domain, had requested accreditation to the Committee. If its request was approved, the NGO would obtain ad hoc accreditation for one year, in accordance with the rules and procedures of the Committee.

15. The Chair declared the request as approved given that there were no objections from the Committee. The Representative of Communia was invited to join the meeting. The Chair invited the Committee to move on to Agenda item 5 on the adoption of the draft reports of the seventh and eighth sessions of the CDIP. He then invited the Secretariat to introduce the draft report for the seventh session.

Agenda Item 5: Adoption of the Draft Reports of the Seventh and Eighth Sessions of the CDIP

16. The Secretariat introduced document CDIP/7/8 Prov. It recalled that due to the suspension of the seventh session, the final report for that session could not be adopted in the eighth session. As such, the Report contained in the aforementioned was being presented to the Committee for approval. The Report was issued on December 8, 2011, and the Secretariat had not received any written comments on the Report.

17. The Chair declared the draft Report for the seventh session of the CDIP adopted given that there were no objections from the Committee. He then invited the Secretariat to introduce the draft report for the eighth session of the Committee.

18. The Secretariat introduced document CDIP/8/9 Prov. The draft report for the eighth session was issued on March 1, 2012, and was contained in the said document. The Secretariat had received some written modifications from the Delegation of the United States of America to its own interventions. The report was before the Committee for approval.

19. The Delegation of Germany commented on the presentation of the Report. It was noted that the report was 150 pages long, and was difficult to search as it did not include an index. The Delegation understood that to include an index would require a lot of work. However, it was suggested that it would be very helpful if the Secretariat could in future, include at least the agenda in the beginning of the Report with the relevant paragraphs indicated under each item to make it easier for delegates to search through the document.

20. The Secretariat thanked the Delegation of Germany for its valuable contribution. The Secretariat would of course, as requested, prepare it in the form of different agenda items and documents. However, it was noted that in some cases, when the Committee encountered difficulties in the consideration of a document, the discussions were suspended to allow time for negotiations. The Committee would later revert to the document. This happened in many cases. As such, the meeting reports of WIPO committees were structured in chronological order. However, if the Committee would not like the report to be structured in this manner and given that there were no other observations on the matter, the Secretariat could in future, have reports done on the basis of agenda items and documents rather than in chronological order.

21. The Chair thanked the Secretariat for the clarification and declared the Report adopted given that there were no objections from the Committee.

Agenda Item 6: General Statements

22. The Chair opened the floor for General Statements. As agreed with the Group Coordinators, general statements would only be made by Regional Group Coordinators.

23. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, congratulated the Chair on his election. Confidence was expressed that the Committee would make important strides towards the meaningful mainstreaming of the Development Agenda under his stewardship. The Group also expressed its sincere appreciation to the Director General and Secretariat for the encouraging work and documentation. It was particularly pleased with the comprehensive and encouraging overview of the implementation of the Development Agenda provided in the Director General's Report. The Report showed that important steps had been taken by the Member States as well as the Director General and his team to ensure greater development orientation in WIPO's work and that concrete progress was being made towards a meaningful and general mainstreaming of the Development Agenda. The Group commended the Director General and his team for laying the foundations for a sustained and meaningful transformation of the Organization to enable development considerations to automatically become an integral part of WIPO's work. It noted with satisfaction all the positive steps including the mainstreaming of development in all the substantive strategic goals and relevant programs of the Organization, the strengthening of program performance reports to reflect the contribution of each program to development, the integration of Development Agenda projects and activities into WIPO's Results-Based Management (RMB), the development and circulation of a WIPO Code of Ethics, the provision of technical assistance particularly on national IP strategies, and the integration of the Development Agenda in the training programs of the WIPO Academy. The members of the Group were also pleased to note the Director General's undertaking that progress reports on the implementation of specific Development Agenda recommendations would continue to be provided regularly. The Group welcomed the document on scenarios and possible options for the implementation of three recommendations suggested in the Scoping Study on Copyright and Related Rights and the Public Domain, on the understanding that the remaining recommendations by Professor Séverine Dusollier should be discussed at a later stage. The Future Work Program on Flexibilities in the Intellectual Property System had been approved in the previous session, and the Group welcomed the document prepared by the Secretariat, document CDIP/9/11, on the new elements proposed for inclusion in that work program. It was important for the work program to develop a technical and legislative assistance toolkit to address challenges faced by countries in making full use of flexibilities and the means to overcome those challenges. The Group hoped that the Committee would reach an agreement on the said document in order for the work program to be made more effective. The members of the Group also hoped that the proposed new agenda item on the important linkages between IP and development would be included in the next session of the Committee in November 2012. It noted that out of the three elements included in the mandate given to the Committee by the General Assembly in 2007, only two were reflected in the Agenda. The first, to develop a work plan for the implementation of the adopted recommendations, and the second, to monitor, assess, discuss and report on the implementation of all recommendations and coordinate with relevant WIPO bodies for that purpose. Although it had been mandated to do so by the General Assembly, the third element which required the Committee to discuss IP and development related issues, had yet to be addressed. The Committee would be remiss in complying with the General Assembly's mandate if it did not address the key issue of IP and development. The establishment of a Coordination Mechanism to enable the Committee to oversee the integration of the Development Agenda in all areas of WIPO's work could be considered a significant achievement. However, the Committee should try to make the mechanism operational. The Coordination Mechanism should not be seen as a problem but rather as a solution to eliminate duplication in the work of committees and to enhance coordination among committees. In that regard, the document describing the current contribution of the relevant WIPO bodies to the implementation of the respective Development Agenda recommendations was important. In view of the lack of consensus in the previous session, it was important for the Committee to reach an agreement on the overall functioning of the Coordination Mechanism, including on the modalities for reporting and improving the quality of reports to facilitate discussions in the Committee. Without an agreement on the modalities, the Committee's discussions on the

Coordination Mechanism would be more complex and it would be difficult to reach concrete results. The Group thanked the Secretariat for facilitating the work of the *Ad Hoc* Working Group on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The *Ad Hoc* Working Group had very useful and interesting discussions on the recommendations of the external review. It considered the report of the *Ad Hoc* Working Group along with the minutes of the *Ad Hoc* Working Group's meetings as useful tools for continuing the deliberations of the Committee on this issue. It was unfortunate that the *Ad Hoc* Working Group could not reach consensus on the identification of redundant or irrelevant recommendations due to the differing interpretations by Member States on what should be considered as redundant or irrelevant in the context of on-going WIPO activities. The Group welcomed discussions on the External Review of WIPO's Technical Assistance and the Management Response. The Committee must, in its current session, discuss ways to positively implement the recommendations of the External Review and translate the relevant recommendations into concrete action-oriented policies aimed at the improvement of WIPO's technical assistance. The Report on the External Review was a useful tool for continuing the deliberations in the Committee as it provided a detailed analysis as well as a number of recommendations that it may find relevant for improving the delivery of WIPO's technical assistance activities and services. The Group noted that some projects were reaching completion. However, it stressed that the termination of a project did not translate into the implementation of specific Development Agenda recommendations. As mentioned earlier, the Development Agenda was a long-term work in progress and Member States should be free to propose new or additional projects for the consideration of the Committee, if necessary. The Group reiterated the importance of Recommendation 5 of the Development Agenda which stipulated that WIPO shall display general information on all technical assistance activities on its web site, and shall provide, on request from Member States, details of specific activities with the consent of the Member States and other recipients concerned for which the activity was implemented. Various Development Agenda projects were being implemented through the regular budget. At the same time, WIPO was also carrying out many other projects which were closely related to CDIP projects through external budgetary resources. It would be useful for the results of related projects funded through extra budgetary resources to be shared with Member States. As such, the Group was pleased that a side event dedicated to the sharing of information on funds and activities would be held during the week. It would help to avoid duplication in the execution of the Committee's work. Lastly, the Group believed that the Committee should be proud of its collective achievements in the implementation of the Development Agenda in the last few years. It looked forward to a continuation of commitment to consolidate and build on what had been achieved. The Group would continue to engage constructively in the discussions and looked forward to progress in the Committee.

24. The Delegation of Nepal, speaking on behalf of the Group of Least Developed Countries (LDCs), congratulated the Chair on his election and expressed its full support for the Chair. The Group expressed its sincere thanks to Ambassador Hannan for the excellent leadership he provided to the Committee in the past sessions and the Director General for his detailed Report in document CDIP/9/2. The document gave an overview of how WIPO had mainstreamed the Development Agenda into its activities. The Group also thanked him for his continued efforts to support the LDCs in addressing specific needs. The adoption of WIPO deliverables for LDCs was a significant achievement in promoting the development of an IP environment and IP infrastructure in these countries. The Organization's decision to mainstream this program of action, which aimed to enable LDCs to graduate at an early date, was equally important. The Group believed that WIPO could contribute significantly towards the realization of objectives in a number of IP-related priority areas including science, technology and innovation. WIPO's work remained crucial both in building productive capacities across a broad range of areas and sectors such as agriculture, food security and rural development, human and social development, and in addressing persistent and emerging challenges. The needs assessments should be effectively coordinated for these to be fully aligned with national priorities. The LDCs

had enormous human and natural resources potential to promote economic growth, welfare and prosperity. Approximately 60 per cent of the population in LDCs was under the age of 25. To harvest this potential, the promotion of knowledge, innovation and the development of adequate technological foundations remained critical. It was imperative to focus on how the IP system at all levels can support the development process in discussions on the economic and overall development implications of IP regimes. Intellectual property rights (IPRs) should be balanced, taking into account the developmental needs of countries, particularly LDCs. The development of IP systems in LDCs required the strengthening of human resources as well as institutional, technological and physical infrastructure. It was critical to harness the innovative and creative potential of people in the LDCs. There was a need to promote a fair, equitable and balanced IP regime. It was encouraging to note that the Development Agenda recommendations continued to guide WIPO's activities in 2011. This included the integration of Development Agenda principles in WIPO's technical assistance activities to assist developing countries and LDCs to use IP for economic development. The Report of the Director General provided useful information on the share of development expenditure through the results framework chart. This was a positive effort. The Group would like WIPO to continue providing assistance to developing countries and LDCs in the development of national IP strategies and policies to support their development needs, including a balanced IP framework to promote innovation, creativity and the transfer of technology. The Group was also encouraged to note that WIPO had been working closely with other UN agencies and the WTO on key issues such as sustainable development, climate change, public health, transfer technology and needs assessments. These were all areas of vital interest to LDCs. The Group emphasized WIPO's continued collaboration with other key development-oriented UN agencies to build the capacities of LDCs in the development of science, technology and infrastructure. It underlined that projects to implement the Development Agenda recommendations needed to be increased both in terms of number and size, and the resources scaled up, particularly with regard to the strengthening of IP infrastructure in LDCs. This could contribute towards addressing the structural challenges faced by LDCs. The agreement reached in the eighth session of the CDIP on the project to enhance South-South Cooperation on IP and Development among Developing Countries and LDCs was a notable achievement, and it looked forward to its full implementation. The Group had taken note of document CDIP/8/INF/1 on the External Review of WIPO's Technical Assistance and the Management's Response as contained in document CDIP/9/14. It was encouraged to learn that the budget allocation for development activities and the implementation of CDIP projects was increasing and that all the sectors of WIPO were involved in the planning and implementation of these activities. However, it expressed concern with regard to some of the findings of the review team. This included the significant shortcomings in defining, measuring and monitoring the distribution of budget expenditure for development cooperation activities. WIPO needed to pay due attention to some of the recommendations. This also included better cooperation with the WTO for the provision of technical assistance, and joint planning and collaboration in needs assessments for the LDCs. In accordance with the review, the Group stressed that WIPO's technical assistance should contribute towards the reduction of the knowledge gap and assist developing countries and LDCs in deriving benefits from the knowledge economy. The objective of WIPO's legislative assistance should be to serve the developmental objectives of the beneficiary countries. The Group was of the view that the CDIP should initiate discussions on IP and development, as required in the mandate given to the Committee by the General Assembly in 2007. Technological progress was necessary for knowledge and wealth creation. A new set of tools was needed to address emerging problems that were never previously imagined. It called for the appropriate transfer of technology and the dissemination of information with a view to creating a sound and viable technological foundation to promote innovation and creativity for the advancement of society and the economy. In concluding, the Group thanked the Secretariat for the preparation of the working documents and for facilitating the work of the Committee. The LDCs looked forward to fruitful discussions in the Committee.

25. The Delegation of Denmark, speaking on behalf of the European Union and its Member States, congratulated the Chair on his election and thanked the Secretariat for the documents. The Committee had a heavy agenda that required intense work and flexibility from all parties. The European Union and its Member States had some proposals for future work to improve the functioning of the Committee. They had come to the meeting with a firm commitment to continue working in a constructive and collaborative manner. The European Union and its Member States looked forward to finding sustainable and balanced solutions. They had every confidence in the Chair's abilities to steer the Committee to achieve those goals. Among the challenges for the current session were the discussions on the External Review of Technical Assistance in the area of Cooperation for Development. They had engaged constructively in the discussions of the *Ad Hoc* Working Group that was set up in the last meeting to discuss the Report of the External Review contained in document CDIP/8/INF/1. The European Union and its Member States thanked the Co-Chairs from Egypt and Belgium and the Co-Rapporteurs from Columbia and Pakistan for their hard work as well as the Secretariat for the Management Response contained in document CDIP/9/14. The *Ad Hoc* Working Group raised specific issues. These should not interfere negatively with efforts and discussions on important substantive documents on the Agenda, especially the proposals for new projects. The European Union and its Member States stood ready to discuss possible ways to improve the work of the Committee.

26. The Delegation of Hungary, speaking on behalf of the Group of Central European and Baltic States, congratulated the Chair on his election and looked forward to a fruitful meeting. It also thanked the Secretariat for the preparation of the documents. There was a substantial amount of work ahead and the Group stood ready to work with a constructive spirit to ensure a fruitful and balanced outcome. The week's agenda included several important points and a number of reports. The Group thanked the Secretariat and Director General for the valuable and informative Report on the implementation of the Development Agenda. It also welcomed recent efforts by the Organization to ensure the delivery of efficient development-oriented technical assistance based on a country's needs and level of development. The Group was ready for a substantive discussion of the technical assistance activities contained in document CDIP/8/1. It thanked the participants of the *Ad Hoc* Working Group on the External Review, and in particular, the Co-Chairs from Belgium and Egypt and the Co-Rapporteurs from Columbia and Pakistan, for their hard work on this issue. The Group also expressed its appreciation to the Secretariat for the Management Response contained in document CDIP/9/14. The categorization was extremely helpful for filtering recommendations. The Group also found the extensive explanations provided by the Secretariat during the *Ad Hoc* Group meetings very useful. Although it had learned a lot during the discussion, it regretted that the *Ad Hoc* Working Group was not able to reach consensus on relevant recommendations. The Group hoped that during this session the different interpretations could be put aside to allow the Committee to concentrate on the recommendations to improve WIPO technical assistance. The Chair had the full support of the Group and it was confident that considerable progress would be achieved under his leadership.

27. The Delegation of Paraguay, speaking on behalf of the Latin American and Caribbean Group (GRULAC), congratulated the Chair on his appointment. The Group also thanked the Secretariat for preparing the documents to facilitate the Committee's work, including the revised Agenda which reflected the suggestions made by it and other delegations. It also encouraged the Secretariat to make these documents available as soon as possible in future. The Group reiterated its willingness to continue cooperating with other delegations to implement the recommendations of the Development Agenda. Consideration of those recommendations, and the Organization's activities aimed at capacity building, providing technical assistance and improving specific areas of the IP system among other initiatives, should be consolidated and strengthened to ensure the full integration of development-oriented policies. It was very important for the principles established in the Development Agenda to be reflected in the

activities carried out in its region. It was pleased to note that Brazil would host, among countries in the region, the activities suggested in the project to enhance South-South Cooperation on IP and Development among Developing Countries and LDCs. The Group also highlighted the importance of the project for the Establishment of "Start-up" National IP Academies as a tool for strengthening capacities and spreading knowledge of IP in developing countries. In view of the fact that several countries in region were in the advanced stages of implementation of the project and there were others who were hoping to benefit from the project in the near future, the Group firmly supported its continuation. It hoped that financial resources and technical assistance would be made available at all stages to Member States that were interested in these initiatives. The Group was grateful for the Director General's Report on the implementation of the Development Agenda. The Report summed up the Organization's actions to implement Development Agenda recommendations. For the Report to be more complete, the Group suggested that it would be useful for future reports to include more details on the actions and activities, including an evaluation of the contribution of the relevant activities in the implementation of the Development Agenda. It would also be interesting to include more details on matters such as the Organization's cooperation with other UN agencies and international organizations, and how the Development Agenda recommendations were incorporated in the day to day work and activities of the Organization and its various bodies. The Director General's Report on the implementation of the Development Agenda clearly indicated that the drafting of country plans was a priority in the planning of cooperation activities. The Report stated that the country plans defined specific projects and activities to be jointly undertaken by WIPO and a country over a specific period of time with pre-determined expected results and deliverables. In this context, the Group believed that the process for approving the plans should be accelerated as the lack of decision on many proposed activities led to an unnecessary waste of time. The country plans should also seek to achieve a proper balance between the protection of IP rights and the situation of individual countries if these were to be used to support the development of these countries. WIPO technical assistance should result in the strengthening of capacities to create and innovate. The Group also expressed support for the Scoping Study on Copyright and Related Rights and the Public Domain. It recognized the work undertaken by the WIPO Academy to integrate the Development Agenda recommendations into its training programs. The teaching programs and activities should be intensified and the outreach extended. All official UN languages should be taken into account for these to be inclusive. The Group was also encouraged by the establishment of the Technology and Innovation Support Centers (TISCs) and hoped that their objectives would be effectively achieved and the benefits realized in the short term. The Group welcomed the external evaluation reports for various projects that would be discussed by the Committee. It would be interesting for Member States to discuss the terms of reference and the essential aspects that these should cover. On the *Ad Hoc* Working Group on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development, the Group stated that it had taken part in the meetings of the *Ad Hoc* Working Group. It had also submitted its position, in writing, to the *Ad Hoc* Working Group. The Deere / Roca Report should not be considered as a criticism of WIPO's work. It should be seen as an opportunity to improve the Organization's technical assistance activities for developing countries. The discussions should not lead to more disagreement and exacerbate controversial issues. The Group also expressed its concerns on the lack of translations and interpretations in the meetings of the *Ad Hoc* Working Group. That Group's work had been done in English as it was assumed that the Committee could not take on additional expenses. The issue was closely linked to development and in view of the General Assembly's mandate as well as the fact that the Program and Budget Committee did not consider languages as an extra expense, it should not be held that special mandates such as the one given to the *Ad Hoc* Working Group, was an exception. No special mandate could go against what had been agreed in the Assemblies. The Group urged the Organization to continue implementing studies on flexibilities in IP and to develop tools for technical and legislative assistance to address the challenges faced by countries in making full use of the flexibilities. The Group was also grateful for additional studies on access to

databases as these contributed to reducing the knowledge gap between developed and developing countries. The Group wished the Chair every success in his work and would continue to cooperate to produce concrete results in the forthcoming discussions.

28. The Delegation of Egypt, speaking on behalf of the African Group, congratulated the Chair on his election and thanked the Director General and the Secretariat for the working documents. The adoption of the Development Agenda by the WIPO General Assembly in 2007 was a milestone or paradigm shift in the international perspective on intellectual property. It represented a shift from viewing IP as an end in itself to seeing it as a means to serve the larger public goals of social, economic and cultural development. The inception of the Development Agenda the rebalancing of the global perspective on IP, and the mainstreaming and implementation of the Development Agenda recommendations presented a considerable challenge. A development approach, productive leadership, continuous commitment, cooperation, engagement, oversight by Member States, sustained cultural change within the Secretariat, and engagement with civil society organizations, were required for implementation to be successful. While acknowledging the challenges to its meaningful implementation, the Group strongly supported the mainstreaming of the development dimension into all areas of WIPO's work in view of the importance of the WIPO Development Agenda and the historic opportunity it presented not only to all developing countries but also to those with the potential to fully benefit from the international IP system. The Committee had important issues to address in its forthcoming discussions. The Group looked forward to constructive discussions on the Director General's Report on the implementation and mainstreaming of the WIPO Development Agenda. It also looked forward to addressing and collectively resolving the challenges that remained on the adequate implementation of the decision of the General Assembly in 2007 on the three-pillared mandate of the Committee as well as its decision in 2009 on the mainstreaming of the Development Agenda and the application of the coordination mechanism to all WIPO bodies and committees. The Group also expressed its full support for the proposed project by Burkina Faso entitled, "Strengthening and Development of the Audiovisual Sector of Burkina Faso and Certain African Countries". It hoped that the Committee would express its full support and unanimously adopt the project. The Group looked forward to discussions on the recommendations concerning the External Review of WIPO's Technical Assistance in the Area of Cooperation for Development. The Delegation had the honor of co-chairing the *Ad Hoc* Working Group. The External Review, its recommendations and the Management Response were discussed at length throughout the five meetings of the *Ad Hoc* Working Group. It was now time for Member States to take the lead in the identification of recommendations to be carried forward for implementation. The Group looked forward to the continuation of discussions on WIPO's contribution to the implementation of the United Nations Millennium Development Goals (MDGs). Many of those goals were of direct interest to African States, especially with regard to poverty, education and health. It also looked forward to the full implementation of Recommendation 2 of the Development Agenda which included the phrase, "while continuing to accord high priority to finance activities in Africa through budgetary and extra-budgetary resources, to promote, *inter alia*, the legal, commercial, cultural, and economic exploitation of intellectual property in these countries". The Group looked forward to a constructive and fruitful Committee session and would work with all delegations to make it a success.

29. The Delegation of the United States of America, speaking on behalf of Group B, congratulated the Chair on his election. The Group was confident that the Committee would be able to make progress under his leadership during the session. The Group also thanked the Secretariat for its outstanding work in making available the documents for the session in a timely manner. The Committee would consider approximately 25 documents, some of which the Committee was asked to approve for implementation. Therefore, the Committee must strive to move through the Agenda in a well organized manner while ensuring a balanced discussion. The Group appreciated the proposal by Burkina Faso entitled, "Strengthening and Development

of the Audiovisual Sector in Burkina Faso and Certain African Countries”. The draft proposal was interesting and the Delegation looked forward to a good discussion over the course of the week. The Group also anticipated a lively discussion of the External Review of WIPO Technical Assistance in the Area of Cooperation for Development and the accompanying Management Response. Although the *Ad Hoc* Working Group did not meet the Delegation’s expectations insofar as reducing the number of recommendations to be discussed by the Committee, it believed it was a worthwhile effort and thanked colleagues from the other groups for participating, especially the two Co-Chairs from Egypt and Belgium and the two Co-Rapporteurs from Colombia and Pakistan for their efforts. However, the Group felt that any further discussion of the recommendations should take place in the Committee. Finally, the Group assured the Chair that he could count on the constructive spirit and support of its Delegations during this session of the Committee.

30. The Delegation of China congratulated the Chair on his appointment and expressed conviction that under his able leadership the meeting would achieve its expected goals. It also thanked the Secretariat for the documents. Eight years had passed since the adoption of the Development Agenda in 2007. During that time, the Organization had made tremendous efforts to mainstream development into its work and had delivered fruitful results. So far, the Member States had approved 23 projects addressing 29 Development Agenda recommendations. The Delegation commended the excellent work carried out by the Organization. It also thanked the Director General for his Report. The Delegation noted that, as the discussions deepened, the Development Agenda was being continuously fleshed out. Although the objective assessment of implementation had identified some problems, with the help of Member States, the Organization was capable of further improving its work on the continuous implementation of the Development Agenda. The Delegation was ready to actively participate in the forthcoming discussions with all other Member States under the able leadership of the Chair.

31. The Delegation of Algeria, speaking on behalf of the Development Agenda Group joined other delegations in congratulating the Chair on his election and expressed confidence in his leadership of the session. The Delegation also expressed its gratitude to his predecessor, the Ambassador of Bangladesh, for his excellent work during the two years of his leadership of the Committee. The Group thanked the Director General for his full engagement to significantly mainstream the Development Agenda in all the Organization’s activities and expressed its appreciation for the good work undertaken by the Secretariat under the leadership of the Director General and his Senior Management Team in this regard. The Group was greatly encouraged by the positive developments. However, more was required for development considerations to be automatically integrated into the Organization’s work. Institutional matters related to the functioning of the CDIP required the attention of all its Members. These issues must be resolved for Member States to truly assess the implementation of the Development Agenda. The Group made some observations in this regard. On the Coordination Mechanism for monitoring and assessing the implementation of the Development Agenda, the Committee should agree on the WIPO bodies that must report to the General Assembly on their contribution to the implementation of Development Agenda recommendations. To ensure the full implementation of the three pillars of the Committee’s mandate, the Group reiterated its proposal to include a new item entitled, ‘Intellectual Property and Development’, on the Committee’s agenda. It would allow for discussions on the important linkages between IP and development, including *inter alia*, discussions on the WIPO seminar series on the economics of intellectual property as well as WIPO’s contribution to the MDGs. The Group referred to the Director General’s Report on the implementation of the Development Agenda contained in document CDIP/9/2, noting that it sought to provide a macro level assessment of the work undertaken by the Organization. The Group thanked the Director General for his personal commitment and engagement in the implementation of Development Agenda recommendations. Efforts to mainstream the Development Agenda into the Program and Budget were positive developments. However, there was still scope to improve the mainstreaming of the

Development Agenda in the Program and Budget process. The Group was happy to note that the discussions had advanced on a number of issues in the last session of the Committee. It also noted that most of the ongoing projects were progressing successfully. Those projects constituted a concrete contribution to the implementation of the Development Agenda. However, it reiterated that the Development Agenda was a long term work in progress and important challenges remained in its implementation. There was still a need to re-think the IP system in order to reflect the interests of all countries. The system should be balanced and it should promote innovation and access to knowledge. The implementation of the Development Agenda was dependent on the commitment of Member States and on cultural change in the Organization's approach to its work. It would contribute to the consolidation of the Development Agenda in the Organization's work. On Agenda Item 8, "Consideration of work program for implementation of adopted recommendations", the Group was encouraged by the quality of the documents and thanked the Secretariat for its work in this regard. The issues proposed on that Agenda item deserved the Committee's interest, particularly in relation to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development, study on flexibilities, external independent evaluation report for the project on IP and the public domain, as well as the Conference on Mobilizing Resources for Development. On the External Review of WIPO Technical Assistance, the Group was of the view that sufficient time should be allocated to discuss the Report thoroughly in order for progress to be made on the recommendations that were made in this regard. It recalled that in the previous session, the Committee had decided to establish an *Ad Hoc* Working Group to review the recommendations of the External Review. During the inter-sessional period, the *Ad Hoc* Working Group met on several occasions to extensively discuss and exchange views on the recommendations as well as the Secretariat's response in document CDIP/9/14. The commitment reflected the interest of Member States in the Report. The Group would engage constructively in discussions on the recommendations included in the Report to improve WIPO's technical assistance in the area of cooperation for development. It was now time to focus on specific proposals to improve the Organization's development cooperation activities. The Group would make specific proposals aimed at improving these activities, in discussions under Agenda Item 8. The Work Program on Flexibilities in the Intellectual Property System was another important issue. Determining how IP-related flexibilities could be fully and effectively used in accordance with development and public policy objectives was a key challenge faced by most developing countries and LDCs. Hence, continued support for the work program was required, particularly on 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 constructive discussion to move forward on those issues. The work program should reflect the understanding that it was crucial to strike a balance between the different interests. The external study assessing WIPO's contribution to the achievement of the MDGs also deserved the Committee's interest. The Agenda item on IP and Development could facilitate discussions on the contribution of WIPO to the MDGs and the preparation of WIPO's report in 2015, when the MDGs would be reviewed. The Group also looked forward to examining and assessing the project on IP and the Informal Economy. Such projects would assist developing countries to utilize IP in the informal sector without focusing on promoting enforcement in relation to counterfeit or pirated goods. Finally, it was important for development to remain as a strategic priority for WIPO in the next millennium as it would 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 related issues. The criteria used in the Report on the External Review to define technical assistance activities for development was pertinent in this regard.

32. The Delegation of Bangladesh conveyed congratulations and support for the Chair on his election. The Delegation was certain that the Chair's experience and leadership skills would help the Committee to successfully conclude another of its sessions. The Committee contributed greatly towards the development and protection of IP in developing countries in accordance with development needs. In this context, Ambassador Abdul Hannan's valuable

contribution was manifested in various achievements of the Committee, from the adoption of the Coordination Mechanism to the approval of many important development projects. The Delegation hoped that the new Chair would continue to receive the same support and cooperation from the Member States.

33. The Chair declared the Agenda item closed and, following discussions with group coordinators, proposed a change to the Committee's schedule. The Director General's Report on the implementation of the Development Agenda which had originally been scheduled for discussion that afternoon would be postponed to later in the week. The External Review of WIPO technical assistance would be considered in its place and would continue the next morning when the Author would be present.

34. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, recalled that it had made some proposals during the consultations and had expected these to be taken onboard. On the Chair's proposal for the way forward, the Group was of the view that the Report on the External Review should be discussed in the Author's presence as observations and comments would be made on the Report. The Author's absence could be problematic. The proposal by the Delegation of Egypt, on behalf of the African Group, for the Committee to consider documents CDIP/6/12 Rev. and CDIP/8/6 Rev., would give the Committee room to discuss that issue later. However, the Group was open to suggestions from other groups.

35. The Chair informed the Committee that the necessary experts would not be available during the times allocated for discussing the review of certain projects.

36. The Delegation of Egypt thanked the Chair for his proposal. It noted that the Report of the *Ad Hoc* Working Group had yet to be finalized and presented to the Secretariat. Thus, if the Committee was going to discuss the External Review, clarification was sought as to whether this would be done in the absence of the Report of the Working Group. Perhaps it was better to wait until the Report was distributed and circulated by the Secretariat to all Delegations in order to build on what had already been discussed in the five meetings of the Working Group. It also sought clarification on the timing for the Delegation of Burkina Faso to present their project, as the Delegation of Burkina Faso had shown flexibility and was willing to present its report that afternoon. However, it was left to the Chair to guide the Committee on the way forward.

37. The Delegation of Burkina Faso congratulated the Chair on his election. As he was a skilled diplomat, the Delegation was certain that the Chair would help the Committee achieve its goals for the session. The Delegation thanked all those who had supported its project and reiterated that it remained available and willing to hear all suggestions for the improvement of the proposed project.

38. The Chair referred to the timetable prepared by the Secretariat and informed the Committee that the project proposed by Burkina Faso was scheduled to be presented on Thursday from 11:30 to 13:00 hours. He requested the Delegation to let him know of the time required to make their presentation if the schedule were to be changed for the afternoon.

39. The Delegation of Burkina Faso stated that an hour would be sufficient but the total time required would depend on the contributions from other delegations.

40. The Chair suggested some possibilities. The Committee could either consider the Director General's Report in his absence or examine the Report on the External Review. The Committee could also consider the project proposal by Burkina Faso. However, there was a need to decide as time was of the essence.

41. The Delegation of Venezuela thought that the solution would be to start in the afternoon with the project proposed by Burkina Faso. The Delegation agreed with the Development Agenda Group on the importance of having the Author present during the discussions on the External Review. If the Delegation of Burkina Faso agreed, the Committee could start with their proposal and then go on to the External Review. The questions could be put forward to the Author the following day.

42. The Delegation of Burkina Faso thanked the Delegation of Venezuela for their intervention. It wanted to be part of the solution and not part of the problem. It understood that there was some time available in the afternoon and it made its proposal in order to fill that slot. However, if it created more difficulties, it was flexible and could make its presentation at any time.

43. The Delegation of Denmark, speaking on behalf of the EU and its Member States, fully appreciated the difficulties concerning the program for the afternoon. However, the EU and its Member States were not yet prepared for discussions on the Burkina Faso project. As to the External Review Report, they also had certain concerns as the Author was not present. As such, the Delegation suggested that the Director General's Report should be considered in the afternoon.

44. The Delegation of Germany fully supported the statement by the Delegation of Denmark on behalf of the EU and its Member States. There had not been time for coordination. There was some sense in the original schedule. A side event had been scheduled with regard to the proposal from Burkina Faso. There were many other projects on the Committee's agenda, including six evaluation reports. These should be discussed prior to the proposal from Burkina Faso as the Committee should avoid making the same mistakes as in the past. The original schedule made sense and the Committee should continue with it.

45. The Delegation of Egypt referred to the proposal by the Delegation of Germany to discuss current projects first. In that context, it was suggested that the Secretariat could be requested to begin with a presentation on Phase II of the project on access to specialized databases or Phase II of the project on IP Academies. It would be excellent if this could be arranged. An alternative would be to discuss unresolved matters which were still on the Agenda, including document CDIP/6/12 Rev. on the proposal for an agenda item on IP and Development to implement the third pillar of the CDIP mandate and document CDIP/8/6 Rev. Thus, there were two alternatives. The Group was ready to discuss all issues and reports. It was flexible and would be guided by the Chair on this matter.

46. The Delegation of the United States of America, speaking on behalf of Group B, observed the Committee seemed to be in a dilemma. It noted that the Chair had offered three suggestions. In its view, probably the path of least resistance was to address the Director General's Report on the implementation of the Development Agenda. Although the Director General was not present to field any questions, the Secretariat was probably instrumental in the drafting of the Report, and if there were any questions for the Director General, those could be conveyed to him and perhaps he could step in later in the week. There had been good arguments as to why the Committee could not take up the External Review Report now. The Report of the *Ad Hoc* Working Group was not yet completed and the Author was not in town. On the evaluations, speakers or drafters were currently not available with regard to four evaluations. On the Burkina Faso project, the side event that the Delegation of Burkina Faso had agreed to undertake would actually help to develop that proposal further. The Director General's Report was probably the best option for that afternoon.

47. The Chair noted all the proposals. The Committee needed to make a decision. If it was not possible for the Committee to reach a decision, he suggested that the session be

suspended and a meeting held with regional coordinators. The Chair requested to hear if there were any objections to the proposal made by the Delegation of the United States of America.

48. The Delegation of Egypt recalled that the African Group had also made a proposal, and suggested that both proposals should be considered. The Group wished to be constructive and if the Secretariat were ready to present the proposals for extensions, these could be discussed.

49. The Chair assured the Delegation of Egypt that its proposal had been considered. A review or assessment was necessary in order to consider the extensions. However, the people involved were not available at the moment. The proposal was considered and for purely logistical reasons it was not possible to follow it up.

50. The Delegation of Algeria supported the remarks made by the Delegation of Egypt. The Delegation had made a proposal which was echoed by the Delegation of Egypt, to examine documents CDIP/8/6 Rev. and CDIP/6/12 Rev. These did not require the presence of the evaluator or any other persons. These were also issues that had been discussed many times before. The positions of the groups were well known and the Committee could work on those issues.

51. The Delegation of South Africa congratulated the Chair on his appointment and expressed confidence that he would lead the Committee through a successful session. The Delegation supported the proposal made by the Delegation of Egypt on behalf of the African Group with regard to the way forward. The Delegation believed that document CDIP/6/12 Rev. should be considered after lunch because it did not think that there were difficulties involved. It also noted that in the last session, the Committee had stated that sufficient time would be allocated to that particular issue as it had been on the table for quite some time. It was also linked to an IP conference that the Committee should discuss. Thus, the afternoon presented an opportunity to discuss that particular Agenda item.

52. The Delegation of Germany supported the proposal by its Coordinator to stick to the original Agenda as much as possible as the groups had prepared for the planned discussion in the afternoon. It would be better to stick to the original schedule and discuss the Director General's Report as the other issues were scheduled to be considered later in the week.

53. The Chair noted that there was no agreement. He suspended the meeting and called for a Regional Coordinators' meeting to discuss the program of work.

Agenda Item 7: Monitor, assess, discuss and report on implementation of all Development Agenda recommendations and consideration of the Director General's Report on Implementation of the Development Agenda

Consideration of Document CDIP/8/6 Rev. Description of the Contribution of the Relevant WIPO Bodies to the Implementation of the Respective Development Agenda Recommendations

54. The Chair informed the Committee that in his discussions with the Group Coordinators, it had been agreed that two documents would be discussed in the course of the afternoon. This included document CDIP/8/6 Rev., "Description of the contribution of the relevant WIPO bodies to the implementation of the respective Development Agenda recommendations", and document CDIP/6/12 Rev., "Proposal for a CDIP New Agenda item on Intellectual Property and Development". The Chair proposed that the Committee begin with document CDIP/8/6 Rev., and invited the Secretariat to introduce the document.

55. The Secretariat stated that document CDIP/8/6 Rev. contained a description of the contribution of the relevant WIPO bodies to the implementation of respective Development

Agenda recommendations. The Committee would recall that under the agreed Coordination Mechanism, the relevant WIPO bodies had reported their contribution to the General Assembly, as set out in document WO/GA/40/18. Following its consideration of the document, the General Assembly had forwarded the Report to the CDIP last year. The Committee had discussed the document in the last session and decided that discussions would resume in the ninth session. It was also decided that Member States may make comments on the document, which would be compiled by the Secretariat and presented to the Committee. In that regard, the Secretariat informed the Committee that no comments had been received from any Member State on the document since the last session. Consequently, the document was presented again to the Committee for its consideration.

56. The Delegation of the Iran (Islamic Republic of), speaking on behalf of the Asian Group, noted that the ultimate objective of the Report was to facilitate coordination among WIPO committees. In that regard, there should be agreement on a concrete proposal to coordinate and monitor development activities among committees. However, there was a problem concerning the reporting modalities and these reports did not reflect the consensus view of the committees. As such, any kind of follow-up would be difficult. Although the Coordination Mechanism had been established, it did not appear to be functioning, as demonstrated in discussions in the last Committee session. The Committee should try to make the Coordination Mechanism operational. The mechanism should not be seen as a problem but rather, as a solution to eliminate the duplication of work among committees and to enhance coordination among committees in relation to development activities. In that regard, the document on the contribution of the relevant WIPO bodies to the implementation of the respective Development Agenda recommendations was important. However, as mentioned, since there was no agreement and consensus in previous discussions on this matter, it was important to reach an agreement on the overall functioning of the Coordination Mechanism, including reporting modalities and improving the quality of reports in order to facilitate discussions in the Committee. Without agreeing on the modalities, discussions on the Coordination Mechanism in the Committee would be more complex and it would be difficult to reach any kind of agreement. There was a lack of coordination among committees on development-related activities, particularly in the area of norm-setting. Without proper coordination, the Committee would not be able to discharge the second pillar of its mandate, namely, monitoring, assessing, discussing and reporting on the implementation of Development Agenda recommendations in coordination with other relevant WIPO bodies. In that regard, the Group welcomed the initiative by the Chair of the General Assembly to hold informal consultations on modalities to ensure the functioning of the Coordination Mechanism and the identification of relevant bodies for reporting purposes.

57. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for compiling document CDIP/8/6 Rev. The document reflected efforts to implement the decision of the General Assembly in 2009, on the Coordination Mechanism. The Group made three comments on the document. The first was on the format of the Report. It noted that the Report reproduced actual statements made by different delegations in the respective meetings of the committees. Those did not count as a description of the contribution of the implementation of respective or specific Development Agenda recommendations. The Group questioned the choice of this particular format for the Report. It also wondered why it was not possible for a Committee to identify relevant recommendations and analyze how its work contributed to the implementation of those recommendations. For example, Recommendation 18 to accelerate the process on the protection of genetic resources, traditional knowledge and folklore was directed at the IGC. The Report could state the Recommendation and explain that the IGC had been expediting its negotiations, it had conducted three meetings, texts were being developed, and so on. This was an example of the sort of analysis that the Report could contain based on the Development Agenda recommendations that were relevant to the Committee's work. The second issue concerned the relevant WIPO bodies that were subject to the Coordination Mechanism. The Group noted that the Report did not include a contribution from two important

committees, namely, the Program and Budget Committee (PBC) and the Committee on WIPO Standards. Those two committees were still not participating in the implementation of the decision by the General Assembly and there were diverging views on whether and how these can contribute to the Coordination Mechanism. It was opined that these committees were directly relevant to the implementation of Development Agenda recommendations and should therefore, report on their contribution. There were several examples of this, including in particular, the Report by the Secretariat that the Development Agenda recommendations had been mainstreamed in the Program and Budget for 2012-2013. This was just one example. If the recommendations had been mainstreamed in the budget, it should not be difficult for the PBC to report on its contribution to the recommendations. The third point was to seek clarification, perhaps from the Secretariat, on two other elements of the General Assembly's decision. The first was for the Committee to undertake a review of the implementation of recommendations at the end of the current 2012-2013 biennium. The Committee needed to discuss or decide on a possible further review and the terms of reference for the selection of independent IP and development experts for the independent review. The Group sought clarification on the process, including when and how the Committee could agree on the terms of reference, in order for this important element of the General Assembly decision to be implemented. The other issue that required clarification concerned the request to include in WIPO's annual report to the United Nations, a report on the implementation of the Development Agenda, pursuant to the agreement between the United Nations and WIPO. The Group requested an update on the implementation of that element of the General Assembly decision, and for the Secretariat to share the report if possible.

58. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, reiterated its position that the Coordination Mechanism was one of the pillars of the CDIP. The Committee was created to deal mainly with the implementation of the Development Agenda and the mainstreaming of recommendations in WIPO activities. Hence, its mandate included the requirement to monitor, assess, discuss and report on the implementation of all adopted recommendations in coordination with relevant WIPO bodies. The Coordination Mechanism was one of the elements necessary for the Committee to realize its objectives. As such, the Group was pleased with the General Assembly's decision to create the mechanism. However, the Mechanism had yet to serve its purpose as it was not fully functioning. It was noted with pleasure that some committees had reported on their contribution to the implementation of the Development Agenda. The Report indicated that views differed on how Development Agenda recommendations had or were being implemented. It also provided an opportunity for Member States and the Secretariat to exchange views on implementation. Discussions on the Coordination Mechanism should include certain elements. The first was on the issue of monitoring and assessment. This required the Committee to assess the extent to which the recommendations were being implemented, rather than the activities which supported implementation, as had been proposed by the Delegation of Egypt on behalf of the African Group. That was something that the Committee needed to consider. The Delegation of Egypt provided an example of the implementation of Recommendation 18. The Committee could also discuss other recommendations to assess the extent of their implementation. In the course of assessment, the Committee would be dealing with different aspects, including technical assistance provided by the Secretariat, norm-setting and how issues were being addressed in the various committees, taking into account the recommendations of the Development Agenda. It was important for the Committee to approach its work on the issue in that manner. The Group recalled that in the discussions in the previous session on its proposal with the African Group for the Secretariat to prepare an updated document, it was understood that this would be done on the basis of the main elements included in the statements made by the delegations. Those elements required examination and should be consolidated in a form that would make it easier for the Committee to give due consideration. The objective was to determine how the Committee was going to monitor and assess the implementation of the Development Agenda. The Committee required clear tools for this purpose. This included the proposed document by

the Secretariat to consolidate the main issues raised by delegations in their statements. Another issue which required discussion concerned the relevant committees which were required to report on their contribution to the implementation of the Development Agenda. It was clear that this was applicable to all committees as the decision by the General Assembly to adopt the Development Agenda recommendations required these to be mainstreamed into all WIPO activities. However, it was not clear as to whether discussions on the relevant committees should be held in the Committee or in the committees themselves. The unresolved issue of who should decide on whether a Committee was required to report had led to difficulties in the meeting of the Committee on WIPO Standards (CWS) last week. This was an important issue for the Group and it would fully engage to find a solution in the current session of the Committee.

59. The Delegation of South Africa aligned itself with the statements made by Delegation of Egypt on behalf of the African Group and Algeria on behalf of the Development Agenda Group. This item was carried over from the previous session of the Committee. It was unfortunate that the Committee had not been able to find a solution to the proposal reiterated by the Development Agenda Group to document CDIP/8/6 Rev. in a reader-friendly manner to facilitate discussions. The document only contained statements which highlighted the views of regional groups and individual countries. As such, the Secretariat had been requested to prepare a reader-friendly document to highlight the assessments, improvements and recommendations made by Member States in their factual statements. The Secretariat would analyze the document without judging the statements. The proposal had been made at the last session to facilitate discussions among Member States. The Committee had also decided that Member States may submit comments to the Secretariat on document CDIP/8/6 Rev. However, the Secretariat had not received any comments perhaps because no one was willing to read a mini report. The Delegation also referred to the decision made by the Committee in the previous session on the Coordination Mechanism. As highlighted by the Development Agenda Group, the actual implementation of the Mechanism appeared to be difficult. The Committee was always going back to the issue of the relevant committees. In the previous week the CWS had been identified by many developing countries as a relevant Committee but other Member States had not agreed. It was important to address this issue concerning the relevant WIPO committees which should report to the General Assembly on its contribution to the implementation of the Development Agenda. At the last session, it had again been decided that intercessional informal consultations should be undertaken to discuss the issue. Similar decisions had been undertaken since 2010. The Delegation requested information whether such consultations had ever taken place as it was important to follow through with those decisions. Decisions should not be made just to defer some of the issues. This was a very important issue. It would also be raised in forthcoming discussions on the External Review of WIPO technical assistance. Hence, clarification was required and in that regard. The Delegation emphasized that it should not be discussed in the periphery of the Committee. It should be discussed in the formal session of the Committee due to the importance of the decision taken by the General Assembly, the highest WIPO decision-making body. The Delegation reiterated its appreciation to all the committees that had reported to the General Assembly on their contribution to the implementation of the Development Agenda and looked forward to constructive engagement on the matter.

60. The Delegation of Brazil congratulated the Chair on his election and highlighted its commitment to cooperate and work constructively on the areas covered by the Committee. The Delegation attached great importance to the Coordination Mechanism. It thanked the Secretariat for preparing document CDIP/8/6/Rev. The Delegation concurred with the views expressed by the Development Agenda Group and African Group that the Report could be further improved in terms of its analytical perspective. After five years, the implementation of Development Agenda recommendations should become an integral part of WIPO's activities, not only in terms of its content, but also with regard to its budgetary and administrative

processes. The Development Agenda was not only a matter for the Committee or of technical assistance activities. It concerned WIPO as a whole and included all aspects of its normative activities. That was the reason why the Coordination Mechanism should apply to all WIPO bodies. It was necessary to fully mainstream the Development Agenda recommendations into all WIPO activities. The PBC was an outstanding example. The issue of development had been discussed in the PBC. The Delegation recalled the commitment expressed in the last session to hold further discussions on the definition of development-related activities. Given the role of the PBC in the assignment of resources to the different projects, it was of utmost importance for that body to be considered relevant in terms of reporting to the General Assembly on the implementation of the Development Agenda. The Delegation also reiterated its view that the CWS should report to the General Assembly on how it was implementing Development Agenda recommendations. It would send a clear signal that the recommendations were being mainstreamed into all areas of WIPO's work.

61. The Delegation of the United States of America, speaking on behalf of Group B, recalled that in the last session of the CDIP, in November 2011, the Secretariat requested comments on the Report contained in document CDIP 8/6. None were submitted. It did not agree that the Secretariat should be asked to revise that document without inputs from Member States. Member States had been given a chance to provide inputs and apparently none had done so. The Coordination Mechanism did not call on all committees to report. It called on all relevant bodies to report. When the Coordination Mechanism was negotiated, the word "relevant" was included because it presupposed that there were non-relevant or irrelevant bodies with respect to the Development Agenda. In the previous week a lot of time had been spent in the Committee on WIPO Standards discussing the issue. The Group never stated that the issue should be taken to the CDIP. It had always maintained that the committees themselves should determine whether or not they were relevant for the purposes of Development Agenda recommendation reporting.

62. The Delegation of Switzerland expressed its support for the statement made by the Delegation of the United States of America on behalf of Group B. Document CDIP/8/6 Rev. did contain a compilation of the statements made by various delegations in the relevant committees. The reports, including the way in which they were put together, were agreed in the Committees. The format was logical. The Secretariat should not re-work the document in the suggested manner as this would involve analyzing and interpreting what had been said. The Delegation was not in favor of the Secretariat carrying out the proposed work on the statements, particularly in view of the neutrality of the Secretariat's work and the fact that interpretation was required. It was the Member States that should speak and this had been done in an appropriate manner. With regard to the Coordination Mechanism and the relevant committees, the Delegation had always said that it was up to the Committees to define their own mandate. An explanation had been provided as to why some committees were not relevant. Hence, it did not see the point of repeating those discussions time and time again. It would not help to advance the issue in any manner.

63. The Delegation of Hungary expressed support for the statements made by Group B and the Delegation of Switzerland that it was up to each Committee to decide whether or not it was a relevant body in terms of reporting under the Coordination Mechanism. In the discussions in the last session of the CWS, no Delegation had mentioned that this should be discussed in the context of the CDIP. In addition to the discussions in the CWS, informal discussions were also held on this issue. Thus, it would be unfair to say that there had not been a chance for this to be discussed. The Chair of the General Assembly had also decided that he would try to facilitate matters but only within the context of the CWS.

64. The Delegation of Denmark, speaking on behalf of the EU and its Member States, recalled the extensive discussions at the last meeting in which delegations were requested to

submit further comments. The Secretariat had informed the Committee that no such contributions were received. In previous meetings, the EU and its Member States had also clearly indicated which bodies it found to be relevant for the purposes of reporting under the Coordination Mechanism. As such, the Delegation supported the statements made by the Delegation of the United States of America on behalf of Group B, the Delegation of Switzerland and the Delegation of Hungary.

65. The Delegation of Bolivia congratulated the Chair on his appointment and expressed support for the statements made by the Development Agenda Group, the Delegation of South Africa and other likeminded delegations. Delegations such as theirs did not have the capacity to follow the work of all Committees. It would be difficult for it to assess the extent to which these Committees contributed to the Development Agenda based on the information provided in the report as these were extracts of statements made by various countries. The format did not necessarily help to evaluate the contributions. A format should be developed to ensure that Committees informed on their contributions and not just a list statements by countries. In particular, it was important for all the Committees to assess the extent to which their work and working methods had changed because of the Development Agenda and how these were contributing to its implementation. However, the current format of the Report made it very difficult to ascertain and assess these contributions.

66. The Delegation of Algeria referred to the decision of the General Assembly on the issue. On the choice of words, some delegations had referred to the word relevant and as this was included in the decision, there were bodies that were not relevant for the purpose of reporting under the Coordination Mechanism. However, the Group noted that the word “bodies” was also included in the decision. The Development Agenda was based *inter alia* on the principle that the recommendations would be implemented in all WIPO activities. This included activities in all WIPO bodies. On the General Assembly decision, in the Group’s understanding, the word “bodies” referred to all the organs of WIPO, including the bodies of the General Assembly, working groups and so on. No one had mentioned why the decision referred to “relevant bodies” and not “relevant committees”. “Relevant bodies” was used because it included all WIPO organs. Thus, the discussion should not be based on interpretation as such because each Delegation had its own interpretation and each could say that it was right. The discussions should instead focus on what the Committee aimed to gather from the reports submitted by each Committee. These included the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), the Standing Committee on the Law of Patents (SCP), PBC and so on. This was required if the Report was to assist the Committee in monitoring and assessing contributions to the implementation of the Development Agenda. It would not be helpful to continue discussions on the interpretation of words as this could go on for years and years and delegations would not be able to agree. One would see white and the other would see black and vice versa. One would refer to the word “relevant” and another to the word “bodies”. Hence, the discussions should be based on another premise. After lengthy negotiations, Member States had agreed that the recommendations of the Development Agenda needed to be implemented. It was also agreed that some mechanisms were required to facilitate implementation. These included a Coordination Mechanism for reporting and assessing. What was now required was something that would make the mechanism work. That was all. It was not something that was very difficult. As such, the Group reiterated that it was ready to engage with all delegations on the question of whether a Committee was relevant for the purpose of reporting and whether its report would be helpful. This would help to facilitate discussions on this item.

67. The Delegation of Bolivia expressed support for the statement made by the Development Agenda Group and other likeminded delegations. Development should be the main backbone of WIPO and the implementation of the decision of the General Assembly must be done in a cross-cutting manner without a subjective evaluation of the relevant bodies or committees. It

was very important for the Coordination Mechanism to work in a clear manner in order to assess whether the Development Agenda was having an impact on the Organization's work. The Delegation also recalled the reference by the Delegation of Egypt to WIPO's annual report to the United Nations as required under the agreement between the Organization and the United Nations, and the inclusion of a report on the implementation of the Development Agenda within that report.

68. The Chair noted that there was broad agreement on the centrality of the Coordination Mechanism. A number of issues were raised with regard to the form and quality of the Report. Delegations continued to differ in their interpretation of the decision of the General Assembly. The Chair agreed that the Committee had to find a common interpretation of the decision if it was to succeed in its work on this matter. A number of questions were also raised, including why the intercessional consultations that were scheduled had not taken place. A number of clarifications were also sought from the Secretariat. The Chair invited the Secretariat to respond to the queries.

69. The Secretariat responded to three points. First, on the observation made by some delegations concerning a user-friendly document. It was decided by many committees whose reports were included in the document, that the statements made by the various delegations would be compiled and sent as the report. The Secretariat could think of at least two Committees that had done so. It assumed that those Committees did so for reasons of convenience and to avoid any issues. It may be a challenge for the Development Agenda Coordination Division to prepare a summary or a user-friendly document based on the document that had been deliberately left in its current state. However, it remained guided by the Member States on what they wanted the Secretariat to do. Second, on the issue raised by the Delegation of Egypt on the external review at the end of the 2012/13 biennium the Secretariat stated that given that it was at the end of the current biennium, there was time for the Committee to consider that matter. With regard to the report, during the General Assembly last year, a detailed review was undertaken on what had happened in the past. It transpired that no coherent reports were being made by WIPO and all other UN agencies in Geneva. Following the approval of the Coordination Mechanism, this year the Secretariat would forward a report to the UN General Assembly in New York. The Secretariat (Joe Bradley) informed the Committee that in research that was conducted last year in response to this question, the first thing the Secretariat did was to look at the basis for the requirement in the WIPO-UN Agreement to provide a report, that was, Article 6B on the submission of an annual report to the UN. The Secretariat had checked on the practice with regard to implementation. The Secretariat's research suggested that the Organization had not systematically provided such an annual report. The Secretariat also checked with some of the other specialized agencies and other organizations in Geneva to see what their practices were. From the research, those practices appeared to vary and there did not seem to be an annual reporting process. It seemed that this was initiated when the Agreement with WIPO was first signed but then had stopped. Other organizations tended to produce reports on a thematic basis. After putting this information together, the Secretariat decided that there should be a discussion in terms of how it should go about implementing this and what was practiced in the past. So at present, the Secretariat had not systematically submitted an annual report to the UN on WIPO's activities.

70. The Delegation of Egypt thought it was fair to state that the centrality of the Coordination Mechanism to the CDIP was confirmed. The Delegation tended to agree with the point made by the Delegation of Algeria, on behalf of the Development Agenda Group, on the issue of interpretation. The rules of interpretation were clearly included in the Vienna Convention on the Law of Treaties. It was expressly provided in Article 31 of the Convention that a treaty should be interpreted in good faith in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose. This rule of interpretation could be applied to the two identified terms. The word "relevant" was defined adjectively in the

Oxford dictionary to mean being closely connected or appropriate to the matter in hand. If this definition was applied to the Committees whose work was excluded from the Coordination Mechanism, their work would be found to be closely connected or appropriate to the Development Agenda recommendations. The Delegation could cite many WIPO documents which were agreed by Member States on the relevance of their work to the Development Agenda recommendations. The only disputed Committee was the CWS. Perhaps the Committee could agree that the work of the PBC was relevant to the Coordination Mechanism, and therefore, the Committee should decide that it would contribute to the Coordination Mechanism in future. With regard to the definition of the word "description" in the context of contributions to the implementation of the Development Agenda recommendations, this was of course, different from the meaning of the word "compilation". Compilation required the mere reproduction of actual statements in one document. However, a description entailed efforts to describe what had happened. It doesn't necessarily follow that when you described something, you were taking sides or that you were losing neutrality. There were many recent examples of reports and summaries which included a description of what happened. The Report by the Director General on the implementation of the Development Agenda was an example. The Report included an analysis of what had happened in 2011. This was stated in terms of the mainstreaming of the Development Agenda. It provided a description of the status of projects and the outlook for the mainstreaming of the Development Agenda. This did not mean that neutrality was lost or that there was an interpretation of efforts by WIPO to implement the recommendations. It was just an assessment of the *status quo*. Thus, the Delegation did not believe that a description or assessment of the actual contribution of the work of the Committees to the Development Agenda would necessarily lead to the loss of neutrality. On the way forward, the Committee should agree that the format and quality of the Report required enhancement. A further description was required on the exact recommendations addressed by each Committee and how these were being addressed. This would not necessarily require an interpretation of the different positions expressed by the delegations.

71. The Delegation of South Africa reacted to some of the comments. With regard to its proposal for the preparation of a user-friendly report, this would not require rewriting or interpreting the factual statements that were made. The Delegation merely requested for the comments to be presented in a manner which would enable Member States to grasp what the countries had said because some aspects of the statements were irrelevant and should be deleted. For example, in document CDIP 8/6 Rev., the statements made by the Delegation when it was Coordinator for the African Group, began with the phrase, "The Delegation of South Africa, speaking on behalf of the African Group". This statement was not relevant. Delete what was not relevant and leave the relevant. This was what it had referred to. The Delegation did not ask the Secretariat to compromise its neutrality. Separately, as the Coordination Mechanism was a result of the CDIP, the issue should be discussed in the Committee. Thus, it was incorrect to state that the Committee should not be discussing this, and therefore, it should be discussed in the periphery. This was also substantiated in the decision of the last session. This was clearly stated in Paragraph 5 of that document which also referred to intersessional consultations. The Delegation was still awaiting the Secretariat's response as to whether there was a follow-up to the decision on that matter because the Committee was again discussing how to implement the Coordination Mechanism. The Delegation returned to the issue of a user-friendly report and clarified that it did not believe that just because other WIPO bodies or Committees had decided to present reports factually and in a certain format, the Committee had to consider these. This was where the reports were going to be eventually discussed. The reports had gone to the General Assembly and subsequently forwarded to the Committee. The Member States had the right to say that they could do whatever they wanted to with the reports as they have gone through the proper channel, from the Committees or bodies to the General Assembly and then to the CDIP. As such, the Delegation did not see any problems with its request for the preparation of a user-friendly document to enable Member States to engage

constructively on this matter. It did not share the view provided by the Secretariat that because those bodies had agreed to a format, the Committee should adhere to that format.

72. The Delegation of Switzerland reacted to the comments of some delegations. The issue of the relevant bodies was the most important matter under discussion. With regard to the interpretation of decisions, the most important aspect to be taken into account was the sense that the negotiators were trying to achieve in the decision. The word "relevant" was chosen to make it very clear that not all the Committees of WIPO were relevant when it came to the Coordination Mechanism. This very important point was defended by Group B. The Group had also mentioned the type of bodies to be considered relevant for this purpose. The Group had also stated that the Committees should themselves decide whether or not it was relevant. Implementation had begun a year ago and the Group had come up with a list of relevant bodies. This was made clear in the Group's statements at the last Assembly. As such, the Delegation made it clear that not all WIPO bodies were relevant for the purpose of the Coordination Mechanism. In addition, each of the Development Agenda recommendations contained details which indicated that these were not applicable to all activities. Again, these only applied to relevant activities. Thus, it would also be incorrect to assess the implementation of all recommendations by all WIPO bodies. On the format of the document, it was pointed out by the Secretariat that this stemmed from the reports submitted by the Committees. Again, it was difficult to see why the Committee should rework the contributions made by other Committees. The documents needed to be kept as they were. It was up to the delegations to intervene and to say how they viewed these contributions. On the consultations that had not taken place, none of the Member States had requested for consultations. Consultations had taken place on other subjects and the Delegation would have been happy to engage if any Delegation had requested for consultations. It was the fault of the Member States that these consultations did not take place.

73. The Secretariat confirmed that no Member State had requested for a consultation to take place.

74. The Delegation of Switzerland noted that indeed there had been a negative reaction as mentioned in its earlier statement.

75. The Delegation of the United States of America affirmed that it could not agree to the Committee determining whether or not the PBC was relevant for the purpose of the Development Agenda. That was for the PBC to decide. It was quite interesting that the Delegation of Egypt had mentioned that if the Committee were to agree to the PBC, they would not press on for the inclusion of the CWS in that list. However, the Delegation was not sure if it had understood this correctly. It was very interesting because delegations had spent the better part of last week going back and forth as to why the CWS should be included and why it should not be included. It would hate for the time spent to be for nothing.

76. The Delegation of Egypt explained that it had responded to the comments expressed by other delegations. The Delegation had cited the CWS as an example of a body where there were objections. The delegations had not objected to the PBC until recently. Thus, the CWS and PBC were both examples. Informal consultations would be held on the CWS. The Delegation hoped that these would be productive in order to resolve the issue for the implementation of the decision by the General Assembly.

77. The Delegation of Denmark reiterated that the list of relevant bodies should only include Committees which dealt with substantive intellectual property issues, such as the Advisory Committee on Enforcement (ACE), the Standing Committee on the Law of Trademarks, the Standing Committee on Copyright and Related Rights (SCCR), the Standing Committee on the Law of Patents (SCP), Industrial Designs and Geographical Indications (SCT) and IGC, which

were related to the running of the Organization itself and not to intellectual property *per se*, were not relevant to the Coordination Mechanism, and should not be included in the list of relevant bodies. These included *inter alia* the Program and Budget Committee and the Coordination Committee.

78. The Delegation of Monaco endorsed the points put forward by the Delegation of Switzerland in its statement. Those present when the Mechanism was negotiated within the General Assembly should have in mind the reasons why the word “relevant” was chosen. Group B had constantly reiterated that interpretation. As such, some Committees may be seen as relevant and others not. The Delegation of Denmark had provided an excellent argument in this regard. That was the reason why the Delegation considered some Committees, in particular those dealing with the functioning of the Organization, should not be included in the Mechanism.

79. The Chair concluded discussions on the description of the contribution of the relevant WIPO bodies to the implementation of respective Development Agenda recommendations. He invited the Committee to move on to the subject of IP and development and invited the Secretariat to introduce document CDIP/6/12 Rev., “Proposal for a CDIP New Agenda Item on Intellectual Property and Development”.

Agenda Item 8: Consideration of work program for implementation of adopted recommendations

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

80. The Secretariat made some brief remarks on document CDIP/6/12 Rev.. The document was based on a proposal made by the Delegation of Brazil on behalf of the Development Agenda Group. It was presented to the sixth session of the CDIP. Since then, discussions on the document have been inconclusive.

81. The Delegation of Brazil recalled that the idea for a new agenda item on IP and development was related to the implementation of the three pillars of the Committee’s mandate. First, to develop a work program for implementation of the 45 adopted recommendations. Second, to monitor, assess, discuss and report on the implementation of all recommendations adopted and third, to discuss IP and development-related issues as agreed by the Committee, as well as those decided by the General Assembly. The idea was to dedicate a space on the Committee’s agenda, through the inclusion of a standing agenda item, to allow for broader discussions on IP and development related issues. This had been discussed in many previous sessions. The issues to be discussed under the proposed agenda item were open to discussion. As an initial contribution, the Group had suggested that the discussions could include a report on the WIPO seminar series on the economics of intellectual property, WIPO’s contribution to the MDGs, and preparations for the upcoming conference on IP and development. The Delegation reiterated that it was appropriate to discuss the relationship between IP and development in a broader manner as all other agenda items were specifically related to monitoring the results of projects or to assess how the Development Agenda was being implemented through the sectors of the Organization and through specific projects. The proposed agenda item would provide space to discuss IP and development in a broader manner. It could also integrate knowledge and discussions on many issues. This was its main view on the proposed agenda item.

82. The Delegation of Egypt, speaking on behalf of the African Group, referred to the decision of the General Assembly in 2007 on the mandate of the CDIP. The phrase, “to discuss IP and development related issues as agreed by the Committee, and as well as those decided by the

General Assembly," was included in the decision under the third pillar of the Committee's mandate. Hence, the proposal was based on the implementation of the third pillar of the mandate decided by the General Assembly. The first two pillars had been incorporated in the Committee's Agenda. However, the third had yet to be incorporated and remained unimplemented and unfulfilled. The Group was also interested in the issues suggested for discussion under the proposed agenda item, in particular, the organization of a major international conference on integrating development into IP policy-making. Preparations for the conference should begin and one day could be allocated for informal consultations to facilitate discussions on issues related to the organization of conference, including the date, venue and agenda. The Group supported the conference and was keen to see it being established and organized. The conference would feed into the work of the Committee and the Development Agenda as a whole.

83. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, stated that the inclusion of the proposed agenda item would allow for discussions on the important relationship between IP and development. Two of the three elements of the mandate given to the CDIP by the WIPO General Assembly in 2007, were currently included in the Agenda of the Committee, namely to develop a workplan on a project-based approach, and to monitor, assess, discuss and report on the implementation of all recommendations. Although it was not functional, discussion on the Coordination Mechanism was included in the Agenda. The third element of the mandate was on IP and development. This had yet to be addressed in the Committee. The Committee would be remiss in complying with the mandate given by the General Assembly if it did not address the key issue of IP and development. The Organization currently did not have a forum to discuss important issues such as global challenges and WIPO's contributions to other intergovernmental organizations. As such, these issues should also be considered under the proposed new agenda item on IP and development.

84. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, recalled that this matter had been proposed by the Group in relation to the third pillar of the Committee's mandate, which was to discuss IP and development related issues. The idea was to give the Committee the possibility to examine certain IP and development related issues which were important to developing countries. This included the WIPO seminar series on the economics of intellectual property and WIPO's contribution to the MDGs. These were some of the issues that could be examined under the proposed agenda item. The Group was flexible on the inclusion of other issues. Other delegations had also raised the issue of the conference on integrating development in IP policymaking. The proposed agenda item for the implementation of the third pillar of the Committee's mandate was important to the work of the Committee and would assist developing countries to deal with these issues in a comprehensive manner.

85. The Delegation of the United States of America, speaking on behalf of Group B, recalled the position it expressed in CDIP 6, CDIP 7, and CDIP 8 concerning the creation of a new standing agenda item entitled IP and Development-Related Issues. It remained unconvinced that a standing agenda item that essentially mirrored the name of the Committee was needed. There could be no doubt that everything the Committee did was related to IP and development. Therefore, it did not think there was a compelling need to create a new standing agenda on IP and development related issues as proposed in the document presented by the Delegation of Brazil. Turning to the so-called third pillar, which said "to discuss IP and development related issues, as agreed by the Committee as well as those decided by the General Assembly", the Delegation found it hard to believe that everything that the Committee did or has done since its inception did not deal with or did not cover IP and development. All the 23 to 25 ongoing studies or projects had an IP and development component. That was what they existed for. Again, the Group could not accept the idea of creating a standing agenda item.

86. The Delegation of Denmark, speaking on behalf of the EU and its Member States, reiterated the position expressed in earlier CDIP sessions concerning the creation of a new standing agenda item on IP and development. The EU and its Member States were still of the view that the core objective of the Committee was to discuss IP and development. Therefore, it saw no purpose in adding a new item on the agenda with the precise same objective and which would only repeat the title of the Committee. Having said that, the Delegation emphasized that the EU and its Member States were always open to discuss specific agenda items related to individual issues with respect to IP and development. In view of the above, the EU and its Member States saw no need to introduce a new standing item on the agenda.

87. The Delegation of South Africa aligned itself with the statements made by the Delegation of Egypt on behalf of the African Group and the Delegation of Algeria on behalf of the Development Agenda Group. The Delegation supported the presentation made by the Delegation of Brazil in relation to document CDIP/6/12 Rev. It supported the document simply because it captured what the Committee should be doing in terms of implementing its third pillar. There had been arguments against the inclusion of a standing agenda item which mirrored or repeated the title of the Committee. However, there was nothing wrong with repetition. The African Group raised the issue of the international conference on IP and development. This was the main issue for discussion as reflected in the decision made in the previous session of the Committee on the conference. The Committee needed to start discussing the issue as it was already delayed. The conference was supposed to have been held in the previous biennium. Unfortunately, there had not been time to discuss it. Sufficient time should now be allocated for the Committee to start serious discussions on the conference with a view to holding it in the current biennium. The Committee needed to decide on the date and so on, to make things on the way forward in terms of the conference. Once again, the Delegation sought clarification on the role of the Secretariat in terms of the decisions that were taken by the Committee. The Delegation assumed that if a decision was taken, the Secretariat would follow up on the decision even if it was not mentioned in the decision, because the Secretariat had to facilitate the work of the Committee. In this context, the Delegation highlighted that Paragraph 18 of the Chair's summary for the eighth session mentioned that informal consultations should continue during the intersessional period on the proposed agenda item. The Delegation did not think that those consultations were conducted. As diplomats were always on the move, only the Secretariat had institutional memory. The Delegation assumed that the Secretariat would be proactive and consult with the Regional Coordinators on the follow-up to a decision. Thus, the Delegation sought clarification from the Secretariat as to who was responsible for the follow up to such decisions.

88. The Chair noted a division in positions with regard to the proposals. Some Member States had rejected the idea of including a new standing agenda item. Others believed that this would reinforce and be an opportunity to implement the third pillar of the mandate given to the CDIP. The Chair referred to the proposal to hold a meeting on IP and development that had been scheduled for the 2010/11 biennium, and unfortunately, had not yet been implemented. He requested all delegations to provide an opinion on the follow-up. The proposal on the table was to begin exploring modalities for the preparation of the international meeting. The Chair was prepared to facilitate this work if, and only if, all delegations agreed to the organization of the conference. The Chair invited the opinion of delegations on this matter. With regard to who would be responsible for following up on the discussions, this was a shared responsibility. From now on, it was up to everyone to ensure that all decisions were properly implemented. In the Chair's opinion, Member States had a shared responsibility. The Secretariat also had theirs. Regular dialogue was required to put in place decisions taken by the Committee.

89. The Delegation of Monaco made a general comment on the proposed standing agenda item. The Delegation did not think that the proposed item, which was so broad and covered the entire mandate of the CDIP, was required as the Committee looked at IP and development.

Although the third pillar was mentioned in the Committee's mandate, it did not necessarily imply an obligation to include an item such as this on the agenda. It was far too broad. However, any Delegation was free to propose any issue for the consideration of the Committee subject to its rules of procedure. With regard to the point raised by the Delegation of Egypt on the holding of the international conference, it could be envisaged that such items could be included in the Committee's agenda from time to time. The CDIP was the right forum to talk about development. The Delegation did not think that there was a lack of consensus on this but rather a difference of opinion on procedure which the Committee could overcome.

90. The Delegation of Barbados stated that it was not so much on whether there should be a new item on the agenda, but whether or not this matter needed to be addressed. The third part of the proposal was important with respect to poor countries and countries with difficulties in producing sufficient food, in other words, food security considerations. Across the world, the technologies that were used to produce primary agricultural products in many developed countries were highly automated as opposed to the technologies that were available in many developing countries. In many of the poorer countries, oxen and other animals were still used to irrigate and plow. By 2015, the world had to increase its food output by 70 per cent in order to avoid global hunger. As such, it was important to start solving these problems now. Some of these problems could be ameliorated through improvements in the productivity and output of poor countries. Access to newer technologies would support the alleviation of hunger through improved productivity and output. Thus, the Delegation stressed that the point was not so much whether or not new agenda item was required but whether or not this matter needed to be addressed. It may be appropriate for this to be included under WIPO's contribution to the MDGs. The basic point was that the Committee needed to look at what WIPO can do in terms of transfer of know-how to countries who produce primary agricultural products, so that their productivity can be improved as a result of the use of higher levels of technology which were not currently available to them, to help alleviate global hunger over the next decades.

91. The Chair understood that there was agreement that specific issues, such as those just mentioned which were very urgent, may be submitted for examination by the Committee.

92. The Delegation of Egypt, speaking on behalf of the African Group, welcomed the ideas put forward by the Delegation of Barbados. These were examples of issues that could be discussed under the proposed agenda item. The Group could work with the Chair to hold consultations to help advance this issue. It would work actively to find a way to move forward on this important issue.

93. The Delegation of Denmark, speaking on behalf of the EU and its Member States stated that it was too early for them to offer a final response to this question. Further coordination was required and perhaps more details were required on the conference. It was suggested that the Committee could take this up at a later stage.

94. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, stated that this activity was important to the Group and it supported the Chair's idea to begin consultations on this issue.

95. The Delegation of China agreed that the proposed agenda item on IP and development could be included in the work of the CDIP. In its view, the Committee needed to fully take into account the three pillars of the mandate given by the General Assembly in the implementation of Development Agenda recommendations. The Committee had undertaken a great deal of work on the first two pillars and significant progress had been achieved. Hence, it was now time for the Committee to actively consider the third pillar, which was to discuss the issue of IP and development, as agreed by the Committee and mandated by the General Assembly.

96. The Delegation of South Africa expressed support for the statements made by the Delegations of Algeria and Egypt on behalf of the Development Agenda Group and African Group respectively. It also backed the Chair's proposal to convene informal consultations on this issue. It welcomed the idea of a conference and noted that there was still adequate time for delegations to consult on the elements to be included in the lead up to the conference.

97. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, supported the convening of an international conference on IP and development, and welcomed the Chair's proposal to hold informal consultations.

98. The Delegation of Indonesia reiterated its support for the statements made by other delegations in support of the proposed conference and informal consultations. It was a good opportunity to support the mandate given by the General Assembly for the Committee to discuss IP and development-related issues.

99. The Delegation of Trinidad and Tobago agreed with the statement made by the Delegation of Barbados. The Delegation believed that the issue was whether IP and development should be discussed at this Committee or not. It also agreed that IP and development was important in terms of food security. It was a matter of global importance and not only for developing countries. For this reason, it aligned itself with the statement made by the Delegation of Barbados.

100. The Chair provided a summary of the discussions on the proposed new agenda item on IP and development. Many of the Member States and Regional Coordinators expressed the view that there was an urgent need for this to be included as a standing agenda item for the work of the Committee. However, other Member States opposed the proposal on the basis that this was redundant and would merely mirror the title of the Committee. However, there seemed to be an emerging consensus for specific issues, such as the one mentioned by the Delegation of Barbados, to be put forward. On the proposed IP conference, there appeared to be broad agreement on the idea. However, delegations had also expressed the need for a clearer perspective on the contents and modalities for the proposed discussions. For that reason, the Chair suggested holding informal consultations to initiate discussions on the agenda, modalities, venue and other matters concerning the proposed conference. He would get back to the delegations with a proposal for a specific timeframe and date for the said consultations. This would help provide answers to the queries from some delegations that needed to know more about the international conference. The Chair also reminded delegations that a timetable had been circulated, as per the request made by delegations in the consultations held with Regional Coordinators in the morning. The timetable was a work-in-progress and changes could be made in the course of the week. However, it would help delegations through the process.

Consideration of Documents CDIP/8/INF/1, CDIP/9/14 & CDIP/9/15.

101. The Chair invited the Secretariat to introduce the documents.

102. The Secretariat informed the Committee that the document under consideration was document CDIP/8/INF/1 on the External Review of WIPO's Technical Assistance in the Area of Cooperation for Development. It recalled that the External Review was foreseen under the project on the enhancement of WIPO's RBM framework. The document under consideration contained the said External Review. This document was presented to the last session of the CDIP. The Committee had decided to establish an *Ad Hoc* Working Group to identify those recommendations which may be redundant. This decision was included in the Chair's summary for that meeting. In the intervening period, the Secretariat had prepared a Management Response to the External Review. This was contained in document CDIP/9/14. The Report of the *Ad Hoc* Working Group was not yet available as a CDIP document as it was only received

by the Secretariat late last evening. The Report was available outside. It would be available later that day as document CDIP/9/15. Hence, there were three documents for discussion. In the last session, the Committee had also decided that at least one day would be devoted to the consideration of this matter. As decided between the delegations and the Chair, these documents would be discussed this day.

103. The Chair informed the Committee that Mr. Onyeama, Deputy Director General, and other Secretariat officials dealing with technical assistance were present. One of the authors of the Report on the External Review was also in the room. The Chair invited the delegations to put forward suggestions on how the Committee could structure the discussions on this matter.

104. The Delegation of Belgium congratulated the Chair on his election and suggested that the discussions could begin with the reports of the two Rapporteurs from Colombia and Pakistan. The two Co-Chairs from Egypt and Belgium could then comment on the reports.

105. The Delegation of Venezuela expressed its preference for discussions to begin with a presentation by Dr. Deere. The Committee could then proceed from the general to the particular and conclude with the reports of the Rapporteurs. As the Report on the External Review was not translated, the Delegation had to read it in a language that was not its own. Some things were translated without request. Others were not despite requests for translation. With regard to the items which were no longer relevant or redundant, these questions should be put forward to the Author. If something was redundant, this could be emphasized. Hence, the discussions should proceed from the general to the particular, in other words, from the work done by the Authors to the work done by the Committee.

106. The Delegation of the United States of America expressed support for the proposal by the Delegation of Belgium on the way forward. It recalled that the Committee had agreed to establish the *Ad Hoc* Working Group during its last session. It was important to hear the results of that before getting into substantive discussions on the Deere / Roca report.

107. The Delegation of Germany recalled that there was a mandate for the *Ad Hoc* Working Group. The Committee had not been able to work on the Deere / Roca report in its last session and had agreed to set up the *Ad Hoc* Working Group. The logical step would be for the *Ad Hoc* Working Group to report on what it had done. If the Committee began with the presentation of the Deere / Roca report, it would go back to square one and the *Ad Hoc* Working Group would not have added any value. Although the Delegation acknowledged that the *Ad Hoc* Working Group had not added much value, this should also be explained. The problems should be stated and these could be addressed by Dr. Deere. She could concentrate on those instead of starting all over again from the beginning.

108. The Chair proposed that the Committee should begin with the report by the two Co-Rapporteurs with inputs from the two Co-Chairs, Belgium and Egypt. Dr. Deere could intervene whenever there was an opportunity.

109. The Delegation of Algeria noted the Chair's suggestion and the proposal from the Delegation of Belgium on the way forward. In addition to the report of the *Ad Hoc* Working Group, there were also two other papers that required discussion. The Co-Author of the Report on the External Review and the Secretariat were also available to assist in the discussions. The Secretariat was the author of the Management Response. That document should be formally presented by the Secretariat as it had previously only been informally discussed. To allow for a comprehensive and well-organized discussion, the Delegation proposed that this should begin with a presentation of the Management Response followed by a presentation of the Report of the *Ad Hoc* Working Group, or vice versa, as both appeared to be factual reports. The Committee could then engage in discussions as all the different views were on the table. In the

course of those discussions, the Development Agenda Group and the African Group would also present the document they had earlier circulated.

110. The Delegation of South Africa recalled that the Secretariat was supposed to submit its comments on the Deere / Roca report in the previous session of the Committee. Unfortunately, the Secretariat had not been in a position to do so. Thus, it was agreed at that session that the Secretariat should submit a Management Response to that Report. It was prudent for the Committee to begin with a presentation by the Secretariat of the Management Response before discussing the report of the *Ad Hoc* Working Group as that Report was informed by two reports, the Deere / Roca Report and the Management Response. The Committee would be putting the cart before the horse if discussions were to begin with the Report of the *Ad Hoc* Working Group.

111. The Delegation of Belgium thanked the delegations for their constructive proposals. Its proposal was based on an agreement with the Co-Chair from Egypt that the Co-Rapporteurs would first present their reports. This would be followed by comments from the two Co-Chairs and then the floor would be open for further comments, including inputs from Dr. Deere. An alternative proposal, taking into account other proposals, would be to begin with a presentation by Dr. Deere on the external review, followed by a presentation by the Secretariat on the Management Response, and lastly, the report of the *Ad Hoc* Working Group.

112. The Chair suggested that the process should be guided by the proposal from the Delegation of Belgium. The discussions would begin with a presentation by Dr. Deere. This would be followed by a presentation by the Secretariat on the Management Response and the Report of the *Ad Hoc* Working Group. The two Co-Rapporteurs would present their report and then the two Co-Chairs would continue. As there were no objections to his proposal, the Chair invited Dr. Deere to present the External Review.

113. Dr. Deere thanked the Chair for his introduction and the opportunity to present the Report on the External Review. She recalled that at CDIP 8, she had introduced the background to the Report and the process. Thus, it may not be useful to repeat these. She could focus on the key findings or the recommendations. She sought clarification from the Chair on what was required in that regard.

114. The Chair requested Dr. Deere to focus on the key findings.

115. Dr. Deere recalled that the Terms of Reference for the External Review required an assessment of WIPO's technical assistance activities to ascertain their effectiveness, impact, efficiency and relevance, as well as internal and external coordination. It was the first time that a comprehensive and substantive review of WIPO's development activities had been conducted either internally or externally. As such, the Authors faced a number of challenges related to the lack of internal data. That was one of the reasons why the document was so voluminous. The Authors had to gather information in order to understand the exact scope of development activities within the Secretariat before these could be evaluated. As the Report called for a macro level review of all development activities, the Authors had not provided an in-depth evaluation of any particular area but rather to capture the broad trends and areas in which the Organization was operating. As indicated in the Report, WIPO had a vast range of activities for different countries, constituencies and objectives. Some of these were very small programs that could have a very large impact, for example, policy or legislative work. Others were more costly exercises where the impact was sometimes more discrete. Thus, there was a very broad diversity in terms of activities and the Authors had tried to capture some of this variation in their Report. As noted earlier, at the time of the review, the shortcomings in WIPO's internal processes for defining, measuring and monitoring the distribution of its budget and expenditure for development activities made it very difficult, at some stages of the review, to capture trends over time or the relative distribution and intensity of activity by category. The Management

Response provided details of the ongoing efforts within the Secretariat to improve some of these internal processes but in her view, many of these remained. There were many steps in the right direction but there were many elements that remained works in progress. These could be discussed later. Perhaps the Secretariat would acknowledge that many of the areas they had embarked upon were still under improvement or undergoing change and work had not been completed. Neither WIPO nor its development activities were static. Many of the activities under review were still under way. In some cases it was still too early to judge the results. This included many of the CDIP projects. She also acknowledged that the review took place at a time of organizational change. The Organization was and remained in the midst of major reforms in the context of the Strategic Realignment Program and the implementation of the Development Agenda. This was evolving. Shifting the Organization from the legacy of past practices was no doubt a time consuming challenge. However, whilst the review covered the period up until the end of 2010, the work was actually completed in August 2011, and the Authors did try to capture some of the changes made until that time, including some of those in the 2012/13 budget. She did not think that all the analysis in the Report was out of date as such or that all the recommendations were redundant. As she had said, there were some areas where progress had been made. There were also some areas where the Secretariat's ongoing initiatives for improvement simply required more time to yield results. In time, these could be expected to yield considerable improvements as well as significant impacts for developing countries. However, there were also some areas which were more structural and underlying problems needed to be addressed. This was particularly so in the area of orientation where it was up to Member States to provide greater guidance to the Secretariat on what development assistance should be. In many respects, the Secretariat was making progress on the 'how' of doing development assistance, including improved planning and internal coordination. However, the question of the 'what' was really a matter for Member States to debate on, in the context of the Program and Budget and committees like the CDIP. The Report looked at six key areas of WIPO's activities as identified by the Authors. These included IP strategies, policies and plans; legislative and regulatory policy frameworks; work around administrative infrastructure for IP systems; support systems for users of the IP system in developing countries; promotion of innovation, creativity and access to knowledge and technology in developing countries; and training and human capacity building. Although she was willing to provide an in-depth account of each of those areas and the respective findings, it was more important to focus on the recommendations and to determine which of those could be taken forward. This was required to bring about an instructive and useful outcome for the Secretariat and the Member States. In her view, the Management Response was a very important document. It was a positive development as it meant that the Report had stimulated and mobilized a great deal of internal thinking, reflection and deliberation within the Secretariat. This was an outcome and if it was to identify what the Secretariat agreed or did not agree with, this was already a substantive and important exercise in itself. She had some reservations with regard to certain elements of the Report on the classification of some of the recommendations. She would not have put as many recommendations in the redundant category as the Secretariat had. There were some apples and oranges. In some cases, the Secretariat had stated that it was already doing something. It could be debated whether this was true. In many cases, she agreed that the Secretariat was doing something but there were many elements in the redundant area where it had said that it planned or would be doing things. That was different. It was good that the Secretariat had agreed with a recommendation but that did not mean that it was being implemented. Thus, clarification could be sought from the Secretariat on how, and to what extent, progress was being made. This was required for a clear picture of the current state of play. As the review was completed eight months ago, she did not know what the state of play was with regard to all of those things. The Committee had to defer to the Secretariat for that. She was sure that it was working hard on many of the fronts. She then provided a list of the top ten recommendations which she thought were the most important. In her view, the first set of recommendations should appeal to both developed and developing country Member States. These concerned transparency and mutual accountability. First, it would be useful for

the Organization to develop development guidelines that would provide clearer details for staff, beneficiaries and other stakeholders on how to plan and implement development assistance, both in terms of substance and process. Second, the Secretariat should be requested to produce a manual on its development cooperation activities. In that way, Member States and stakeholders would be informed of the scope of possible development activities, process for requesting assistance, timeframe for approval, range of potential beneficiaries, possible modes of cooperation, responsibilities on the part of beneficiaries and so on. It could be in the form of a simple manual and need not be an expensive undertaking. It could be updated from year to year and would make the whole process more transparent. Third, in terms of transparency, the Secretariat should be requested to provide a clearer policy on the negotiation of the Organization's external resources. It was mentioned in the Management Response that the Secretariat was drafting a policy on external resources and partnerships. It was very important that this should provide more explicit guidance on Funds in Trust (FIT), how these were negotiated, the objectives, expected results and priorities. These should fully reflect the broader strategic program and budget process that all Member States were involved in. Although FIT resources were now reflected alongside programs in the Program and Budget, apart from the donor, Secretariat and beneficiary country, other Member States did not have a possibility to be involved in the planning, evaluation or review of the use of those resources. For some development activities, FIT resources were greater than those approved in the Program and Budget process. The overall level of FIT funding was greater than what was provided through the Development Agenda. It was a significant source of money for development assistance and in particular, for certain programs. Thus, Member States should look for ways to have greater oversight over FITs and to ensure that these met their goals. The fifth area mentioned in the Report was inadequate systematic country level planning and needs assessment. According to the Management Response, more systematic country planning began in early 2012, four months ago. Thus, the Secretariat should be requested to provide an update on the template they were using to do country planning, and the process that they planned to pursue. As this would be one of the critical key tools for development cooperation in the future, it was very important for both the tools and processes to be fruitful and useful. It would be useful to learn more from the Secretariat on what they had planned or were planning at the moment on this front. Her understanding was that this was being piloted in a few countries. In this context, there should be an assessment, perhaps at the end of 2012, before going forward. The Member States needed to understand exactly how it was going to roll out. It was not a *fait accompli*. A further area concerned the lack of a toolbox to measure the impact of the Organization's development activities and the broader relationship between IP and development. As the preeminent institution on IP, the Secretariat should provide tools to measure this impact. It would be helpful if the Organization could invest more on tools to monitor the kinds of activities at the country, sector and program level, and to measure their impact. This would help Member States to track and monitor the effectiveness of assistance provided in future. This was something that could involve the Economic Analysis and Statistics Section, other internal staff or external experts. There was still a need for greater transparency with respect to external experts and advisors. As noted in the Report, a lot of the practical work on WIPO's development assistance was contracted out to consultants and experts. While staff were covered by their professional allegiance to WIPO, through their contracts and so on, there was a need to know more about the consultants and experts, who were they and what were their qualifications, were they always the best qualified, did they have local experience, were there conflicts of interest, who else did they work for or advise, etc. These were things Member States should have an interest in knowing. Member States should also know more about how well these experts had performed in prior tasks. After going over many of the documents, the Authors found that, in part, because there was a scarcity of IP experts in many developing countries, the same consultants were used over and over again. Member States needed to have some way of evaluating them; whether they had done a good job before, why were they being paid again, they needed to understand more about those. It should also be linked to a more open bidding process for consultants. It was true that competitive and open bidding

processes for consultants could sometimes complicate processes. However, there were many cases in which there was little to be lost from putting out a public advertisement for several weeks to find out who else out there may be able and willing to provide the required advice. The countries and the Secretariat could work together to choose from that selection of people the most appropriate experts to be used. The Secretariat could also propose and include someone in the mix if the person was the best qualified or had the most appropriate experience. This was fine but there was a general need to boost transparency in that whole area. Another priority area concerned good governance and the key issue there was to expand evaluation. As noted in the Report, there were many problems associated with inadequate monitoring and evaluation. The Organization did have an evaluation policy from 2010. Although the Internal Audit and Oversight Division (IAOD) had a mandate to conduct some evaluations, thus far, none had been conducted in the area of development assistance. The IAOD had just begun piloting country-level evaluations. The Secretariat could provide an update on that. However, there were no systematic evaluations by program or by expected results which were currently under way. The Organization did report through its program performance reports to the Member States but these were internal self-assessments and not evaluations. Not all evaluations had to be independent in the sense of involving external people. There were some that could usefully involve a combination of internal and external staff, some completely external, and some done entirely by the IAOD. There needed to be a more serious discussion on how it could become more of a culture to do evaluations and most importantly, to learn from them. It was important for evaluations to change the decision-making process and to provide information in order to allow everyone to do better work in future. It was normal for any international organization to boost evaluation from a good governance point of view. It would also solve a lot of internal angst and tension among Member States and stakeholders if the Organization were to adopt a clearer policy on stakeholder engagement, including with IGOs, industry NGOs, academia, IP practitioners and experts. This would allow for a better understanding of issues such as accreditation for meetings, availability of documents and the kinds of documents Member States were willing to make available for public review, channels and opportunities for stakeholder input into the work of the Organization, policy related to partnerships for hosting events, disclosure of interest and so on. This recommendation was broader than that detailed in the Management Response, which she understood was more to do with public-private partnerships with the Organization. This could be clarified by the Secretariat. It was important to boost transparency and accountability by improving the on-line Technical Assistance Database which had been developed under a CDIP project. She understood that it was being revised as some weaknesses had been recognized. One of the reasons why the database was useful was because it promoted transparency and helped other donors to access information. It would also assist those outside to evaluate and critique the Organization's work. These were all healthy things. In order for it to be effective, it was important that the database enabled searching by expected results and the type of activity, and should include associated information on resource allocation and expenditure, and be organized in such a way that it was linked to the kinds of categories and frameworks used in the Organization's normal Program and Budget process, and for example, in its RBM framework. There were three other matters concerning orientation. One of the things noted in the Report was that the Secretariat's engagement with stakeholders varied depending on the type of stakeholder, division and type of activity. It would be useful for the Secretariat to report, by program, on the range of stakeholders it engaged or involved in its annual activities. Was it mostly with scientific groups in developing countries or potential IP users, was the Secretariat partnering mostly with large industry associations, academics at the national level or NGOs, did it engage enough with research institutes and so on. The proposed report would provide a better picture of who was being engaged and brought into the world of IP and development cooperation by the Secretariat. There was one final area which was particularly important, given the origins of the CDIP and the Development Agenda. This was to find a way to conduct an expert review of the content of WIPO's legislative and policy advice for developing countries. At present, this was a very "un-transparent" area, partly because the advice was considered to be confidential between Member States and the Secretariat.

However, there should be a way in which there could be an expert review of the content of legislative assistance. This could include deleting the names of the countries. On each of the major areas of legislative assistance, two experts could be selected, perhaps with opposing views, to examine the kind of advice that was being offered. Was it cutting edge, was it what was needed, was it in alignment with the priorities set out by countries and so on. The review could look at both the process and content of the assistance. Although the countries could remain anonymous, there may be some who would be willing to make the legislative advice they received publicly available. There was no reason why a country could not say, yes, this was the legislative assistance and advice it received from the Secretariat. The review would enable everyone to have a better idea of what was in that black box. At present, it was simply a black box. The legislative advice provided by the Secretariat could be fantastic or terrible, nobody knew. It was provided through direct legislative advice but also through implicit advice through the formulation of IP strategies, seminars and meetings when people were asked to provide advice or where meetings were arranged for experts to discuss options for countries. These were all ways in which countries were being educated on the kinds of options available to them in terms of legislation and the development of their IP system at the national level as well as the ways in which their offices were being managed and governed. All of these had implications for the impact and effectiveness of the systems in those countries. These were some of her top recommendations and she hoped these would be amenable to most of the countries rather than the more controversial ones.

116. The Chair thanked Dr. Deere and shared her view that the Committee should focus its efforts to achieve a constructive outcome to the discussions. He then invited the Deputy Director General to present the Management Response to the External Review.

117. The Secretariat began by pointing out that this was not going to be a direct response to all of the points raised by Dr. Deere. It was just to remind delegations of the reasoning behind the Management Response. As pointed out by Dr. Deere, the Authors were looking at a period up to 2010. This coincided with the new Strategic Realignment Program within the Organization. The management appreciated that a number of things had to change within the Organization. The Development Agenda and the recommendations therein as well as the formation of the CDIP were further directives that were given to the Organization. Thus, in the context of the decision of the management and the initiatives that were then launched, a lot of what was recommended in the Report had already been introduced and were being implemented. These included, for instance, the strengthening of the RBM framework to address issues related to results orientation and the evaluation of short-term and cumulative impact. The Enterprise Resource Planning system was also launched. This would allow for planning and reporting on development activities to be fully integrated into the financial and management systems of the Organization, thus, increasing transparency in terms of budgeting and expenditures. There was also the formulation of a Medium Term Strategic Plan. This defined the higher level strategic outcomes and indicators of development activities. In addition, there was the strengthening of internal and external coordination, including through a draft partnerships and resource mobilization strategy. A comprehensive ethics system, including a Code of Ethics for staff and the development of a WIPO organizational design was also introduced and established. With respect to the development orientation aspect of the report, there were two very important initiatives. This included the country planning initiative that was mentioned. This required the Organization and each Member State to jointly plan for a period of two to three years, all the development activities that would take place with respect to that country. This was intended to ensure coherence and to ensure that the activities responded to the development goals of each particular country. It was also to ensure that the whole Organization was involved in the process and to avoid a situation where different departments or programs within the Organization were engaging unilaterally with developing country Member States. A methodology had been developed and there was a template for this. At the end of the day, each country would play an active role in determining with the Organization, the activities that it

wished to have carried out over the medium term. This was necessary to ensure that all of the activities that were carried out were based on a strategic plan developed by each country. The Organization had developed certain methodologies that countries can use to carry this out, for instance, an assessment or gap analysis of the IP situation, engaging all the stakeholders within a particular country in the formulation of a national IP strategy and to ensure that this flowed right to the top, the policymakers, through a bottom up approach. The strategy should respond to the development goals of the country. This was captured within the country plans that he had mentioned earlier. It would require comprehensive consultations within a particular country and the engagement of all of the sectors within the Organization. The whole essence of the Development Agenda was to mainstream development within the Organization. Thus, all of the sectors within the Organization would be engaged in ensuring that a country plan for a particular country really captured all the tools that the Organization had at its disposal to provide assistance to a developing country. On the selection of external consultants, the Secretariat had engaged and involved the countries in the identification of consultants. A list of consultants used by the Organization, and their profiles, had been provided in the database, in response to the request from Member States for full transparency on this matter. There was also a database of the technical assistance activities carried in respect of each country, including legislative advice that was provided. However, it must always be borne in mind that each country was sovereign and the Organization cannot have a set of rules that was applicable to all countries, and in particular, with regard to legislative advice. If some countries were willing to make public the advice that they had obtained from the Organization, that was perfectly fine. There was also a database of the IP laws of Member States. From there, one could see the profile and nature of the IP laws of most of the Member States of this Organization. Thus, without belaboring the point, the Organization had essentially responded to the requests by Member States to ensure, as much as possible, that its technical assistance was transparent and that Member States had full access to what it was doing. This included the consultants that were used. As mentioned, the profile or the kinds of consultants used were included in a database and countries were invited to propose consultants that they felt would also add value to the whole process. On the extra budgetary resource mobilization program, it was true that the Organization received significant funding from a number of donors. But it was not always that straightforward to ensure a system where the whole membership was engaged in the management of the resources that particular donors made available to the Organization. These were bilateral arrangements and obviously the donors would wish to have a say on how the funds they were making available to the Organization were spent. To try to make things more transparent with regard to the FIT arrangements and what these resources were used for, during the week, donors would be making presentations on the FITs. As such, the donors could themselves also indicate the kinds of activities and programs they would accept their funds to be used for. The Organization welcomed the External Review Report. There were a lot of excellent initiatives and suggestions within the report, a lot of which, the Organization was already grappling with. It certainly planned to incorporate a lot of the recommendations that were made. However, to categorize some of them as redundant might not be the most appropriate word because this always had a slightly negative connotation. It was better to say that some of the activities were already ongoing or some of the measures were already in place. This was, of course, a work in progress. It was not a unilateral effort. Technical assistance was really a two-way thing. Demand-driven activities and initiatives meant that it was the Member States, the beneficiaries, who were essentially driving the technical assistance provided by the Organization to the countries themselves. This should indeed be the case. It should be the Member States that essentially had the say in how these programs were carried out. What the Organization had tried to do was to provide frameworks and tools to enable Member States, developing countries, to better manage the technical assistance process. Hence, the IP strategy methodologies that the Organization was making available to countries and the country planning process provided Member States with the tools necessary to direct the Organization as to the activities it should be undertaking. The Secretariat (Mrs. Lucinda Longcroft) continued by stating that it had been foreseen by the Committee that a Management Response should be

prepared by the Secretariat to address the External Review Report discussed earlier by the Committee. The Management Response was foreseen to be provided to the Committee and to the *Ad Hoc* Working Group established by the Committee at its eighth session to assist in its deliberations on the External Review Report. The Secretariat's Management Response was published on-line on the WIPO web site among Committee documents on March 14, 2012. The Management Response was composed of an executive summary which briefly outlined the six key areas of WIPO's technical assistance work as addressed by the report. To begin, it identified three key messages on the implementation of the Report's recommendations. And in response to the recommendations, it also identified four important directions as seen by the Senior Management of the Organization. It should be noted that no cost analysis or priority setting exercise was embarked upon by the Organization in preparing its Management Response. Instead, the Organization sought, in providing assistance, to categorize the recommendations which it considered in three separate categories. In Category A, were recommendations the Secretariat considered were already reflected in WIPO's activities or ongoing reform program. In Category B, it identified recommendations which it considered to merit further consideration by the Committee and by the Secretariat. And in Category C, it identified recommendations which raised concerns as to their implications in implementation. In order to embark on this exercise, the Secretariat had engaged in a process for its own purposes of numbering and cross referencing all of the recommendations and sub-recommendations made in the Report. In the course of this exercise, it recognized some 89 principal recommendations and 396 sub-recommendations to be addressed. The External Review Report made recommendations which touched upon and addressed the work of many WIPO colleagues across the entire Organization. Therefore, an exercise was conducted across the Secretariat to gather the views of these colleagues engaged in the specialized work of providing technical assistance and to collect their responses to the Report's recommendations and summarize them in the Management Response. The Management Response aimed to provide a general response to the External Review Report and did not comprehensively address every recommendation. Indeed, the Senior Management colleagues who had experience and direct responsibility for the technical assistance work of the Organization were on hand and available to provide responses to specific inquiries from the Committee on recommendations drawn from the Report.

118. The Chair thanked Secretariat for the contribution and the highlights on some of the key elements of the Management Response. He noted that the Deere / Roca Report had triggered a process of reflection in WIPO. This was one of the merits of the Report that should be highlighted. He also noted that the whole essence of the Development Agenda was to mainstream development in the Organization. It was also important to note that WIPO technical assistance required the close involvement of the countries concerned. The Chair also took note of the point expressed by the Secretariat on the categorization and the use of the work "redundant" which indeed had a negative connotation. Perhaps a better word could be found. The Chair thanked the Secretariat for the information provided. It helped to make the Management Response more readable. He then invited the Co-Rapporteurs, Mr. Ahsan Nabeel of Pakistan and Mr. Juan Camilo Saretzki-Forero of Colombia to present the report of the *Ad Hoc* Working Group.

119. The Delegation of Colombia presented the Report of the *Ad Hoc* Working Group. The Report was as follows:

During the 8th session of the Committee on Development and Intellectual Property, the Committee considered the document CDIP/8/INF/1, An External Review of the WIPO Technical Assistance in the Area of Cooperation for Development and agreed to establish an *Ad Hoc* Working Group on the External Review of the Technical Assistance (CDIP/8/INF/1) to identify recommendations that are redundant or no longer relevant, without any prioritization of recommendations. The *Ad Hoc* Working Group also discussed to a limited extent, the other

elements of the study in an effort to save time for discussions during the ninth session of the Committee.

Procedural matters

The *Ad Hoc* Working Group held five meetings as per the following schedule and agenda:

- i) 16 March 2012 (focusing on work plan and procedural matters)
- ii) 21st March (focusing on part 2 and 3 of the External Review)
- iii) 4th April (focusing on part 5 of the External Review)
- iv) 10th April (focusing on part 4 and 6 of the External Review)
- v) 26th April (Draft report of the Working Group)

The meetings of the *Ad Hoc* Working Group were Co-Chaired by Mr. Mathias Kende from Belgium and Mr. Mokhtar Warida of Egypt. The Co-Rapporteurs were Mr. Ahsan Nabeel of Pakistan and Mr. Juan Camilo Saretzki-Forero of Colombia. The meetings were facilitated by the Secretariat and were attended by the Regional Coordinators and the interested Member State delegations.

There was no interpretation provided by the Secretariat for the meetings of the Working Group. Many delegations and regional groups expressed their discomfort because of the absence of interpretation in official United Nations languages which was covered under the Rule 12 in conjunction with Rule 41 of the Rules and Procedure of the Organization. However some other delegations mentioned, while regretting the unavailability of interpretation, that since the mandate establishing the working group had outlined that there would be no financial implications associated with the Working Group therefore there could be no interpretation provided for and that as per the principle of 'lex specialis derogat generalis', the ToRs of the *Ad Hoc* Working Group had precedence over the rules of procedure. Therefore there was absence of consensus on the issue of interpretation. In order to facilitate the understanding of the report for non-English speaking Member States, the Coordinators of African Group and GRULAC on behalf of their regional groups requested the Secretariat to make available the entire External Review Report (document CDIP/8/INF/1) in all UN official languages.

This Report contains the main topics raised during the discussions held on the document CDIP/8/INF/1 and the Management Response of the Secretariat. This report only serves as a tool to expedite the discussions on this matter within the CDIP. The record of the sessions of the five meetings of the Working Group, prepared by the Co-Rapporteurs, is without prejudice to the actual interventions and positions, and is being made available to all WIPO Members.

Substantive matters - redundant or no longer relevant recommendations

Discussions were held with regard to the various substantives issues. Records of the sessions provide background on these issues. Some of those issues are as follows:

- a) Definitions and implications of the terms "redundant" and "no longer relevant"

There were divergent opinions and perspectives with regard to the definitions and implications of the terms "redundant" and "no longer relevant". Due to lack of agreement of the working group on this issue, the Co-Chairs mentioned that it was not for the Working Group to resolve that specific issue.

- b) Classification of Recommendations by the Secretariat in the Management Response

Some delegations supported the categorization of the recommendations into A, B and C categories and agreed with the Secretariat on such classification. However, some delegations

considered that the classification of the recommendations by the Secretariat in the Management Response into A, B and C categories, especially the double classification of same Recommendation under two different categories without explanation, led to confusion and certain problems and it would be better to merge the A and B categories into one category. Some delegations also requested clarifications and explanations for the reasons Secretariat had considered recommendations under Category C as raising concern and therefore, could not be considered for implementation. Some delegations, after listening to the Secretariat's response on several recommendations with double or triple classification in the Management Response, expressed their satisfaction with their answers. There were divergent opinions in the working group on these points.

c) Comments on the External Review and Management Response

The Working Group considered the External Review and the Management Response with regard to the redundant or no longer relevant recommendations. Some delegations considered the "External Review" as a very important step since it implied the goal of identifying ways in which technical assistance activities of WIPO in the area of cooperation development could be improved. Some members of the Working Group considered the External Review not as a critic to WIPO's work but rather as an opportunity to improve an area of crucial importance for the WIPO Member States. Some other delegations considered that the recommendations of the External Review were the views of the authors and highlighted that many of the recommendations were outdated due to the period of activities under consideration and/or already under implementation by the Secretariat. Other delegations considered that many of the recommendations deserved attention, response and action of the Member States and the Secretariat. Some delegations considered that the mandate of the Working Group was to concentrate on redundant and no longer relevant recommendations.

The Working Group exchanged views on some specific recommendations and at the end of the discussions, the group did not come to any decision concerning redundant or no longer relevant recommendations.

d) Elaboration of the Management Response

During the meetings, many queries were raised by the Member States with regard to the Management Response to the External Review. The Secretariat, as much as possible, tried to provide responses to the queries. Some delegations highlighted that the Management Response, while providing very interesting information, shall not limit or be the basis for the discussions in the CDIP on the External Review recommendations.

e) List of Redundant or no Longer Relevant Recommendations

There was no consensus on a list of redundant or irrelevant recommendations from the External Review.

Other Matters

During the deliberations of the Working Group, various delegations highlighted the recommendations from the External Review Report which in their view were important and required implementation. However since the Working Group did not have mandate to work on the implementable recommendations and could only focus on the redundant or no longer relevant recommendations, it was agreed that those delegations could raise that issue in the CDIP.

The Annex to the Report contained general statements from the regional groups. The record of the meetings of the *Ad Hoc* Working Group was also available. This was prepared by the Co-Rapporteurs. It was not a verbatim record of the statements made by the delegations and the Secretariat, and was without prejudice to the actual interventions and positions.

120. The Delegation of Egypt, speaking as Co-Chair of the *Ad Hoc* Working Group, thanked the Co-Rapporteurs for their excellent efforts in preparing the report of the *Ad Hoc* Working Group and the record of the meetings. They did their best to capture the discussions, debates and arguments that took place in the meetings of the *Ad Hoc* Working Group on both the External Review and Management Response. There were, of course, points of convergence and divergence especially around the different understandings of delegations on what should constitute redundant and no longer relevant recommendations as well as on the classifications of recommendations under categories A, B and C in the Management Response. The positions of delegations were captured in the statements by the African Group, Development Agenda Group, Group B, GRULAC and the United Kingdom. These were contained in the Annex to the Report. The Co-Chair also thanked the Secretariat for facilitating the meetings without obligatory implications. This was sometimes challenging especially with regard to the requests from some delegations for interpretation. The Secretariat was present in all of the meetings and responded to the questions that delegations posed on the Management Response and information contained therein. The Co-Chair also thanked the delegations that participated in the meetings for sharing their opinions, views and analysis. He thanked the Co-Chair from Belgium and expressed his appreciation for the long discussions they had throughout the process. As Co-Chairs, they had tried their best to pursue the process efficiently, in order to implement the decision of the CDIP on the mandate of the *Ad Hoc* Working Group. They hoped that the outcome of the *Ad Hoc* Working Group would be useful to the CDIP and the Member States in their considerations and discussions. It was now their responsibility to identify the recommendations to be adopted for the way forward.

121. The Delegation of Belgium, speaking as Co-Chair of the *Ad Hoc* Working Group, thanked the Co-Chair, the Co-Rapporteurs and all interested parties for contributing to the meetings. He also thanked Dr. Deere and Dr. Roca for the interesting Report and discussions following the Report. The Co-Chair also thanked the Secretariat for the Management Response, for facilitating the meetings and last but not least, for the timely availability of the Reports, which was from time to time a challenge. On the substance, when he was based in Africa, an old friend had told him that Djibouti was known for many things, including scuba diving and deserts. As Co-Chair, he had sometimes felt that he was scuba diving. He often felt, as a scuba diver, limited but bound by the terms of reference which provided the oxygen for the *Ad Hoc* Working Group's work. It had to recognize that the Terms of Reference were as they were and required the *Ad Hoc* Working Group to identify recommendations that were redundant or no longer relevant, in a budget neutral way. It had done so. What emerged was a conclusion that there was no agreement on both the definition of "redundant" and a set of redundant recommendations. However, as this was the CDIP, the delegations were no longer diving, scuba diving or whatever. This was now more like a walk through a desert. This required one to walk in a viable, practical and manageable way. As such, the Co-Chair thanked the Secretariat, especially Mr. Onyeama and his Division, for making available what was manageable, practical and viable. As Co-Chair of the *Ad Hoc* Working Group, he emphasized the importance of focusing on category B of the recommendations.

122. The Chair thanked the Co-Chairs of the *Ad Hoc* Working Group for their work. The exercise had proved difficult and challenging but they had done their best. He referred to the metaphor used by the Co-Chair from Belgium and hoped that the Committee would be able to find an oasis where the delegations could think about the recommendations that would constitute the outcome of the discussions because the worst-case scenario would be to conclude without having anything tangible in hand. The Committee now had information which

was as complete as possible. The Committee had the presentation by Dr. Deere of the Report which she co-authored with Dr. Roca, who was unfortunately not here this day. It also had the presentation on the Management Response by the Secretariat. The Committee also had the Report of the *Ad Hoc* Working Group and the statements by the two Co-Chairs on their impressions as to the form and contents of those discussions. Thus, the Committee could now have a meaningful discussion on the follow-up to the recommendations.

123. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, thanked Dr. Deere and Dr. Roca for their report on the External Review, and the Secretariat for its Response which demonstrated a commitment to improve its ongoing technical assistance to Member States. Technical assistance could be considered as the crux of the Development Agenda. The External Review can play a critical role in improving technical assistance though recognizing possible weaknesses, with a view to providing developing oriented, demand driven and transparent technical assistance based on a country's needs and level of development and country specific with respect to design, delivery and evaluation. Thus, it was important to concentrate on several recommendations within different topics in the External Review Report and identify the relevant recommendations to be implemented and translated into concrete action. To achieve these goals and to ensure focused discussions on the recommendations, with the objective of improving the quality of technical assistance, prioritizing the relevant recommendations and designing projects or action plans to implement such recommendations was a practical approach to improve technical assistance. Although the *Ad Hoc* Working Group could not reach consensus on identifying redundant and irrelevant recommendations due to the different interpretations of Member States on what should be considered as redundant or irrelevant in the context of WIPO's current activities, the CDIP could reach agreement at least on designing projects or action plans based on relevant recommendations. In this context, the Group welcomed discussion on the External Review of WIPO technical assistance and encouraged all Member States to come up with concrete proposals for the next session of the CDIP. Therefore, the Group invited the Committee to keep documents related to the External Review on the agenda for the next session of the Committee. Finally, the Group extended its gratitude to the Co-Chairs of the *Ad Hoc* Working Group for their guidance and the two Co-Rapporteurs for their hard work in preparing the Reports as well as the record of the meetings.

124. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, felt that it was in a very good position to speak because all the interventions made since the beginning of the session were very positive. It was in that spirit that the Group wished to intervene. The Committee had heard different presentations. The first was by the co-Author of the External Review. She had included some very positive elements in her presentation which reflected the importance of the Report. It was significant that the review was one of the first to be conducted by the Organization on this issue. The Report recognized that the cooperation and technical assistance provided by WIPO to its Member States covered a large area. The presentation by the Secretariat was also positive. He had, in a very constructive and comprehensive manner, presented what WIPO was doing, without influencing the Committee's work on the recommendations of the External Review. The Authors had tried to contribute towards improving the management and delivery of WIPO technical assistance in a comprehensive manner. The Group was working towards the same objectives. As such, the Delegation's intervention was on the Group's joint proposal with the African Group. The document was available outside the room. Discussions on the External Review began in the last session of the Committee. Document CDIP/8/INF/1 which was presented in the last session and the Management Response in document CDIP/9/14 formed the basis for the discussions. The Group was of the view that effective follow-up action based on the recommendations of the External Review would substantially contribute towards the effective implementation of the WIPO Development Agenda. Its joint proposal with the African Group was made in this context. The Delegation made some introductory remarks on the document. First, the proposal was based entirely on the Report of the External Review in document CDIP/8/INF/1 and the

Management Response in document CDIP/9/14. The ideas and recommendations included in the proposal were taken from document CDIP/8/INF/1. References were provided in the document to indicate the source. Second, the proposal was aimed at reorganizing information provided in those documents. As mentioned earlier by Dr. Deere, the Report on the External Review was a voluminous document. It provided all the background information required to understand the recommendations included in that Report. The proposal followed the informal discussions in the *Ad Hoc* Working Group. The work undertaken in the *Ad Hoc* Working Group reflected the keen interest of all Member States in the Report. Member States had been completely involved in that exercise. The Group thanked the Co-Chairs, Co-Rapporteurs and all those who participated. The proposal was aimed at providing a consolidated and concise document on the recommendations and was only 16 pages long. The recommendations were classified under 13 clusters. Each cluster contained a number of recommendations that fell under the same theme. For example, Cluster A on relevance and orientation included recommendations such as the development of guidelines and a manual on technical assistance. Dr. Deere had explained why these were needed. It would be easy to work on these. They would be a great help because sometimes Member States did not know what was required and what was available in terms of WIPO technical assistance. These would make things a lot easier for those Member States and may even encourage them to request technical assistance. Cluster B on the Program and Budget included the idea of a full policy on program and budget related to development activities. This idea was raised in the Report and was something that the Development Agenda Group and African Group completely agreed with. The Authors acknowledged that the Secretariat was working on some of the issues. Both groups also agreed with this. For example, on activities which were financed through the FITs, they had said from the beginning that these should be integrated into the regular budget. The Secretariat said that it had started to do so. They acknowledged that and agreed that something had been done. As such, their request was for all the different activities to be fully integrated in future. This would allow Member States to see details of the amounts, sources of funds and the funding conditions. Information should also be provided on how Member States can request for technical assistance activities that were financed through the FITs. Human resources was another area where further work was required. They agreed with the Secretariat that a Code of Ethics had been introduced in WIPO. They were also pleased to note that in the Management Response and the Director General's Report that the Code of Ethics was linked to the mainstreaming of the Development Agenda in the Organization. As such, they would like to see, for example, a reference in the Code of Ethics to the UN-WIPO Agreement and the Development Agenda. The issue of consultants and experts was another area that required work. This was also included in the presentation by Dr. Deere as an area that needed work. For example, the Development Agenda Group and African Group would like to know how the work of these consultants was assessed and how they were engaged to carry out WIPO activities. A Code of Ethics should also be developed for experts and consultants. "Legislative and regulatory assistance" was another cluster that required consideration. It was agreed that technical assistance in this area was sensitive and detailed information could not, for example, be provided on the WIPO web site without the permission of the beneficiaries. However, they would like to consider how such information can be shared by Member States on a voluntary basis or with the agreement of beneficiaries. There were other clusters that needed to be fully discussed. However, that was not the aim of this presentation. The presentation was intended to explain the objectives behind the document. The Delegation from Egypt would, on behalf of the African Group, provide complementary information on the document and the way forward as proposed therein.

125. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Co-Authors of the External Review Report for their valuable analysis and recommendations, and the Secretariat for the Management Response which was also discussed extensively in the *Ad Hoc* Working Group. The Group's position was captured in the submission of the African Group to the *Ad Hoc* Working Group. This was available if delegations were interested to know

the position of the Group in the discussions of the *Ad Hoc* Working Group. The Delegation would not go into that as its presentation concerned the future. The Group had assessed the recommendations of the External Review Report and the Management Response. It had, together with the Development Agenda Group, tried to identify the recommendations that they considered to be of merit and should be carried forward for implementation. Before delving into those recommendations highlighted by the Development Agenda Group, the Group described the principles that guided their analysis. First, their work was in accordance with the relevant Development Agenda recommendations, especially Recommendation 41, “to conduct a review of current WIPO technical assistance activities in the area of cooperation for development”. There was also Recommendation 33, “to request WIPO to develop an effective yearly review and evaluation mechanism for the assessment of all of its development-oriented activities, including those related to technical assistance, establishing for the purpose specific indicators and benchmarks where appropriate”. Hence, their work was based on Development Agenda recommendations. Second, the identified recommendations were derived from the external review report and were also informed by the Management Response. Therefore, as highlighted by the Development Agenda Group, clear references were included in the document on the exact context and location for these in the External Review Report and the Management Response, where appropriate. The Development Agenda Group and African Group had identified specific recommendations in 13 areas. These included the relevance and orientation of WIPO technical assistance in the area of cooperation for development; Program and Budget; extra-budgetary resources; human resources; experts and consultants; transparency and communication; Technical Assistance Database; assessing impact, monitoring and evaluation; IP strategies and policies; legislative and regulatory assistance; IP office modernization, training and capacity building, user support systems; coordination; and follow-up. As highlighted by the Secretariat, the External Review Report contained 89 main recommendations and over 200 sub-recommendations. The Development Agenda Group and African Group had analyzed these and identified some which could be carried forward. They looked forward to a discussion on these. They were also open to conduct consultations in the Committee, with interested Members and delegations in this regard. Their objective was to build upon the existing in order for WIPO technical assistance to be improved, made more efficient and useful. This would enhance the development impact of these activities in developing and least developed Member States that benefit from WIPO technical assistance.

126. The Delegation of the United States of America, speaking on behalf of Group B, thanked the Co-Authors, Dr. Carolyn Deere and Dr. Santiago Roca, for the External Review of WIPO technical assistance in the area of cooperation for development. The Delegation also thanked the Secretariat for the Management Response to the Report. While the Report included a large number of recommendations, the Group believed the clustering of recommendations and the Management Response should be the basis to guide the Committee's work. Cluster A listed recommendations which were already reflected in WIPO activities or ongoing reform programs. Cluster B listed recommendations which merit further consideration and cluster C listed recommendations which raised concerns as to implementation. The Committee should focus its discussions on the recommendations in Cluster B. The Group saw no value in discussing the recommendations listed in Cluster A as the issues raised therein were being or had been addressed by the Secretariat. It was also important to note that these recommendations reflected the situation from 2008 to 2010. In its view, it would be unnecessary and inefficient if the Committee continued to look in detail into the large number of redundant recommendations. There were currently many WIPO projects on technical assistance underway and certainly more to come. These projects should be evaluated separately and would inform the Committee whether issues raised in the Deere / Roca Report had been successful taken care of. Adhering to this approach would not only avoid duplication of work but would also provide the advantage in ensuring that the Committee would continually receive the assessments from a wide range of qualified evaluators. Moreover if these evaluations identified the need for further improvements, the Committee would have the opportunity to take the necessary steps in a timely manner.

Likewise, the recommendations in Cluster C should not be discussed as the Secretariat had identified significant resource and mandate issues that would preclude their implementation. Regarding the latter, that was the mandate issues, the Secretariat quite correctly identified a few of the more problematic recommendations. For example, that the Organization should shift from an IP centric to a development-oriented perspective and that WIPO should not seek to establish itself as the United Nations voice on IP. Both of these recommendations contravened the WIPO Convention, specifically Article 3, "The objectives of the Organization were to promote the protection of intellectual property throughout the world through cooperating among states, and where appropriate, in collaboration with other international organizations". For these reasons, the recommendations in Cluster C should not be discussed. The Group also noted that the recommendations in the Deere / Roca Report were those of the Authors only and that the recommendations should not be implemented unless there was a decision by consensus of the Member States to do so. The Group thanked the Co-Chairs, the Co-Rapporteurs, the Secretariat and the members who participated in the *Ad Hoc* Working Group. As the Delegation had said on the day before, the *Ad Hoc* Working Group did not meet its goal of reducing the number of recommendations through focused discussions on redundant or no longer relevant recommendations. Moving forward discussions of the recommendations should be limited to the CDIP.

127. The Delegation of Venezuela thanked the Co-Rapporteurs for their work. It was true that the *Ad-Hoc* Working Group had not reached an agreement on the categorization of the recommendations. This was because the delegations had not been able to agree on that. The first thing a Delegation had to do was to study the External Review Report and language was relevant in that regard. The language issue was also related to development. Delegations could not work on a report if they were unable to study or discuss it in a language that was different from theirs. A special mandate was given to the *Ad Hoc* Working Group. However, this cannot be used to override the general rules of procedure on translation and interpretation. A special mandate can never run counter to a general mandate on these issues. On important matters such as the External Review, interpretation and translation should be provided. This should be understood to be included in the expenditure of the Organization and not as something special. The two working languages in the Working Group meetings were English and French. Delegations that used these languages did not have problems. However, that may change. This issue was linked to development. Perhaps forthcoming Working Group meetings could be held in Arabic, Chinese, and Spanish so others could experience what they had to go through. These were also languages of the United Nations. With regard to what was said by the Secretariat on the reforms in the Organization since 2010, and the fact that these were not recorded in the External Review Report, this did not necessarily mean that the Report had lost its relevance or that everything was working better for the Development Agenda as a result of the ongoing reforms within the Organization. The Delegation hoped that the latter was true but it should also be made clear as to how the Organization was working better with regard to the Development Agenda. The Delegation thanked Dr. Deere for her work and the responsible manner in which the assessment was carried out. The Chair had mentioned that the Report was a reason for reflection. That was true but only with regard to certain parties within the Organization. Some had said that the Report was crazy and others, that it was wonderful. It was now time for reflection. This should not focus on the quality of the report but rather on what was being or not being done. The whole process was aimed at making WIPO a development oriented organization. It was not born to do so. However, times were changing. IP was linked to public health, food security and environmental issues which were relevant to developing countries. Thus, WIPO could not be considered solely as an organization for IP. If the statutes, rules and regulations had to be changed, this should be done. These were not intended to be eternal. Dr. Deere mentioned that there were areas which had structural problems. The Member States provided guidelines on the type of assistance required and this had serious repercussions on the Program and budget Committee. It was said that some committees were substantive committees and others were functional committees. However, the issue of

development was relevant to all committees as everything was related to development. The Delegation sought clarification from Dr. Deere on the relationship between the Program and Budget Committee and the issue of development within the Organization.

128. The Delegation of Denmark, speaking on behalf of the EU and its Member States, thanked Dr. Deere for her presentation of the External Review of WIPO technical assistance in the area of cooperation for development and for her personal views on the recommendations of the review. The Delegation also thanked the Secretariat for the presentations on the Management Response. With regard to the *Ad Hoc* Working Group, the EU and its Member States thanked the Co-Chairs, the Co-Rapporteurs and interested parties for their contribution to the work of the *Ad Hoc* Working Group on the External Review, and the Secretariat for facilitating the meetings. The mandate of the *Ad Hoc* Working Group was to review the Deere / Roca Report contained in document CDIP/8/INF/1 with emphasis on identifying recommendations that were redundant or no longer relevant. In doing so the *Ad Hoc* Working Group had been informed by the Management Response in document CDIP/9/14. The EU and its Member States had participated constructively in the discussions of the *Ad Hoc* Working Group. However the results of the work carried out by the *Ad Hoc* Working Group had not reached the expected outcome in accordance with its mandate. As the Management Response was more recent compared to the External Review, discussions should focus on the former. The Management Response identified three categories of recommendations within the External Review. Category A contained recommendations which were already reflected in WIPO activities or ongoing reform programs. Category B contained recommendations which merit further considerations. Finally, category C listed recommendations which raised concerns as to their implementation. In this regard, the focus of the Committee should only be on those recommendations that were identified by the Secretariat under Category B of the Management Response as deserving further consideration. Recommendations under Category A of the Management Response were redundant since they were partially or already reflected in WIPO activities or ongoing reform programs. Recommendations which raised concerns as to their implementation were classified under Category C of the Management Response and should not be considered further. With regard to further discussions on this issue, the EU and its Member States stood ready to engage in such discussions within the CDIP.

129. The Delegation of Paraguay, speaking on behalf of GRULAC, thanked the Secretariat, the Authors of the Deere / Roca report, the Co-Chairs of the *Ad Hoc* Working Group from Belgium and Egypt as well as the Co-Rapporteurs from Pakistan and Colombia. The Delegation referred to the issue of working languages, a topic which was not of minor importance for GRULAC. The Group was sorry that interpretation services were not provided in the *Ad Hoc* Working Group meetings and it was not able to count on the translation of the Deere / Roca report into Spanish. The Group's position on the work of the *Ad hoc* Working Group was contained in the Annex to the *Ad Hoc* Working Group report and this would be referred to in the intervention. With regard to the external review on WIPO technical assistance in the area of cooperation for development, the implementation of the Development Agenda was a priority in the activities of WIPO. In this regard, the external review on technical assistance rendered by WIPO in the area of cooperation for development was an important step in the discussion of this topic because the Committee should identify ways in which WIPO technical assistance can be improved. The report should not be seen as a criticism of WIPO's work in the field of development cooperation but rather as an opportunity to improve an area of crucial importance for developing countries as they were the main beneficiaries of technical assistance. The Member States should analyze the document as a tool to improve the activities of all the stakeholders. Therefore it should not be used to generate confrontation or to promote further disagreement. The recommendations contained in the Deere / Roca report should be monitored in future to ensure continuous follow-up and evaluation of the activities within existing mechanisms in the CDIP. With regard to the management response, the initiatives described therein were positive although the document had not fully explained to what extent these had

been effective in the implementation of their objectives. However, it demonstrated a good level of commitment from the Secretariat to improve their activities and to acknowledge challenges. On the proposal to establish guidelines for development, these guidelines should not limit the rights of Member States to request WIPO to carry out technical assistance activities based on their specific needs. It was proposed that the activities funded through FITs should be reflected in WIPO's regular budget, programming and reporting processes. This should be approached in a delicate manner as activities funded through FITs should be proposed at any time and without any administrative limitations, including the Program and Budget Committee. Consequently, this Recommendation should be considered as being no longer relevant. The guidelines should be adopted to promote and not to limit the planning of FIT activities. With regard to the role played by the Diplomatic Missions in Geneva, because the Permanent Missions represent governments, they should be kept up to date on all activities to be carried out in a country in question. In this context, WIPO should keep the Permanent Missions informed of all their initiatives. In concluding, the Group reiterated the commitment of all its members to continue supporting initiatives which encouraged the improvement of WIPO activities and made a positive contribution to the development activities across countries.

130. The Delegation of Korea thanked the authors for their report on the external review of WIPO technical assistance in the area of cooperation for development, their valuable insights and recommendations to improve WIPO technical assistance. The Delegation also thanked the Secretariat for responding to the external review. The Delegation highly appreciated the participation of the members of the *Ad Hoc* Working Group, in particular the two Co-Chairs from Belgium and Egypt and the two Co-Rapporteurs from Pakistan and Colombia for their hard work in examining the recommendations in a detailed and substantive way. With regard to the external review, the Delegation was very impressed by the comprehensive and detailed report which was effectively compiled despite constraints such as difficulties with data collection and limited time and resources. In general, the Delegation was of the view that the findings, observations and recommendations of the review should be taken into careful consideration by the CDIP as they were well developed and had the potential to add value to WIPO's technical assistance program under the umbrella of the Development Agenda. In particular, the Delegation fully agreed with the point made in the report that WIPO and its development activities should reflect balance, transparency, efficiency in utilization, effectiveness and impact. Although the report contained recommendations which raised concerns regarding actual implementation, WIPO had already demonstrated its commitment to incorporate development considerations into its activities by implementing many of the recommendations through different measures including through the WIPO Strategic Realignment Program. In this respect, the Delegation commended the Director General for his able leadership and the Secretariat for its hard work. However, the Delegation agreed with the findings that there were significant shortcomings in WIPO's internal processes for defining, measuring and monitoring the distribution of its budget and expenditure for development cooperation activities. In this regard, the Delegations shared the view that WIPO's internal processes should be made more transparent with regard to the implementation of Development Agenda projects as well as other WIPO technical assistance activities in developing countries. Lastly, with regard to the report's Recommendation on activities supported by FITs, the Delegation shared the report's underlying philosophy which stressed on the need to increase transparency in the utilization of extra budgetary resources. However, given the complementary nature of the projects and the voluntary funding by donors which was intended to support WIPO's development activities, the Delegation believed that it was better to maintain some flexibility in undertaking FIT activities rather than apply structured rules as in the case of the regular budget programs. It also believed that it was imperative to enhance internal coordination to avoid any duplication or overlap between regular budget programs and FIT programs, and to enhance coordination with donors in order to achieve a balance between donor positions and WIPO's principles in implementing development assistance programs. These were the Delegation's preliminary observations and it was ready to engage in constructive discussions in the CDIP.

131. The Delegation of Hungary, speaking on behalf of the Central European and Baltic States, expressed its appreciation for the external review and the Management Response. The Group also thanked the authors, the Secretariat, the Co-Chairs and the Co-Rapporteurs for their efforts as well as all the participants for their commitment to the process. Within the modalities of the *Ad Hoc* Working Group which was set up at the last session of the CDIP, the Group had, along with other participants, and with no budgetary implications associated with their work, engaged in the five working sessions in the important task of reviewing document CDIP/8/INF/1 to identify recommendations that were redundant or no longer relevant, without any prioritization of recommendations. The Management Response also fed substantively into the discussions and the Group thanked the Secretariat for their hard work. The *Ad Hoc* Working Group found the categorization in the Management Response relevant to the task. The Group considered the recommendations grouped under Cluster A to be redundant and no longer relevant as they contained recommendations that were already reflected in WIPO activities and ongoing reform programs. In several cases, the redundancy was also due to the fact that since the completion of the external review, considerable time had elapsed. Therefore, the review did not take into account the most recent activities by the Secretariat. It should also be noted that several projects implementing the recommendations from the Deere / Roca report were being evaluated and reported to the Committee at this or future sessions. According to the Management Response, some other recommendations of the external review grouped under Cluster C, raised concerns as to their implementation. The Group thanked the Secretariat for elaborating on the reasoning behind some of those recommendations during the various sessions of the *Ad Hoc* Working Group. To expedite discussions, recommendations under Cluster C should not be further discussed. Unfortunately, the *Ad Hoc* Working Group was not able to reach consensus on redundant and no longer relevant recommendations. However, it was hoped that the hours spent in those discussions had not been in-vain and the useful explanations provided by the Secretariat would provide a basis to expedite the discussions. The Group looked forward to discussions on recommendations grouped under Cluster B which were identified as potentially implementable in the Management Response. The Group supported technical assistance activities that were based on specific demands from countries and which built on progress already achieved. Finally, the Group's position was that any future debate on this highly important issue and related reports should take place only within the framework of the CDIP.

132. The Delegation of Bolivia expressed its full support for the statement made by the Delegation of Paraguay on behalf of GRULAC and in particular, the points concerning translation and languages. These were important for discussions to be inclusive and transparent. The Delegation could not accept that a report which was important should not be translated into Spanish and other United Nations languages. It also could not accept that important work such as that of the *Ad Hoc* Working Group should not include interpretation. The Delegation thanked the Co-Authors for their report. The report was of great value as it provided a view of WIPO's technical assistance through the eyes of external experts. The Development Agenda was of utmost importance and 15 of its recommendations concerned technical assistance. For that reason, the report on the external review was important. It contained valuable recommendations and the Delegation was grateful to the Co-Authors for their efforts in this regard. As mentioned earlier by the coordinator for GRULAC, the report should not be seen as an attack on WIPO but rather as an opportunity to improve its work and to strengthen its technical assistance activities. This would ensure that the needs of the developing countries would be met. The Delegation thanked the Secretariat for the Management Response. It was pleased to note that work was being carried out to improve WIPO's technical assistance. The Delegation commended the Secretariat for its efforts. With regard to the way forward, the Member States had already had an opportunity to discuss in depth the report by the Co-Authors. The *Ad Hoc* Working Group had also analyzed the Secretariat's response to the report. Although it did not reach any agreement on no longer

relevant or redundant areas, the *Ad Hoc* Working Group provided an important opportunity for Member States to examine the details of what was being done by the Secretariat. They were now faced with the challenge of taking the next step. The Delegation did not support the proposal by Group B and the EU that the Committee should concentrate only on the recommendations included under Cluster B as that categorization merely represented the Secretariat's opinion. Although it assisted the Committee to have a clearer view to enable it to move forward, the report of the *Ad Hoc* Working Group had clearly indicated that there was no agreement on these categories among Member States. Hence, the Delegation did not think that the document or its categories should provide the basis for the way forward. The Committee should recognize the work done by the Development Agenda Group and the African Group as useful and should thank them for their document as they had made a very valuable effort in trying to identify the key recommendations in the external review report and to compare those with the Secretariat's response. The Development Agenda Group/African Group document contained 36 specific recommendations on each of the sub themes. It was important to bear in mind that the document took into account the Secretariat's response. The Delegation gave its full support to the document. It provided a good basis for further discussions on which recommendations to implement. The Delegation was a co-sponsor of the proposal and would like to have its name on the document when it was circulated in future.

133. The Delegation of South Africa commended the authors of the report on the external review of WIPO technical assistance in the area of cooperation for development. It was befitting that the report was now known as the Deere / Roca report. The Delegation also thanked the Secretariat for the Management Response to the report, particularly the efforts to identify and compile all the recommendations of the Deere / Roca report in a reader-friendly manner in Annex 2 of the document. However, the Delegation also emphasized it had reservations with regard to the categorization of recommendations in Annex 2. This was because "neutrality" was a keyword which was mentioned several times with regard to the position of the Secretariat. The categorization compromised the neutrality of the Secretariat. The Delegation questioned the basis on which the Secretariat had raised concerns with regard to the implementation of certain recommendations. As such, the Delegation did not align itself with the categorization. However, it was happy with the Annex as compiled. The *Ad Hoc* Working Group on the external review of technical assistance had a number of meetings to review the recommendations of the Deere / Roca report. The *Ad Hoc* Working Group had provided a platform for Member States to understand the findings and recommendations of the report. In its view, the *Ad Hoc* Working Group was useful and a success. However, it was now important to focus on deliverables. The Committee must identify recommendations for consideration and implementation. This was also eloquently stated earlier by Dr. Deere when she identified a list of recommendations the Committee could consider. Mr. Onyeama had stated that the Secretariat welcomed the report. It was mentioned under the cost and priority setting exercise section in the Management Response that "many of the individual activities suggested appear reasonable and some were intuitively low cost". It was also stated that an assessment of the recommendations would require a "a priority setting exercise". The Delegation had referred to these because the joint proposal by the Development Agenda Group and the African Group had taken these issues into consideration. Therefore, that joint proposal should provide the basis for the way forward, taking into consideration the discussions of the *Ad Hoc* Working Group as well as the comments that were made in those discussions. As the Delegation had said earlier, the *Ad Hoc* Working Group was a success as it provided an opportunity for Member States to listen and understand. It was very important for Member States to examine the Development Agenda Group/African Group proposal as mentioned by the Delegation of Bolivia. There was nothing new in that proposal. The only thing they had done was to extrapolate what they thought could facilitate discussions going forward. The Delegation also supported the suggestion by the coordinator of the African Group for the Chair to consider holding consultations in the course of the week to look into which recommendations were indeed implementable as the Committee also needed to identify those which were immediately implementable so it could take these forward. The

Delegation emphasized that it would be counterproductive to refer back to the discussions in the *Ad Hoc* Working Group on other matters. The report of the Co-Rapporteurs and its attachment provided details of everything that was said. It was now important for the Committee to move forward. The Development Agenda Group /African Group proposal took into consideration the concerns of all Member States. They had narrowed down the recommendations because they were in excess of 300 and now there were fewer than 50. They acknowledged that there were certain recommendations which were difficult for other Member States, Dr. Deere had also admitted to that, but there were others which were quite easy to implement. As such, the Committee should try to engage constructively on both the Deere / Roca report and the Management Response.

134. The Delegation of Senegal congratulated the Chair on his election as it was the first time that it was taking the floor. The Delegation also thanked the Secretariat for the working documents and the Management Response, the authors of the report on the external review in document CDIP 8/INF/1, the Co-Chairs of the *Ad Hoc* Working Group, and the Development Agenda Group and African Group for their joint proposal. The Delegation expressed its strong support for that proposal as it was positive and relevant to the compilation of proposals. As its contents were already known to the members of the Committee, the proposal could be used as a basis for future work.

135. The Delegation of Japan congratulated the Chair on his election as it was the first time that it was taking the floor. The Delegation thanked the Co-Chairs and Co-Rapporteurs of the *Ad Hoc* Working Group, the two Co-Authors of the report, and the Secretariat, for their excellent work. Document CDIP/8/INF/1 on the external review of WIPO technical assistance in the area of cooperation for development included various recommendations concerning the transparency or efficiency of the development related work undertaken by the Secretariat. Although the Delegation could agree to the basic direction and purpose of the Committee's work on the recommendations of the Deere / Roca report, it should be noted that the Secretariat had already implemented various measures with regard to many of the recommendations. This was described in document CDIP/9/14 on the Management Response. Therefore, only some of the recommendations could be further discussed. In addition, the external review placed far more importance on development related activities in comparison with other activities. It seemed to underestimate one of the crucial objectives of the Organization which was to promote the protection of intellectual property throughout the world, as explicitly provided under Article 3(i) of the WIPO Convention, as mentioned by the Delegation of the United States of America on behalf of Group B. The report of the external review referred to the transparency of FIT related resources. It stated that activities supported by FITs and associated resources should be reflected in WIPO's regular budget programming and reporting processes. The Delegation fully understood the intent and purpose of this statement. However, WIPO must continue to respect donor wishes as this could eventually lead to adequate FIT resources. The Delegation fully supported the opinion expressed in the report on WIPO's external offices. The report mentioned that many sectors across the Organization did not perceive the external offices as a substantive resource for their work but rather as a logistical contact. The Director General's ongoing consultation process on WIPO's external offices should incorporate the report of the external review and should clarify the role of the external offices in the design and delivery of development cooperation activities. The report further stated that there was also a need for more strategic guidance on the role of external offices in advancing the goals and work of the Development Agenda. In this context, it should be noted that the WIPO Japan Office had played an important role since its establishment, in contributing to development related activities through its work such as the provision of study results and the establishment and maintenance of the IP Advantage database. In addition, the WIPO Japan office was expected to gradually contribute to development related work through its promotion activities on the PCT and Madrid systems. Japan had a big advantage as it was a significant user of the international systems.

The Delegation expressed its firm commitment to support the implementation of those activities by the WIPO Japan Office.

136. The Delegation of the Russian Federation associated itself with the warm words addressed to the Chair by other delegations. It hoped that the Chair's wisdom and experience would enable the Committee to have constructive discussions and to achieve results. The Delegation also expressed its gratitude to the authors of the external review on WIPO technical assistance in the area of cooperation for development, and the Secretariat for the Management Response to the external review. The response by the Secretariat was a very important document. Unfortunately, it was only available as a summary in Russian. The summary did not include important sections such as the clustering of recommendations. A full translation of the document would have been beneficial to its work. The Delegation was also grateful to all colleagues who participated in the *Ad Hoc* Working Group on the external review. Discussions on the external review should take into account the fact that the document described the situation in 2010 before the introduction of organizational reforms in WIPO. Therefore, many of the recommendations in the external review had already been taken into account and were being implemented in the Strategic Realignment Program. The Delegation had tried to work out a comprehensive view of the situation and had relied on the Secretariat's response to the external review. There had been a positive response to many of its projects. There was no doubt that quite a lot of the recommendations had been taken into account and were being implemented. At the same time, there was also no doubt that there was a need for further work to be done on the recommendations to improve the Organization's work. Much had been said on the fact that a range of important and useful recommendations were included under Cluster B. The Delegation was prepared to take part in what it hoped would be a constructive discussion of future measures to improve WIPO's work in that direction.

137. The Delegation of Georgia, speaking on behalf of the Group of Certain Countries of Eastern Europe, Caucuses and Central Asia, thanked the Authors of the external review report. The report was all encompassing and very informative. The Group also thanked the Secretariat for the Management Response and the categorization of recommendations included in the external review report. The Group acknowledged that WIPO had improved its rendering of technical assistance projects in the past few years. Many of the development projects were still ongoing in some of its countries. Hence, some of the recommendations were irrelevant in certain areas, although in the case of projects which were being processed, some recommendations under Cluster A could be deemed appropriate. WIPO did its best to meet the demands of Member State in the implementation of Development Agenda activities. The Group acknowledged that significant progress had already been achieved in this area. Some of its members had practical experienced in implementing certain projects under the Development Agenda. The TISC and TTO projects were examples. Although the Group recognized that some of the projects were undertaken at a slow pace and not quite in accordance with the needs of Member States, it nevertheless supported WIPO's work which was aimed at reducing the knowledge gap, and in their case, to meet the needs of the countries in transition. Its members would raise specific concerns directly with WIPO colleagues in the course of project implementation and hoped to resolve areas of concern in a cooperative manner. Thus, the Group held a flexible position with regard to the recommendations clustered under Category A by the Secretariat. Even if these were deemed irrelevant and redundant, the Group believed that WIPO would still continue to do its best with regard to technical assistance activities and act in good faith and in a transparent manner. This included the possibility to resolve certain concerns with beneficiary countries on a case by case basis. With respect to Category C recommendations, the Group agreed that most of these were hard to achieve and therefore, should not be discussed. The Group would like to know, from the Authors of the recommendations, which particular recommendations they regarded as inappropriately categorized by the Secretariat in the Management Response. Overall, the Group supported

WIPO's ongoing and planned activities directed at reducing the knowledge gap, capacity building, infrastructure modernization, and access to specialized databases.

138. The Delegation of Guinea thanked the Co-Authors of the report and the *Ad Hoc* Working Group which had been entrusted to review that report. The report and its recommendations had helped it to better understand WIPO technical assistance and in particular, the services rendered by WIPO to beneficiary countries. The Delegation had taken due note of the response provided by the Secretariat, particularly with regard to the implementation of the majority of the recommendations which were focused on development. However, with regard to development activities and the need to involve all stakeholders in pinpointing a country's needs, the Delegation was interested to know about the level of implementation of the strategic assistance framework for Guinea. An update of its country plan would be useful in view of the changes which had occurred in the country. The Delegation would meet with the Secretariat to discuss this. The Delegation reiterated its commitment to WIPO technical assistance and thanked the Secretariat for the remarkable work it had carried out for its country.

139. The Delegation of Brazil thanked the presenters for all the presentations made earlier on the external review report and associated work. The Delegation also thanked the Secretariat for the Management Response. It contained useful information and helped Member States to better understand how the Organization was dealing with development cooperation activities. It understood that the classification provided by the Secretariat which clustered the recommendations under categories A, B and C, was a contribution towards a structured methodology for dealing with the report. However, the framework proposed in the Management Response had some limitations concerning the criteria employed. The Delegation shared the concerns of the African Group and the Development Agenda Group on the meetings of the *Ad Hoc* Working Group on recommendations classified under category A. It understood that the Deere / Roca report offered important elements and insights for the consideration of Member States and WIPO management. In its view, many of the recommendations classified under category A in the Management Response still needed to be further considered. Actions which were already underway may be subject to an evaluation of their implementation. The established targets and stage of implementation should be taken into account. The results should also be monitored. In addition, it would be useful to assess efficiency with regard to the allocation and utilization of resources. Discarding further analysis on the grounds that action was already being taken was not the best approach. Broadly speaking, certain types of recommendations deserved full attention. This included, for instance, the mainstreaming of the Development Agenda recommendations, transparency and monitoring, evaluation of development cooperation activities *vis-à-vis* the needs of developing countries, and budget and development expenditure in the Organization. For this reason, the Delegation fully supported the joint proposal put forward by the Development Agenda Group and the African Group.

140. The Delegation of China thanked Dr. Deere and Dr. Roca for their joint report. It was very informative. The Delegation also thanked the Co-Chairs of the *Ad Hoc* Working Group. Since the launch of the Development Agenda in 2007, WIPO had made significant efforts to mainstream the Development Agenda. WIPO's development cooperation activities should be continuously evaluated and correctly guided. Many Development Agenda projects would be completed by the end of this year. The timely evaluation of those projects was necessary. The Delegation had taken note of the problems described in the Deere / Roca report on the inadequacies and shortcomings in WIPO's work. The report was not a criticism of WIPO, rather a positive proposal to improve its work. Therefore, the Delegation hoped that WIPO would take into account, the relevant recommendations contained in the report in order for the work of the Organization to be undertaken in a more transparent and efficient manner.

141. The Delegation of Algeria thanked all the delegations that had supported the joint proposal by the Development Agenda Group and the African Group. The proposal was based

on the Deere / Roca report, and took into account the response by the Secretariat as well as the proposals from Member States and regional groups on the way forward. The Delegation requested, on behalf of the Development Agenda Group and the African Group, for the document containing the proposal to be circulated as a CDIP working document and for an opportunity to further discuss the document in the afternoon.

142. The Delegation of the United States of America, speaking on behalf of Group B, noted that the joint proposal by the Development Agenda Group and the African Group did highlight some of the recommendations thought to be important by those delegations. As mentioned in the Delegation's opening statement and in its statement on this agenda item, the Group felt very strongly that the Committee should focus on cluster B. Thus, the Group and probably some of the other groups would need some time to coordinate on this issue, to look at the new proposal and to see where those recommendations, if at all, fell in cluster B. The only problem was that there was a lunch side event for the FIT donors that the Delegation and some others had to participate in. Hence, it did not know if they would have a chance to coordinate on this. As such, if the decision on the proposal to make it a formal working document for the Committee could be put off, this would be appreciated.

143. The Delegation of Denmark, speaking on behalf of the EU and Member States, aligned itself with the remarks made by the Delegation of the United States of America on behalf of Group B, that the Group was not in a position to comment on the proposal by the Development Agenda Group and the African Group as it needed to coordinate and would not be able to do so this day.

144. The Delegation of Hungary agreed that more time was needed to read and digest the document for a more informed discussion.

145. The Chair summarized the discussions. He noted the concerns raised by certain delegations on the problems of interpretation in important WIPO meetings. He reiterated that multilingualism was part of multilateralism. For important meetings, efforts should be made, where possible, for documents to be available in all the working languages of the United Nations and to provide the opportunity for delegations to speak in the language they feel most at ease to enable them to accurately express their points of view. This day, the Committee had reviewed the excellent report prepared by Professors Deere and Roca and the Management Response. These were tools which would assist the Committee in its discussion which was aimed at improving technical assistance. The Chair was encouraged by the efforts undertaken by the Secretariat to improve the quality of the assistance provided. It was recognized that the report on the external review had created a dynamic within WIPO and there had never been such a comprehensive reflection within the Organization on its technical assistance activities. The Chair proposed that the Committee should develop a pragmatic and results driven approach in order to identify recommendations which were realistic and feasible and which contributed to the implementation of the Development Agenda. The Chair also noted that the *Ad Hoc* Working Group had been given a restricted mandate and it was in the Committee that Member States should attempt to do everything to identify the relevant recommendations. The Chair proposed for consultations to be held with regional coordinators and all other interested delegations on the way forward and it was subsequently agreed that these consultations would be held at 4pm in Room B.

146. The Chair reopened the discussions and informed the Committee of the outcome of his informal consultations with regional coordinators and interested delegations on the way forward. First, it was agreed that the Committee should take advantage of the presence of Secretariat officials to clarify any issues delegations may have with regard to the recommendations in their efforts to identify recommendations that were urgent and easily implementable. Second, it was agreed that since the process was driven by the Member States, each Delegation should

prepare its own contribution for the next CDIP. Third, it was agreed that delegations would analyze the joint proposal submitted earlier by the Development Agenda Group and the African Group and forward it to their capitals, provided that the translation of the document into all UN languages was completed. This was due to the need to ensure that the delegations would be working in the language in which they were most proficient in. The Chair invited the Committee to put forward questions to the officials on the podium.

147. The Delegation of Algeria referred to the joint proposal submitted by the Development Agenda Group and the African Group. The Delegation sought clarification from both the Secretariat and Dr. Deere on the first Recommendation under the cluster on relevance and orientation. This concerned the proposal to commission Experts to develop guidelines providing specific detail on how to plan and implement more development-oriented assistance both in terms of substance and process. As described in the footnote, this proposal was based on the Recommendation contained in page 61 of the Deere / Roca report. On page 8 of Annex 1 to the Management Response, it was stated that the Secretariat was working on this issue. However, the Delegation had a problem with the guidelines that were being developed by the Secretariat. It was clearly stated on the said page that this was in accordance with the principles of the Paris Declaration on Aid Effectiveness. Some Member States, including Algeria, were not members of that Convention and had difficulties working in accordance with those principles. As such, that proposal was included in the Development Agenda Group/African Group proposal to request for the possibility of developing specific guidelines based on what was being done by the Secretariat and to broaden the scope to include all the different aspects. The joint proposal included elements such as the process for selecting experts to undertake the task. This element was secondary to the main proposal to develop guidelines on this issue.

148. The Delegation of the United Kingdom referred to category B of the recommendations. As these were defined as meriting further consideration, the Delegation sought clarification on how Member States could best support the Secretariat in these considerations. It was clear that there were recurring themes or subcategories within category B. For example, internal and external coordination, training, cost efficiencies and IT infrastructure. The Delegation sought clarification from the Secretariat on the obstacles which were attached to each of those themes. The Delegation recognized that this was merely a start in terms of opening the discussion. The Secretariat would have to come back with further information on these topics in the next CDIP meeting.

149. The Delegation of Egypt asked the Secretariat whether it was feasible to upgrade the WIPO web site to serve as a more effective vehicle for communicating WIPO's development cooperation activities.

150. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, summarized its earlier request for clarification. First, on the development of guidelines, this proposal emanated from a Recommendation on page 61 of the Deere / Roca report. This Recommendation was included under cluster A in the Management Response where it was mentioned that the Secretariat was working on this issue. The Group recognized that. However, the guidelines were being developed in accordance with the principles of the Paris Declaration on Aid Effectiveness. These were general rules. In this context, the Delegation requested the Secretariat to clarify whether specific guidelines on technical assistance would be developed in the ongoing process. As it had the floor, the Delegation also took the opportunity to bring up another issue. This concerned the development of a manual on technical assistance as mentioned in the Deere / Roca report. This was also included in the Development Agenda Group/African Group proposal. This Recommendation was classified under cluster B in the Management Response where it was also stated, in page 28, that the management agreed that a catalog or a menu describing its development could be prepared and made available to

Member States via the WIPO web site, to enhance transparency, and assist in country ownership of development cooperation and in the current country planning exercise. The Group agreed with the Secretariat and the Authors of the external review report that this was an important issue. In this context, it requested the Secretariat to take into account the elements which were included in the Development Agenda Group/African Group proposal in the preparation of the manual.

151. The Delegation of the United Kingdom summarized its earlier request for clarifications. The first point was a broad question on how Member States could help support the Secretariat in its considerations of the items under category B. The second point was that there were some recurring themes under that category, those being coordination, training, cost efficiencies, and IT infrastructure. The Delegation requested the Secretariat to elaborate on the obstacles attached to each of those themes and how Member States could assist.

152. The Delegation of the United States of America had some specific questions related to items under cluster B, the recommendations which merit further consideration. These were questions on possible items for additional follow up. Under cluster B, item one, there was some discussion that staff responsible for legislative advice should have better communication and coordination with the regional bureaus. The Delegation agreed that this would be a value and its question was on how WIPO could make this happen. What mechanisms were envisioned for creating that better coordination and collaboration between those doing legislative advice and those in the regional bureaus? Under cluster B, item two, there was a discussion of some of the work of the Office of the Chief Economist of WIPO and specifically, it stated that initiatives had been taken to develop IP research capacity at the national and regional levels, for example, among the ASPAC countries. The Delegation was interested to know more about the initiatives that had been undertaken specifically to better understand the actions that the Office of the Chief Economist was taking. Under item three, there was a discussion of the need for staff and consultants involved in development cooperation activities to be informed about the widely accepted principles and practices concerning development related assistance, and it said specifically that WIPO was committed to an ongoing program of staff training to enable them to keep up with the evolving nature of development cooperation, based on Development Agenda principles. The Delegation wanted to know whether the said program was currently underway. It was stated that WIPO was committed to it. The Delegation did not know if that meant it was already ongoing or something that WIPO was planning to do in the future. The Delegation requested for clarification on that. Under item four, there was a discussion on the WIPO program to support the preparation of national studies on assessing the economic contribution of the creative industries. It was said in that item that there was potential for more follow-up with concrete deliverables to these countries to stimulate their cultural and creative industries. In this context, the Delegation would like to know what concrete deliverables could be developed as a follow up to this ongoing WIPO program. Lastly, item 7 under cluster B was concerned with the idea of mapping other intergovernmental initiatives and nongovernmental efforts that were ongoing to promote innovation, creativity, technology transfer and access to knowledge. It was stated that a systemic mapping would facilitate the identification of WIPO's strategic niche and relevant partnerships with a range of external actors. The Delegation found this to be a very interesting potential activity and would like to know how WIPO envisaged carrying this out.

153. The Delegation of Venezuela recalled that it had earlier put forward a question to Dr. Deere and would like to have that question answered.

154. The Chair invited the Secretariat to respond to the questions put forward by the delegations.

155. The Secretariat (Geoffrey Onyeama) stated that not all of the staff responsible for technical assistance in the Organization were on the podium at the moment. Thus, the

Secretariat may have to refer some questions to the relevant colleagues. The Secretariat referred to the questions raised by the Delegation of Algeria. The Secretariat could, in principle, incorporate all the points included under the said bullet in the Development Agenda Group/ African Group proposal in the preparation of the manual, as requested. In principle, that should not be a problem and it was something the Secretariat could do. The Secretariat then responded the question from the Delegation of the United Kingdom on how Member States can help with respect to coordination, training, cost efficiency and infrastructure. As far as training, cost efficiency and infrastructure were concerned, one of the ways was through the match making database that had been set up and which envisaged potential beneficiaries identifying and uploading their needs on the database. These needs could cover capacity building, automation and so on, and hopefully potential donors would come forward to support some of the requests which were uploaded on the database. The database had been created to facilitate this kind of match making. The Secretariat was particularly concerned that the database should not become a white elephant. Member states should use it. Potential donors could use the database to respond to specific needs identified by potential recipients, to upload potential projects or areas of assistance that may be of interest to them, and to solicit requests from potential beneficiaries. With regard to coordination, the industrialized countries can certainly help by coordinating amongst themselves on the assistance that they provided to developing countries. For instance, in the context of the FITs, a number of delegations had stated that there should be some complementarity between activities funded through extra-budgetary resources and those funded under the regular Program and Budget, and that Member States beyond the FIT donors should also be involved. Thus, there was a possibility for potential donors and FIT donors to get together to ensure that the areas in which they would like their funds to be used complemented the activities envisaged under the Program and Budget. In other words, when developing a work plan for its funds, a FIT donor should perhaps also look across the board within the Organization to see where the funds could add the most value or be more complementary to other activities within the program. The Secretariat turned to the questions raised by the Delegation of the United States of America. On legislative advice and better coordination with the regional bureaus, the Secretariat had explored the idea of having a unit or section dealing with legislative advice within the Development Sector. However, it was felt that it would be better to include legislative advice within the substantive sectors of the Organization dealing with brands, patents and copyright. It made more sense doing it that way as the substantive sectors should be directly involved and responsible for giving advice on substantive areas. The Development Sector which owned the master plan for technical assistance to developing countries and which had the overview of the needs of each developing country, would have the opportunity to examine the draft legislative advice coming from the substantive sectors and make appropriate comments. On how this could be better coordinated, it was incumbent upon those within the Secretariat to ensure that there was coordination. The bureaus were the focal point. In some cases, the required legislative advice may go beyond a particular area of IP. For example, an IP law which covered trademarks, designs and patents, and perhaps even copyright. In these cases, the bureaus would act as focal points as well as the coordinating mechanism within the Organization, to ensure the timely delivery of inputs from the relevant sectors and to also ensure that the socio-economic context in which the law would operate was fully taken into account. On the IP research capacities in Asia and the Pacific (ASPAC) countries, the Secretariat had taken note of the question. This would be communicated to the Chief Economist for his response. On the training of staff to ensure that they were up to the task as far as development cooperation was concerned, this was a tricky situation as the Member States had imposed a cost efficiency measure on the Organization and costs were being drastically cut. This had a serious impacted on development cooperation activities and one of the most severely impacted activities was the training of staff within the Organization. This was a bit of a problem. Nevertheless, the Organization would try to provide training for staff within the development sector, but perhaps not as much as it would like. The PMSDS or staff evaluation mechanism provided an opportunity for the staff themselves to identify the training that was required and for supervisors to also identify training

that relevant staff may require. However, this was dependent on the availability of resources, a particular challenge for the moment. On the question of mapping and creating a strategic niche with partners, this would be communicated to the colleagues in the Innovation Section and a response would be provided as soon as possible. The Secretariat (Mr. Dimiter Gantchev) turned to the issue of concrete deliverables in the follow up to the studies on the economic contribution of the copyright industries carried out in different countries. The studies usually provided some statistical analysis, data on the contribution of the creative sector and a write up in the status of the creative industries. The data was provided in such a way that it was possible to identify the drivers in the creative industries in terms of contributions to job creation, value and trade. The Secretariat had tried to work with countries to follow up on these drivers. It was discussing impact studies and performance studies for these industries which were a top priority for the various countries. For example, a study on the performance of the publishing industry in Mexico had just been completed. This was a major creative industry in terms of its contribution to economic growth and development. The Secretariat was also discussing studies with other countries. Implementation was dependent on the availability of funds. Another possible deliverable concerned the drafting of specific policies and strategies to promote the creative sector. This was closely linked to the studies. The creative industries had been the object of specific policies and strategies in a number of countries. The Secretariat had engaged with these countries to fine-tune and identify appropriate elements for these strategies. Another possible follow-up deliverable was the identification of bottlenecks with regard to specific training needs for creators in certain creative industries. For example, in a number of studies, the collection and distribution of royalties by collective management organizations had not been as expected and royalty flows were often opaque. Thus, the studies had indicated that efforts were needed to improve the status of collective management which was an important component of the creative sector. The Secretariat had also identified another possible deliverable which was closely linked to the studies. This concerned the way in which statistics were being collected and reported. This was crucial if studies were to be carried out on a permanent basis as it would allow for a monitoring mechanism. Very often information was not available in the format required to extract statistics on the creative industries. The studies often identified the need to introduce adjustments to data collection methods. In a number of countries, issues had also been raised with respect to satellite accounts in the creative industries and other appropriate technical mechanisms. The Secretariat worked with some countries to help set up these facilities. This was another deliverable that could be envisaged to continue in the future. The Secretariat (Mr. Ranjana Abeysekera) responding to the question raised by the Delegation of the United States of America on IP research capacities in ASPAC countries, stated that the Secretariat organized a workshop on December 8 and 9, 2011, in close collaboration with United Nations Economic and Social Commission for Asia and the Pacific (ESCAP) to create greater awareness of the linkages between IP protection, innovation and economic development, and to acquaint researchers with the methodologies and analytical tools being used in the area of IP research. The workshop was also intended provide an opportunity to identify the elements of an IP research agenda which was relevant to the region and to consider ways to ensure that IP research responded and contributed to positive discussions in the region. These were the broad objectives of the workshop. This was a pilot activity that was undertaken because some countries in the region had established research agencies or institutions and they were increasingly interested to carry out research on IP. The Secretariat thought that it should provide some impetus to the process and close consultations were held with the Chief Economist. Two colleagues from the Office of the Chief Economist participated as speakers in the workshop. For those interested, a copy of the program was available. It contained information on the themes that were covered. The Secretariat was very encouraged by the results achieved through this pilot activity and intended to continue collaborating with ESCAP as this was an initiative that it had taken in coordination with them. The Department of Intellectual Property of Thailand also provided their support and cooperation in the organization of this activity. In short, that was what the Secretariat had tried to achieve in this particular workshop which was held for the first time in the Asia and the Pacific region. The

Secretariat (Geoffrey Onyeama) then referred to the question raised by the Delegation of Egypt on improvements to the WIPO web site. The Communication Sector was engaged in an ongoing program to improve the web site. However, the Secretariat would be very receptive to ideas and suggestions for further improvements. This was something that would help in the process.

156. The Chair thanked the Secretariat for its responses and invited Professor Deere to respond to the question raised by the Delegation of Venezuela. He also requested the Secretariat to provide its opinion on the recommendations that were urgent and easily implementable.

157. Professor Deere understood that the question raised by the Delegation of Venezuela concerned the relationship between the Program and Budget Committee and development priority setting in the Organization. In her presentation, she had distinguished between elements which were on the “how” and the “what” of development cooperation. She had emphasized that the “what” came from the Member States, from what was approved and decided by them in the Program and Budget process. Perhaps the Committee should ask the Secretariat whether that process could be strengthened. However, her understanding was that, at present, there were several ways in which the Program and Budget process allowed for outreach to Member States. Examples included the questionnaire which was given to Member States to ask them about their priorities and needs, consultations with regional groups and ambassadors, and the discussions within the Program and Budget Committee itself. However, while there were many opportunities for input, the reality was not all states were actively engaged in the process, probably due to their own constraints. For example, she understood that there was only a 30-40 per cent response from Member States to the questionnaire. The Secretariat could clarify this. Thus, there was a need for greater engagement from the Member States or perhaps different mechanisms to enable them to be more engaged in the Program and the Budget process given that it was such a critical opportunity. Her impression was that the Secretariat did have the mechanisms, so perhaps it was an issue of these not being used well enough, at least by some of the Member States, or not understood well enough as opportunities for input. The reason it was important was because the Organization faced a complicated task. There was the Program and Budget process for deciding on key priorities, the Medium Term Strategic Plan (MTSP's) broad strategic priorities for the organization, the CDIP which also came up with particular activities and priorities, FIT negotiations also came up with particular activities and priorities, as well as the country planning process, which was more of a bottom up, needs assessment based process. The challenge for the Secretariat was to determine how to bring all these together when deciding on the work plans for the bureaus and other sectors. One mechanism that the Member States could use more was the summary provided by the Secretariat in the 2012/13 Program and Budget of all the Organization's expected results. It contained a wealth of information and there was a double page summary at the beginning of the Program and Budget which listed the development share by expected result. This was something that Member States should pay close attention to as it provided a lot of transparency on the activities and what the Organization currently counted as development expenditure. This allowed Member States to examine whether this was what they had intended for development expenditure and whether certain activities should be included in the count. There was also an opportunity in the Program and Budget process for Member States to help define a more substantive definition of development expenditure. However, in combination with that, it would be very useful to examine those expected results. Perhaps it could also be useful for the Secretariat to extract from that broad Program and Budget sheet, all of the expected results that had a development share to provide a clear snapshot of what currently counted as the development cooperation budget. She agreed that there was a challenge because substantive work was going on in committees and the Program and Budget process was one that ought to be well linked to those. However, that was probably something that was

incumbent on Member States to harness but perhaps the Secretariat could elaborate on that process.

158. The Delegation of Venezuela reiterated that there was an ongoing debate that some things were substantive and others were purely procedural in the area of development. The Delegation shared the view expressed by Dr. Deere. The issue of development cannot be ignored in any matter which was discussed within the house.

159. The Delegation of South Africa, speaking on behalf of the African Group, referred to the Development Agenda Group/ African Group proposal and specifically, Section B on the Program and Budget. The Group wanted to know whether it was feasible for the Secretariat to implement certain proposals included under that section. First, under subsection (a), it was proposed, in line with the Recommendation on page 61 of the External Review Report, that the Organization should consider integrating the budgets and planning for all development cooperation activities into the regular Program and Budget process. The Group recognized that the Secretariat had provided a response under Paragraph 10 of the Management Response. Second, it was also proposed that activities supported by FITs and associated resources should be reflected in WIPO's regular budget, programming and reporting processes. Third, it was proposed that WIPO should continue its efforts to improve measures for estimating personnel and non-personnel budgets for development cooperation activities, and improve information systems for estimating/ tracking actual expenditures. In future Program and Budgets and Program Performance Reports, the reporting on development activities by each Program, should be supplemented by a section summarizing the expected and actual results of development activities across the Organization's Program as a whole. This Recommendation was found on page 168 of the external review report. Fourth, mindful that the Member States had noted and not adopted the MTSP, it was proposed that the Organization should consider refining and reorienting its strategic goals, outcomes and output indicators in the MTSP. The Group noted that this was not well captured in the Management Response as there would be a review of the MTSP. Fifth, the Group also wanted to know whether it was feasible to work on a definition for "development orientation", taking into account that it was stated in the last session of the PBC that consultations should take place on the elaboration of a definition for "development expenditure" and whether the proposed work would be useful to that process. The Delegation then turned to Section C on extra-budgetary resources. The Group noted that the Management Response indicated that the Secretariat had developed a draft partnership and resource mobilization strategy. As such, the Group would like to know whether it was feasible for the Secretariat to present the draft strategy as this was the first time that it had heard about this and it was not sure where this was going to be discussed. This could be reviewed in the PBC or the CDIP. Separately, the Group had also taken note of the Secretariat's response with regard to the Conference on Building Partnerships for Mobilizing Resources for Development, a Development Agenda project. However, additional information was required as the Group found the Secretariat's response to be somewhat abstract. The Group requested for further details on the steps taken, following the conference. Group would appreciate the views of the Secretariat on the feasibility of implementing all these proposals which it considered not to be controversial.

160. The Delegation of Hungary referred to the Management Response. It included a Recommendation from the Deere / Roca report for efforts to be strengthened at the national level to gather data to assist evaluation of the impact of IP systems on national development goals. This was an interesting Recommendation which merit further consideration as there was often a lack of data and this was a problem. The Delegation requested the Secretariat to provide details of the discussions that had taken place within the Secretariat on this Recommendation and whether it was possible for the Secretariat to provide some specific ideas on how this could be implemented.

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

162. The Secretariat (Geoffrey Onyeama) referred to the Chair's earlier request with regard to recommendations that the Secretariat could immediately implement. Off the cuff, this could include, for instance, the Recommendation on page 30 of Annex 1 to the Management Response on an in-depth and critical review of the strategic niche of the Organization's training activities and in particular, the WIPO Academy. The most important element of technical assistance to developing countries was probably capacity building because without the capacity, a lot of other things would not be possible. Thus, the Organization's training program was absolutely crucial and the review was something that it should start on as quickly as possible. Indeed, the Secretariat had already started to do so. The activity required two consultants to review the Academy's work and the content of its entire program. Dr. Deere was one of the consultants who would be conducting the review because it was felt that the work she had done on the technical assistance review had given her a certain understanding of the functioning of the Organization and hence, she could help to carry out the evaluation of the Academy together with another consultant. This was an important Recommendation that the Organization could already start to implement. The menu or catalogue of the Organization's development cooperation activities was another activity which could be started. If the Member States believed that a one stop place which provided a clear view of what was on offer would be helpful, then it was important to give priority to this. On strategic plans, in the Organization's view, if developing countries wanted to use intellectual property as a tool for development, it was important to develop a strategic plan or roadmap based on the realities and specificities of a particular country. In the Organization's view, this should not be just a macro plan. A sectorial approach was required because different developing countries had different challenges in different sectors. These included for instance, public health, food security, agriculture, industry development, environment, education and culture. Thus, in developing a methodology for IP strategies for countries, it was important for the Organization to also develop methodologies for particular sectors. These would provide developing countries with a framework and a methodology to identify gaps and how they can use the intellectual property system to promote their objectives in particular sectors such as health, agriculture and industry. This was a very important initiative that can start immediately and the Secretariat was already engaged in that. Thus, those were three major areas that the Organization was ready to move ahead with. The Secretariat turned to the query from the Delegation of South Africa on the feasibility of implementing certain recommendations included in the Development Agenda Group /African Group proposal. On the Recommendation included under Section B subsection (a), the Secretariat would need to refer to colleagues in the relevant sector. The same applied to the Recommendation under subsection (b) on estimating personnel and non-personnel budgets for development cooperation activities. With regard to the Recommendation under subsection (e) to refine and reorient the Organization's strategic goals and outcomes in the MTSP, this may be difficult because the MTSP was not formally adopted by the Member States. The Member States had merely taken note of it and had said that the MTSP was essentially an internal guideline for the Organization. To change and reorient the MTSP in midstream may be difficult and may not fit in with what the Organization had identified as its medium term strategic plan. This had been launched and was well underway. Thus, it may be problematic to reorient it at this stage. With regard to the draft partnership strategy, this was linked to the steps that had been taken after the conference on mobilization of extra budgetary resources. The Committee would be evaluating that project. Hence, a response to the question on the draft partnership strategy would be provided in the course of those discussions. The Secretariat turned to the request from the Delegation of Hungary on strengthening data gathering at the national level. This was a very big challenge and Mr. Dimiter Gantchev, the colleague responsible for the cultural industries, could respond to that query as studies had been undertaken with regard to the cultural industries in a number of countries. The Organization had developed a methodology and a key component was to identify national consultants and institutions that would be responsible for gathering data at the

national level in cooperation with the statistics office in each country. The Secretariat (Dimitar Gantchev) stated that data collection was a very important issue and so far, an ideal solution had not been found in terms of gathering information to monitor what was happening in the field of intellectual property. The Secretariat had some ideas on how to collect information on cultural and creative industries. It had identified some methods for this and also many challenges, especially in countries where the statistical system was not yet fully developed. It was important not to over-estimate what could be done in this area. The upgrading of the statistical framework of a given country was usually a very costly exercise. Thus, it had to be undertaken within the framework of national priorities for the country. The Secretariat was happy to share its experience on best practices in data collection, including appropriate data sets. The Secretariat published all its data and the studies were also gradually being made available on the WIPO web site. The Secretariat was holding discussions with some regions on how to improve data collection practices. As mentioned earlier, there was also a very big and growing list of challenges and the Secretariat would be happy to elaborate on these if required. However, as the question was on IP data gathering, perhaps other colleagues could provide a more comprehensive answer on what was being done in other IP fields. The Secretariat (Geoffrey Onyema) added that the Chief Economist may also have a lot to say on this. In the area of industrial property, in the course of assisting countries to prepare national IP strategies, an IP audit was usually undertaken. This was akin to a gap analysis of the situation in each country. National consultants with an economics background were usually engaged and were assisted by researchers to build a profile through data collection, interviews, questionnaires, and so on. That was what the Secretariat was doing in the area of industrial property in terms of using the results of such an audit to develop an IP strategy.

163. The Chair thanked the Deputy Director General for his responses. A number of the questions which were put forward had been answered. Answers to other questions would be provided by the relevant sectors of the Organization who were responsible for dealing with those issues on a day to day basis. The Chair concluded that the Committee could agree to at least give its support to the three major areas identified by the Deputy Director General as being important, urgent and implementable. Perhaps this could also include the recommendation on guidelines. The Secretariat could also provide the information that was requested with regard to the manual.

164. The Delegation of the United States of America, speaking on behalf of Group B, thanked the Secretariat for its responses to the interventions. As the Committee was just getting into the discussion of the Deere report and the Management Response, the Group thought that it was too early to take a position on agreeing to anything. Thus, it wanted to lay down that marker. The Delegation also reiterated the Group's position with respect to a way forward. Although any of the Member States could submit proposals, in the interest of making meaningful progress in future sessions, the Committee should focus on cluster B of the Management Response. If delegations started looking at many new proposals, they would run the risk of duplication and confusing the issues, not to mention the time it would take for national and group review as well as coordination.

165. The Delegation of Canada noted that many of its questions had been answered by the Secretariat through its responses to questions put forward by other delegations. However, the Delegation did also have some additional questions and hence, would like to have a similar question and answer session included in a future meeting of the CDIP.

166. The Delegation of Denmark, speaking on behalf of the EU and its Member States, thanked the Secretariat for its replies to the many questions that had been raised. The discussions had been very fruitful. The Delegation expressed support for the statement made by the Delegation of the United States of America on behalf of Group B.

167. The Delegation of South Africa, speaking on behalf of the African Group, recalled that the Chair had mentioned at the beginning of the discussions that it was important to focus on important recommendations that were easily implementable. The Delegation was pleased that Mr. Onyeama, Deputy Director General, had responded to this. The Group agreed with the proposals that were put forward by Mr. Onyeama. However, it would be grateful if he could repeat the proposals for the areas mentioned apart from the Academy. The Group agreed that the Committee should identify recommendations which were acceptable to all Member States in order to move forward. In this context, the Group stressed that those recommendations were from category B although it emphasized that its approach was not to categorize the recommendations. On the issue of the Academy, it was proposed under Section K of the Development Agenda Group/ African Group proposal that the Secretariat should make available the Terms of Reference of the WIPO commissioned external review of the Academy. This proposal was informed by Paragraph 12 on page 30 of Annex 1 to the Management Response and should be linked to the intervention by Mr. Onyeama.

168. The Delegation of the United Kingdom aligned itself with the comments made by the Delegation of Denmark on behalf of the EU and its Member States, and the Delegation of the United States of America on behalf of Group B. The Committee should remain focused on cluster B recommendations in the Management Response.

169. The Delegation of Switzerland shared the views expressed by other members of Group B. As in the case of the Delegation of Canada, the Delegation also had more questions with regard to the Management Response. Many of the responses provided by the Secretariat this day were extremely interesting. However, these raised further questions. Hence, the Delegation would like these discussions to continue at the next meeting. It would be premature to make any decisions at this stage.

170. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, thanked the Secretariat and the Deputy Director General for the responses. The Group was very happy with the answers that were provided. The discussions had been good and all delegations had contributed with regard to the recommendations which were important to them. The Group agreed with the Chair's proposed conclusion on the three recommendations identified by the Secretariat to be implementable. The Group requested the Chair to try to find time during the week to continue discussions on other recommendations included in the Development Agenda Group/ African Group proposal which were acceptable to all delegations.

171. The Delegation of Hungary, speaking on behalf of the Central European and Baltic States, reiterated that it was premature to take any decisions. The Chair had asked the Secretariat about other priority recommendations which it thought to be implementable but the delegations had not had an opportunity to put forward questions on this. With regard to the way forward, the basis for the Committee's work at the next session should be the Deere / Roca report, the Management Response and any timely submissions by groups or members who wished to put something forward or react to any of the issues.

172. The Delegation of Venezuela referred to the Secretariat's cluster approach to the recommendations. In the Delegation's view, the Member States should not refer to those clusters and discuss issues as they arose.

173. The Delegation of South Africa requested the Chair to provide his conclusion on the way forward.

174. The Chair informed the Committee that the discussions would be concluded for now. He would get back to the delegations on the way forward at a later stage.

Agenda Item 7: Monitor, assess, discuss and report on implementation of all Development Agenda recommendations and consideration of the Director General's Report on Implementation of the Development Agenda (Contd.)

Consideration of Document CDIP/9/5 - Independent Evaluation Report of the Project on Specialized Databases' Access and Support

175. The Chair invited the Secretariat to introduce the Independent Evaluation Report of the Project on Specialized Databases' Access and Support.

176. The Secretariat (Mr. Thierry Rajaobelina) presented document CDIP/9/5 which was prepared by the Internal Audit and Oversight Division (IAOD). The Secretariat began with an introduction to the Division's work. The IAOD was an independent internal body, as described in the WIPO Internal Oversight Charter that was approved by Member States. The Division provided WIPO management with systematic assurance, analyses, appraisals, recommendations, advice and information, through undertaking independent internal audits, inspections, investigations and evaluations such as those to be presented this day. The Division supported the Director General in his management responsibilities and assisted program managers in achieving the Organization's objectives, by providing objective, systematic and independent reviews of program implementation and operations. The Division carried out systematic, objective and impartial evaluations of projects to assess whether the intended outcomes had been achieved. As it was an independent body, the Division was not involved in the implementation and management of projects. The evaluations sought to gauge the effectiveness, efficiency, sustainability and viability of projects. They provided credible, reliable and factual data and the reports included conclusions and recommendations based on lessons learnt in the implementation of the projects in order to guide follow-on phases. The evaluation of the project on specialized database access and support was undertaken to assess project design, management, effectiveness and sustainability. The key objective was to assess progress and management of the project in view of its potential continuation under Phase II. The results of the evaluation would also provide insights on ways to optimize the project. In view of the need for effective time management, the evaluation was carried out remotely with the assistance of the relevant sections of WIPO management rather than through project visits. The report was available on-line and contained 13 findings, four of which concerned project management. The quality and utilization of project documents was found to be satisfactory, although there was room for improvement as stated in the recommendation. The follow-up and self assessment tools were found to be useful. However, as provided in the recommendation, these could also be improved. The contribution from other WIPO sectors to the project had been substantial and this could be made more formal. The ability of the project to respond to identified risks had been properly managed. The evaluation had also assessed the effectiveness of the project in meeting its goals. Seven observations were made in this regard. The objectives were considered to have been reached, although a better definition of the long term would have been desirable. Prior needs assessment was properly carried out. Training was positive in the short term. Stakeholders had noted the effectiveness of the support provided through the TISCs. The project responded to the needs of beneficiaries. Awareness raising activities, including the large number of training activities to raise IP awareness, were found to have been useful. The project had met expectations in terms of the networks of centers established as of December 2011. The results fell within the time frame and budget. With regard to the sustainability of the project, national stakeholder groups should be prepared to take over by the time the project was scaled down. However, the evaluation was not able to provide a reliable analysis of the transition. The report contained four recommendations based on the various findings. The first, and perhaps most important, was directed at the Committee. It was recommended that the Committee approved the continuation of the project to Phase II. There was an identified need, a high demand and an overall positive experience expressed by a majority of stakeholders consulted that justified its continuation. With regard to

recommendations for the Secretariat, it was encouraged to make more use of the shared analysis, experience and tools employed by UN Country Teams such as Common Country Assessments and the UN Development Assistance Frameworks. In terms of internal coordination, it was recommended that the Global Infrastructure Sector could further formalize the roles and responsibilities of other sectors in the implementation of the project. With regard to project managers and the Development Agenda Coordination Division, it was recommended that the planning and implementation of Phase II be improved. Indicators should be used to measure the effects of the project, including at the level of beneficiaries. These four recommendations would be followed up by the IAOD as in the case of all its other recommendations concerning inquiries, internal audits or evaluations.

177. The Delegation of Paraguay, speaking on behalf of GRULAC, thanked the Secretariat for the report. As various countries in its region had reported a positive experience with TISCs, the Group encouraged the continuation of the project under Phase II. It unanimously supported the continuation of the project and hoped that other members of the Committee would also understand its importance.

178. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for the report. It drew the Committee's attention to the paragraph titled "Background" on page 1 of the Annex to the document where it was mentioned that an independent evaluation had been performed. It was stated in the section titled "Appropriateness" in Annex 5 that the evaluation was undertaken by the IAOD. The Group believed that this was a contradiction. In addition, it appeared that the evaluation only focused on the TISCs. The report did not provide clear details on the TISCs which were already established in 20 countries. A mechanism to evaluate the long term effectiveness of the project also appeared to be missing. Nevertheless, the Group would continue to give its full support to the project, including the implementation of Phase II. However, at the same time, it also requested the Secretariat to remedy the aforementioned shortcomings and to conduct a full and comprehensive evaluation of Phase I with the aim of providing guidance to the implementation of Phase II.

179. The Delegation of Spain commented on the availability of documents and translations. The Spanish version of document CDIP/9/4 was not available on the WIPO web site. The user was instead redirected to document CDIP/9/3 which was only available as a summary in Spanish. These were just two examples to illustrate the Delegation's discontent with the Secretariat's practice of not translating all documents and offering only summaries of voluminous documents. The rules of the Committee and the language policy of WIPO did not provide a sufficient basis for this practice to continue. It therefore requested that the rules of procedure be applied and that all documents be translated into the six official languages. The Delegation would understand if a document was particularly voluminous. However, a 12 page document such as document CDIP/9/3 cannot be considered to be especially voluminous. The Delegation considered an exceptionally voluminous document to be a document of at least 100 pages, not a document of 10 to 15 pages. As such, the Delegation requested that the current practice of not translating all documents into the six official languages be dropped and that a decision be taken to produce summaries only when a document was really voluminous and if a state requested for that document to be translated and did so sufficiently in advance, then it should be translated for the session in which it was to be discussed and not for a subsequent session. In concluding, the Delegation referred to the fact that it had planned to make a presentation on its FIT in an activity organized by WIPO yesterday. However, as interpretation into Spanish was not provided, the Delegation had to postpone its presentation to this day. The Organization had promised that this would be available. These examples served to remind the Committee of the importance of working in the six official languages, particularly as it had made a provision for this in its rules of procedure. As such, the Delegation requested the Secretariat to bear this in mind for future sessions of the Committee.

180. The Delegation of the Philippines congratulated the Chair on his election and thanked the Secretariat for the evaluation report. The Delegation also conveyed its appreciation to the Secretariat for its support and assistance to make patent information more accessible to its scientists, inventors and researchers through the TISC project which was being implemented under the Development Agenda. Through the training and support offered through the project, the IP office had established 40 centers throughout the country in less than two years. There was a need for the TISCs to expand in breadth and depth. The Delegation strongly supported Phase II which sought to go beyond patent information training and provide more comprehensive assistance to sustain the patent searching activities in various countries. It supported the expansion of the program because it had experienced how technical assistance was necessary in designing, organizing and monitoring patent search centers. The Delegation recognized that continued access to more specialized patent databases was crucial to the patent search centers and should be pursued with more impetus. It agreed with the project's differentiated approach to providing continuing assistance because countries were at different levels of development and had varied needs as well as unique cultural preferences. The project should target a broader stakeholder base drawn from relevant sectors in the local communities to support and sustain the activities of the patent search centers in the long term. The Delegation also supported the proposal for a wider assistance package that extended beyond training to include organizational development, partnerships, alliance building, publicity and promotion, quality management, benchmarking opportunities and an effective monitoring structure for patent search centers in their national and regional alliances.

181. The Delegation of Senegal thanked the Secretariat for the report. The Delegation supported the views expressed by the African Group on this subject. The project was of great importance to developing countries as it contributed to reducing the knowledge gap with developed countries. It allowed for access to technology for innovation. As a result of the project, a TISC had been established in Senegal. It had strengthened the capacities of its experts to undertake research for innovation purposes and had also allowed for access to specialized patent information for developing countries through the ASPI network as well as free access to scientific journals through the ARDI network. Many developing countries had benefited from this project. This was clearly indicated in the report under Section 2.2 on "project effectiveness". The Delegation was very satisfied with the project and strongly supported the recommendation in the evaluation report that was directed at the Committee. There was an identified need, a high demand for the project, as expressed by a majority of stakeholders consulted and that justified the continuation of the project. It would explore and build on the experiences of Phase I. Therefore, the project should proceed to Phase II, as recommended.

182. The Delegation of Denmark, speaking on behalf of the EU and its Member States, made some general comments on the various evaluation reports. The Delegation thanked the Secretariat for the preparation of the reports. The EU and its Member States welcomed the opportunity provided by the external evaluations to assess the completed projects. Evaluation reports were very useful tools to improve certain aspects and to identify shortcomings that should be avoided in future projects. With this mind, the importance of evaluation reports was even greater in cases where a second phase was scheduled. In this regard, the timing of an evaluation played an important role. It noticed, from the presentation of evaluation reports, that there had been an improvement in timing. All the evaluation reports put forward for the consideration of the Committee in its current session underlined the importance of effectiveness and efficiency in the management of projects. This included, for example, document CDIP/ 9/3 on the evaluation of the conference on mobilizing resources for development. As resources were limited, these should serve as the leading principles for discussing and evaluating the sustainable outcome of projects. It was also important to recall that both effectiveness and efficiency were included within Cluster B of the recommendations in the management response. Transparency was also a critical issue. This meant that all information regarding the inspection, implementation and management of every project should be made available to the evaluator in

order for them to conduct a proper evaluation. This issue can be found, for instance, in document CDIP/9/6 which contained the Independent Report on Evaluation of the Pilot Project for the Establishment of "Start-Up" National IP Academies. That report stated that there had been problems throughout the implementation of the project including unexpected delays which were not sufficiently explained. It was necessary to provide further information on the reasons for those delays. The budget for every project was evaluated as it was an aspect which was of utmost importance. The Delegation supported the recommendations that some projects should be managed in a different manner in order to better control costs and to ensure efficiency and effectiveness. The EU and Its Member States were also of the opinion that second phase projects presented to the Committee for approval should take into account and follow the recommendations contained in the evaluation reports of the respective Phase I projects. It therefore requested the Secretariat to include in future evaluation reports, a chapter devoted to the lessons learnt and the follow up to the implementation of recommendations.

183. The Delegation of Venezuela thanked the Secretariat for the presentation of the report. GRULAC had already expressed the consensus of its members on the project. The Delegation welcomed the support given by the Delegation of Spain to the use of Spanish. The Latin American delegations had spoken yesterday on what had happened in the *Ad Hoc* Working Group and the translation of the external review report. The Delegation reminded the Committee that translations and interpretations had been discussed in the Assemblies. It was discussed by the Program and Budget Committee. The Committee could not justify the lack of translation as it was concerned with the subject of development.

184. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, thanked the Secretariat for the evaluation and the preparation of the report. The Group stressed that the evaluation process was of great importance as it enabled delegations to have an understanding of what had been done and how and above all, the advantages and disadvantages of the project. As such, the Group was extremely interested in the evaluation report that was presented by the Secretariat. The Group stressed several points in this regard. First, the Secretariat should understand that it was very difficult for Member States to judge a project on the basis of a summary. A full report was necessary to understand how the evaluation was carried out, the elements on which it was based as well as the basis for the recommendations. It was only in that way that Member States could fully decide on whether to encourage or discourage a continuation to the next phase. Second, with regard to the evaluation itself, the Delegation called on the understanding of the Secretariat to assist Member States to assess the pros and cons of the project. There was a lack of concrete evidence in document CDIP/9/5 to enable Member States to assess the good and the bad. For the Group, the main thing was to ensure that the projects adopted by the CDIP were development oriented and took into account the needs of countries. However, the evaluation was not clear on orientation, particularly with regard to training. The Group did not know what the training covered. As such, it would be useful to provide concrete examples to improve its understanding in order for its members to make a full contribution to their implementation. With regard to Phase II, the Group would, of course, like this to be launched because the TISC project would enable all Member States to set up a support network for innovation in their countries. However, the Group would like the evaluation of Phase I to take in to account the elements it had just mentioned. In summary, the Group supported the launch of Phase II but would like Phase II to take into account the evaluation of Phase I based on its comments.

185. The Delegation of Georgia, speaking on behalf of the Group of Certain Countries of Eastern Europe, Caucuses and Central Asia, stated that some of its Member States would like to raise their concerns on the implementation of Phase I of the project. This was carried out in certain countries within the Group and did not fully meet their expectations. The pace of implementation had been very slow and the training events offered in Phase I had been limited. However, the Group unanimously supported the continuation to Phase II and hoped that

Phase I would be adequately completed and its shortcomings resolved in Phase II. It also suggested that certain specialized databases be provided free of charge to countries in transition as most of its members were currently unable to utilize those databases due to budgetary or procurement constraints.

186. The Delegation of the Dominican Republic congratulated the Chair on his appointment and wished him every success. The Delegation also thanked the Secretariat for the preparation and presentation of the document. It supported everything that was said by the Delegation of Paraguay on behalf of GRULAC. The Delegation thanked the Secretariat for selecting the Dominican Republic as a pilot country for the implementation of the project. The establishment of a TISC in the Dominican Republic was welcomed as part of the national plan on competitiveness. The work done by the TISC in the Dominican Republic can be quantified in the short term through the technological information that was produced in the country. Their experience indicated that demand was growing. The users of the TISC were not traditional users. They were new users and were much more demanding. They required precise information and the ability to satisfy those demands would be enhanced with increased access to information. The impact of the TISC was very important and it was necessary to continue with actions to exploit the information identified by the users through searches. Document CDIP/9/5 recommended the continuation of the project in order to follow-up on what had been accomplished and to achieve the objective of the Development Agenda and the aims of the beneficiaries. For these reasons, the Delegation fully supported the continuation of the project through Phase II.

187. The Delegation of Uruguay expressed its gratitude to the Secretariat for the document. The project was of enormous importance to the Development Agenda. The Delegation attached great importance to the Development Agenda. Its authorities were working with the Secretariat to establish TISCs in order to support national innovation stakeholders in the strategic use of IP as part of public policy making. The sustainability of the project was of utmost importance and should be ensured through funding and appropriate coordination. There was a need to approve the next phase of the project together with any necessary amendments to be made.

188. The Delegation of Vietnam thanked the Secretariat for the evaluation report. The outcome of the project was highly appreciated as it contributed to the promotion of innovation activities in developing countries in general and Vietnam in particular. Through assistance provided under the project, IP support centers were in the process of being established in Vietnam. It was ready to cooperate with the Secretariat to expand the project in Vietnam. The Delegation strongly supported the extension of the project to Phase II so as to build on and multiply the outcome of the project.

189. The Delegation of the United States of America thanked the IAOD for preparing the independent evaluation report and providing its recommendations. The Delegation was pleased with the results to date under this project and looked forward to its continuation under Phase II.

190. The Delegation of Brazil thanked the Secretariat for the presentation and preparation of the document. The evaluation report was of special interest to its Patent Office. The Delegation highlighted the importance of independent evaluations for projects such as this. The Delegation requested some clarifications to better understand the implementation of the project and in view of the interest in the report. First, the report mentioned that the TISC project made significant contributions in five countries in which it was implemented. The Delegation would like the authors to elaborate on the results which were taken into consideration to arrive at this conclusion. The Delegation was aware that the report did not include narrative replies or comments because of non-disclosure requirements. However, maybe some information could be provided without disclosing the respondents. Second, according to the WIPO web site, the project was implemented in ten countries. The Delegation would like to know if there were any

intentions to expand the project to other countries and the criteria for expansion. Third, according to the project documentation, a country's needs were assessed on the basis of statistics on national patenting activity or patenting propensity. The Delegation wanted to know whether those statistics referred only to national resident applications or also included non-resident applications. In addition, the statistics were also used to identify technology fields that had more patent activity. In this context, the Delegation would like the authors to elaborate on the criteria used to define a technology field. Finally, and this was a suggestion, it would be interesting for the Secretariat to provide information on the 46 assessment missions which were carried out in order for the Delegation to assess the practical results. With regard to sustainability, the Delegation would like the project to be effective in the long term. As such, together with GRULAC and other delegations that favored the continuation of the project, it fully supported the continuation to the second phase.

191. The Delegation of Bolivia welcomed the independent evaluation reports. These reports were very helpful in providing an overview of how the projects were progressing. As a general comment, it was important to include, in the terms of reference for the evaluations, an analysis of the contribution made by the projects to the implementation of the Development Agenda. This was largely absent in the analysis of the reports. It would be useful for this to be included in the terms of reference for future evaluations. On the report, this was the only evaluation where delegations did not have access to the original report. There was only access to a summary prepared by the Secretariat. As rightly pointed out by the Development Agenda Group, it was very important to have access to the original report to ensure that everyone had a clear view of the project and its outcomes. At present, there was very little information on the documents, criteria and evidence used by the authors to conclude that the project had been a success. Without all these details, it was very difficult to have a clear view of the project. The Delegation would be grateful if the Secretariat could clarify why, for this project in particular, the delegations did not have access to the full evaluation report and only to a summary prepared by the Secretariat. The Delegation also had a specific comment which was related to its general comment on evaluations. It believed that for this project in particular, it would be important to assess the content of the training or capacity building materials, in other words, there was a need to look closely at what type of training was imparted and to what extent the training materials were consistent with the Development Agenda. It was important to have this information with regard to this and other projects that were being assessed.

192. The Delegation of South Africa thanked the Secretariat for the preparation of the evaluation documents. South Africa was in the process of benefitting from the TISC project. For this reason, it fully supported the continuation of the project under Phase II. The Delegation also expressed its support for the outline provided by the Delegation of the Philippines on the way forward. The proposed outline could be discussed in conjunction with document CDIP/9/9 on the proposal for Phase II as it included a number of pertinent proposals with regard to the TISCs. The Delegation also requested for certain clarifications from the Secretariat on the evaluation. It noted that other evaluations had been conducted by external experts. As such, it wanted to know why this particular project was evaluated by the IAOD and if there a specific reason for that. The report that was provided was quite short and did not elaborate on the methodology that was used. Although its conclusions and recommendations were appreciated, the report did not provide details of the methodology employed to arrive at these. The Delegation also requested for details on the scope of the evaluation as the project was quite broad and included not only TISCs but also ARDI and ASPI. ARDI and ASPI were important and reasons were not given as to why these were not included in the evaluation.

193. The Delegation of Togo congratulated the Chair on his appointment and thanked the Secretariat for the documents provided. The Delegation supported the view put forward by the African Group on the TISCs. As beneficiaries of the initial phase, the Delegation supported the continuation of the project through Phase II.

194. The Delegation of the People's Republic of China thanked the Secretariat for its report. Assistance rendered to developing countries and LDCs to access and enhance their capacities to use information would help to support the development of these countries. The Delegation highly appreciated the work done by the Secretariat on the TISC project. It requested the Secretariat to take into account the independent evaluation report, the different national requirements and the experience accumulated in the initial phase in order to strengthen its work in this area. The Delegation supported the launch of the second phase of the project.

195. The Delegation of the Russian Federation thanked the Secretariat for the report. Although there was a lot of interest in the project, only a summary of the document was available in Russian. It would have been good to read the document in full. The project on the creation and development of specialized databases, and in particular, the setting up of TISCs was of great interest to the Delegation. The results of the project could be sustained through improvements to national networks and to use these for the development of technology and innovation. The Delegation expressed its readiness to engage in further work with the Secretariat to develop and support TISCs in order to increase the scientific and technological capacities of Member States.

196. The Delegation of Germany requested for clarifications on the evaluation process. First, the criteria for determining whether an evaluation was to be conducted in-house or outsourced. Second, it noted that in at least two cases, there was quite a delay between the completion of the project and its evaluation. The Delegation would like to know why this was so. There was a need to ensure timely evaluations in future. Third, there were also other issues, including the link between the evaluation and the project. The evaluation concerned the project and the project was dependent on the project paper. All these should be linked. For example, it was very difficult for an evaluator to assess a project without a detailed project paper or outcome indicators. It was difficult to determine whether positive feedback from participants could be considered an impact. Work was required in this area. The Delegation had just discussed this with the Head of the IAOD. A workshop on the work of the IAOD would be held for Member States in November. A similar workshop was held last year. Perhaps some time could be allocated at the workshop to discuss best practices in terms of project papers and what was to be expected from an evaluation report. The Head of the IAOD was knowledgeable and he could let the Delegations know if this was feasible. This could be a way forward. The evaluation report was dependent on the precise mandate given in the project paper and there was room for improvement in this regard.

197. The Delegation of Chile congratulated the Chair on his election and wished him every success. The Delegation also thanked the Secretariat for the preparation of the documents. The Delegation stressed the importance of the initiative for all Member States as it had made important contributions and produced great results. It therefore supported the approval of Phase II of the project as it would lead to the sustainability of the results in the long term on the basis of the work done so far.

198. The Representative of the Third World Network (TWN) thanked the Secretariat for the evaluation reports. It supported the Secretariat's efforts to undertake in-depth evaluations prior to expanding pilot projects under the CDIP. However, it found the scope of the evaluation to be rather lacking. For instance, key issues such as the orientation of training programs was lacking in the various evaluation reports. The purpose of an evaluation was to better understand the various challenges faced by countries in implementing the project, to identify what worked and did not work, and to integrate lessons learnt into subsequent phases. As noted by various Member States, it was impossible to understand, through document CDIP/9/5, the methodology used for the evaluation as well as the data or evidence to support the findings. For instance, in one paragraph there was a general statement that said that participants expressed a high level

of satisfaction but no data was provided as to what were the assessments and the number of participants that said they were very satisfied. On page 9, there was an assessment that the overall survey results provided an indication of a positive tendency towards the achievement of objectives but no data was provided in support. Various Member States had mentioned the need for a full evaluation report to better understand the evidence to support the findings. The report did not provide an assessment of the orientation of the content, particularly on the training conducted in relation to the TISCs. There was also no assessment of the sustainability as well as the long term effects. The issue of sustainability was very critical as there was little point in pursuing projects that were eventually not sustainable. Thus, there was a need to assess the sustainability of projects in the longer term. The Representative requested for a full evaluation report to be made available. This was critical to guide the implementation of Phase II and to ensure that the lessons learnt were integrated into Phase II.

199. The Delegation of the Philippines thought it would be useful to provide information on the activities undertaken in the Philippines in the past two years as it was a beneficiary country under the TISC project. The TISCs were designed as independent units in the Philippines. They were owned, managed and operated by individual public and private host institutions. As such, the national government did not have to continue to pay for the running of the centers. The IP office was like a franchisor and the host institutions were like franchisees. A franchisee must meet certain criteria in order to hold onto the so called franchise from the IP office. As the franchisor, the IP office worked with the TISCs to train the centers on patent information and patent searching. It made use of the WIPO Academy's distance learning courses. The office also worked with other institutions to provide IP management and patent drafting courses for the TISCs. Through these efforts and with the assistance of the Secretariat, the office was able to subscribe to specialized patent databases to strengthen the skills of the professional staff in the various centers. The TISCs provided the single most effective institutional link between the IP office and the stakeholders who were potential patent filers. The IP office succeeded in establishing 40 centers in less than two years. In a country where only 3 per cent of patent filings originated from residents, this was something that would help to improve its innovative capacities. Thus far, the IP office had received three patent applications from these centers. This may not be insignificant for most countries but it was a big number for a country where very few patent applications were filed. The target for the coming year was for a thousand patent applications to be filed through the centers and its achievement would be a good measure of success.

200. The Chair thanked the Delegations for their contributions. The Committee had heard the positive experiences of beneficiary countries under the project and there was increasing demand given the many things promised within the project. On this basis, it deserved the unanimous support it had received. Members had also approved the continuation of this project under Phase II. Nevertheless, certain questions were raised on the methodology used and the availability of reports to enable a better understanding of the methodology and the outcomes. Certain concrete questions were also raised by Member States with the purpose of improving the evaluation of other projects. The Chair invited the Secretariat to respond to the questions asked.

201. The Secretariat (Mr. Irfan Baloch) thanked the Delegations for the very useful comments. On the question of translations, CDIP documentation was subject to the WIPO language policy that was adopted by the Member States. By virtue of that policy, the Secretariat could not produce all the documents in all languages. That was why summaries were sometimes produced. In this instance, the complete report was also available in English for those who may like to see it. The second point which was raised generally by the Delegation of Egypt, Germany and South Africa, was on the role of the IAOD. A diversified approach was used for the evaluation reports. The Development Agenda Coordination Division (DACD) had organized the external evaluation of four projects and requested the IAOD to organize the evaluation of

two projects. An external consultant was also hired in this regard. The reason why the IAOD was requested to organize those evaluations was because Member States had requested for the role of the IAOD to be strengthened. Perhaps from the perspective of some Delegations, the IAOD was seen to be part of the Organization but as mentioned earlier, the Secretariat considered the division to be an independent body, and especially in this case, an external consultant was hired. Thus, it should be recalled that the Member States had requested for the role of the IAOD to be strengthened. This was also an enhanced role in the implementation of the Development Agenda. It had been included in the Coordination Mechanism and that was why the IAOD was requested to do so. In the past, the IAOD had not been fully staffed but it now had a new Director. Thus, the Secretariat thought it would be a good idea for the IAOD to partner with the DACD to undertake this effort. The Secretariat then referred to the observation made by the Delegation of Bolivia on the need to demonstrate how the project supported the implementation of Development Agenda recommendations. The Secretariat would try to incorporate that aspect in future evaluation reports. However, when the project was conceived and approved by the Member States, that aspect was taken care of at the time of approval when it was ascertained that indeed, the activities and the approach taken responded to the Development Agenda recommendations. However, the Secretariat took onboard the point and would try to incorporate that aspect into future evaluation reports. The Secretariat (Thierry Rajaobelina) referred to the questions on the choice between internal and external evaluation. From his personal point of view, what was important was the difference between an independent evaluation and a self-evaluation carried out by project staff. The IAOD was an independent division. It reported directly to the Director General. However, its work program and reports were drawn up in an independent manner. These were not dictated or defined by anyone. The IAOD's work program took into account the risks to the Organization as well as the needs of the Organization so as to remain relevant and useful. That was why evaluations were included in the IAOD's work program, including those concerning projects such as the two on national IP academies and TISCs. Those project evaluations were undertaken in agreement with the DACD and also fitted in with IAOD's own program of work. As mentioned in the report, an external consultant was used for some consultations, but this was not the most relevant argument. The external consultant worked under the IAOD's guidance. It was because the IAOD was completely independent that it was presenting an independent evaluation report this morning. On the report itself, there were a number of people who said that they would have liked the full report. Document CDIP/9/5 contained a full report. Annexes 1 and 2 to the report provided details of the methodology. The list of people interviewed was also included. The methodology used was similar to that used elsewhere. The IAOD analyzed the documents and had a preliminary discussion with the beneficiaries and those in charge of the projects to define the scope of the evaluation. As in the case of other evaluations, a reference group was established. The contents and results were discussed with the reference group. All of these points were indicated in the report in document CDIP/9/5. However, if anything was omitted, additional information could be provided on request. With regard to the results of the project, Section 2.2 and the Annexes to document CDIP/9/5 provided details of the results as perceived by the IAOD. On needs assessment, based on Mr. Rajaobelina's experience in other organizations, the needs assessment was done in a proper and satisfactory manner in the context of the project. Needs assessment were not always included in project management in other organizations. However, that was not a relevant reason. Its inclusion was a good practice. As mentioned earlier, the IAOD would do a follow up of the recommendations contained in the report as in the case of all the recommendations that it issued at the request of Member States. This would be included in the IAOD's summary annual report to the General Assembly. The IAOD would update Member States on the status of implementation of the recommendations and Member States can also ask the IAOD about the follow up. As mentioned by the Delegation of Germany, another evaluation seminar was planned for November this year. The Head of the Evaluation Section, Mr. Claude Hilfiker, was already preparing the agenda for the seminar. As its main audience was the Member States, the IAOD

would be more than happy, if requested, to include a discussion on best practices for project documentation.

202. The Chair thanked the Secretariat for the clarifications. He noted that the Secretariat was willing to take onboard the concrete suggestions made by the Delegations. He also noted that these would be taken into account in future evaluations, especially those concerning follow up and methodology. He then declared that the extension of the project had been adopted.

203. The Delegation of Spain referred to the Secretariat's comments on the translation of documents. It felt that it was insufficient for the Secretariat to state that the language policy did not allow for the translation of all documents. These were important documents for evaluating cooperation for development projects. These documents also did not exceed 15 pages. The Committee's rules of procedure referred to the six official languages and all documents should be translated into these languages. The language policy was very complex and contained many recommendations. Some of these referred to exceptionally voluminous documents. However, it was unlikely that anyone would consider a 15 page document to be exceptionally voluminous. In concluding, the Delegation requested the Secretariat to take this into consideration when deciding on whether a document should be fully translated or merely summarized.

204. The Delegation of Egypt echoed the comments made by the Delegation of Spain on the necessity to translate important documents into all the official UN languages.

Agenda Item 8: Consideration of work program for implementation of adopted recommendations Contd.)

Consideration of Document CDIP/9/9 - Specialized Databases' Access and Support – Phase II

205. The Chair invited the Secretariat to introduce document CDIP/9/9 on Phase II of the project.

206. The Secretariat (Mr. Andrew Czajkowski) provided an overview of Phase II of the project. The principal objective of Phase II was to ensure long term sustainability by providing appropriate or needs based, high quality technology and innovation support services, including by leveraging the network effects of an increasing number of TISCs, their evolving experiences and the best practices of TISCs in this network. This objective would be met by continuing the successful implementation of on-site training which was carried out in Phase I and also in close collaboration with the WIPO Academy in offering distance learning courses. Efforts would also be made to develop this and move forward through establishing a TISC knowledge management platform to offer an e-form for virtual exchange of experiences and best practices and to offer the possibility of having training seminars to complement those that were being given on-site. It would also contain training resources and the Secretariat hoped that the interactive e-tutorial would be ready in a few months. Various WIPO seminar presentations would also be available on this platform. The Secretariat would like to include a helpdesk for advice and assistance on products and services and was currently reviewing and restructuring the TISC web site to enable these to be accommodated within the new platform. In Phase II, the Secretariat would also be working to further develop the usage and content of the access to research and development for innovation (ARDI) and the access for specialized patent information (ASPI) programs. The Secretariat wanted to increase the number of users and extend the content that was available in those programs.

207. The Delegation of Spain requested for certain clarifications on Phase II. For example, the document referred to the fact that TISCs had been established in 21 countries. However, the web page and the link provided did not seem to contain up to date information. The English

version of the web page mentioned only ten countries, namely, Algeria, Democratic Republic of Congo, Ecuador, Honduras, Kyrgyzstan, Morocco, Mozambique, Philippines, Senegal and Tunisia. The Spanish version contained only four, namely, Algeria, Morocco, Tunisia and Ecuador. The Delegation would like to know the reason for the difference and why the information had not been updated. In addition, the Delegation emphasized that it was important to ensure the sustainability of the TISCs that had been established. It considered sustainability to be one of the main pillars of the project in order to ensure its success because if development was going to be successful it had to be sustainable and the beneficiary countries should be able to maintain the TISC networks and the centers without external support in the long run. As such, the Delegation would like to know whether there was any deadline for considering whether sustainability had been achieved. In other words, when can a center be considered to be truly sustainable and did not require much external support. Finally, the Delegation referred to the costs of the staff involved in the project. It was mentioned that four P3s would be working on the project. The Delegation did not know whether the evaluation of the first phase had referred to the work done by these professionals as the full text was not provided in Spanish and thus, it had not been able to go into all the details. The Delegation requested for additional information on the work that these four professionals would be carrying out under the project.

208. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for the document. The Group reiterated its endorsement of Phase II of the project together with the incorporation of the shortcomings expressed by the Committee on the evaluation of Phase I in a way that would benefit the implementation of Phase II.

209. The Delegation of the United States of America thanked the Secretariat for the preparation of the project document for Phase II. It reiterated that it was satisfied with the results achieved to date under the project. This included the establishment of TISCs in 21 countries. These centers provided researchers, inventors and IP offices in developing and least developed countries with critical access to specialized patent databases and other scientific and technical information. The Delegation believed that Phase II of the project would help to ensure the long term sustainability of the TISCs established in Phase I. It would also enhance the ARDI and ASPI programs to broaden access to specialized patent and non-patent databases, establish a new management platform to facilitate exchange between TISCs at the national, regional and international levels and provide expanded training opportunities. In its view, Phase II was a pragmatic and constructive next step in the implementation of Recommendation 8. While the Delegation supported Phase II of the project in principle, it also had a few questions. Since it appeared that the project would need to be maintained and further expanded to capture new publishers, databases and participants beyond the fourth quarter of 2013, the Delegation would like to know if the project required Phase III, IV and so on. In other words, whether the TISCs would always require financial and technical support from WIPO or would they become fully funded by the host country or other supporting institutions at some point. In that respect, the Delegation shared the concerns expressed by the Delegation of Spain.

210. The Delegation of Bolivia made two comments on the document. Page 5 of the Spanish version or page 4 in the English version referred to the training program to be carried out. In this context, the Delegation thought it appropriate to include language on the development dimension of any training. At present, this was not included. The Delegation was flexible but it believed that it may be useful to refer to the development dimension, including flexibilities, exceptions, and other issues that were important as part of the Development Agenda. It was mentioned that in Phase II, training would be provided on intellectual property protection. However, details were not given on the type of training to be given. The Delegation believed that it was important to introduce a reference to the type of training and the need for it to be development oriented. On page 7 of the Spanish version, reference was made to evaluation. In this context, the Delegation thought it would be useful to introduce evaluation criteria for the

development orientation of the training. For example, to assess whether training had contributed to development and reflected the needs and interests of developing countries. It was important to include these issues in the descriptive section of the training program and also in the review and evaluation section of the project.

211. The Delegation of Tunisia congratulated the Chair on his election. The Delegation also thanked the Secretariat for the comprehensive documents. The project was very important to its country in view of the information it provided to all those who had access in the industrial and research sectors. It was also an important tool for other projects such as the establishment of technology centers. The Delegation commended the Secretariat on what had been mentioned in the document and in particular, the strategy for implementing Phase II. The Delegation supported all that had been mentioned with regard to the document.

212. The Chair invited the Secretariat to respond to the questions and suggestions from Delegations. He noted that the Delegations had stressed the importance of sustainability of the project and it was important that all projects be assessed on the basis of such criteria.

213. The Secretariat turned to the questions from the Delegation of Spain. The Secretariat had mentioned that the TISC web site was under review and would be restructured. The data on the web site was not up to date. At present, 21 TISC national networks had been launched and 30 countries had signed service level agreements. In fact, there were 80 countries in which the Secretariat was either implementing or had received a written request for the TISC project to be implemented. In addition, there were also some other verbal requests. Thus, the Secretariat acknowledged that it was very important for the various lists to be brought up to date. This would be done in the review and the restructuring of the web site would be undertaken as quickly as possible in order for the information to be clearly displayed. On staff costs, four other P staff worked in the TISC Section. They were involved in organizing training events and giving presentations on the project and the importance of patent or technology information in the innovation process. They also gave presentations on how to carry out effective searches using PATENTSCOPE, WIPO's search system. The Section also usually had two to three external experts to examine other free patent databases such as Espace. The Section also conducted training and it normally had a colleague from either the World Health Organization (WHO) or other sister organizations from the Research4Life Partnership who assisted in conducting training sessions on ARDI, HINARI (WHO), AGORA (FAO) and OARE (UNEP). The WIPO colleagues were also very much involved in part of the training. In addition, there were usually at least two or three other experts who conducted other elements of the training program. There were usually 50 participants in the training. This was found to be a very efficient way of carrying out the training which included both theoretical and practical elements. The practical elements involved the participants carrying search exercises and search strategies on certain patent search databases to enable them to carry out searches. With regard to the sustainability of the TISCs, it was not possible to state that this would be achieved after a certain number of training sessions. Every country had its own approach. There was no "one size fits all" in the implementation of the project. The approach taken by the Philippines was a model approach whereby the authorities also introduced, as quickly as possible, business technology transfer and other elements to make the centers attractive to users in order to increase clientele. This was in itself, a very big step towards sustainability. When people walked in, the center was creating business and clients. However, the project was for the longer term and not the short term. It was a long term process and it developed with new technologies. It was true that there should be certain stages where a lot more assistance and training was required initially but then it should ease off and things should run reasonably well on their own. However, it was very difficult to state when it was finished and this would very much depend on the country. The Secretariat then turned to the question from the Delegation of the United States of America on the prospects for the project to be extended. As mentioned, this was not a short term project. It was something that needed to be sustained. Again, every country had its own needs. What the

Secretariat was trying to do was to adapt whatever it did to the local needs. It was providing appropriate training that was as broad as possible in order to meet those national needs and after a certain point things could be left increasingly to the local partners. The Secretariat was also looking into the possibility of training trainers in order to leave behind trainers who can multiply the effect. Phase I had been a learning phase. The Secretariat started off looking at just one TISC, one center, and very quickly found out that there was a big demand to look into networks. Instead of one little TISC or big TISC in the Patent Office, it became clear that the Patent Office should coordinate a network of these centers, particularly in linking important institutions such as universities and research centers. Thus, some changes were introduced in the approach in Phase I, and it certainly would change in Phase II as well. The Secretariat was learning along the way. However, it was important to remember that the project was not for the short term and required a long term commitment from WIPO and its partners. The Secretariat hoped that it had answered the question and would be happy to meet and discuss more details if required. The Secretariat then turned to the question from the Delegation of Bolivia on the need to include other aspects of IP rights, including development, in the training program as this should be based on a country's needs. This was important and the Secretariat would take this onboard in the second phase of the project.

214. The Delegation of Germany raised a question on the quality of project papers. In the report, the evaluator included some recommendations for managers to take onboard before implementing Phase II. One concerned the use of smart performance and outcome indicators. It was also mentioned that both impact and outcome indicators should be included. However, it was questionable whether this advice had been taken into account as the project paper did not mention impact indicators. The paper only mentioned outcomes. As a baseline was not included for the number of unique users, it was not possible to measure anything in this respect. Thus, it appeared that the evaluator's recommendation on smart performance indicators had not been taken onboard. The evaluation report also stated that 1 to 2 per cent of the overall project cost should be earmarked for systematic monitoring evaluation. The project was worth 1.6 million Swiss francs and 2 per cent would amount to 32,000 Swiss francs. 10,000 Swiss francs was mentioned in the footnote. Thus, the Delegation would like to know whether this recommendation had been taken onboard in the project paper.

215. The Delegation of South Africa referred to the implementation timeline on page 9 of the Annex to the document. The suggested period for implementing Phase II was 20 months. It was also stated, in the section on project evaluation, that both the on-line Forum and on-line help desk should be established 12 months after the commencement of Phase II. However, it was indicated in the timeline that the help desk would only be established in the third quarter of 2013. This was more than 12 months after the commencement of the implementation of Phase II and would leave little time to evaluate the project. The Committee may wish to rethink this as the evaluation report had highlighted the time constraints for the evaluation. Thus, the Delegation proposed that consideration be given to implementing this earlier. The same applied to the establishment of communication services which was slated for the second quarter of 2013. This left little time to conduct an impact evaluation. Since the main focus of Phase II was on sustainability, the Committee would not be doing justice to the project if so little time was allocated to complete everything.

216. The Representative of the TWN highlighted a few points on document CDIP/9/9. With regard to the training programs, it was important to ensure that these were balanced and included a diversity of perspectives on the intellectual property system. The training programs should also address the issue of flexibilities. The Representative understood that the project would include training on patents, trademarks and copyright. These should include a focus on flexibilities as the use of flexibilities was very important to support innovation, which was what a TISC was all about. With regard to paragraph 2 on access to specialized databases, a major objective should be to increase the number of developing countries that had free access to

ASPI and ARDI services. The Representative noted that several countries were not even on the list of countries eligible to receive ASPI and ARDI services. This should be made a major objective of the project. In the section on review and evaluation, it would be important to incorporate a component on external evaluation at the end of the project. The evaluation should assess the content and orientation of the training and awareness programs as well as the extent to which the TISC had added value in terms of reducing the knowledge gap. The Representative had several other points which she would skip for the moment and would be happy to contribute in writing. Finally, on indicators for successful completion, these indicators should be improved to measure whether TISCs had made an actual difference in terms of reducing the knowledge gap and increasing local innovative capacity or activity at the national level. At present, the indicators only reflected activities that WIPO would undertake. Completion of those activities was taken as proof that TISCs had been successful. Better indicators were needed on the outcomes of success. For instance, on sustainability, the indicators included how many inquiries were made. This was not a very relevant issue in relation to sustainability. However, financing would be a relevant factor. Thus, the indicators needed to be improved. There were also other indicators that could be considered for inclusion such as an increase in the number of countries that had free or low cost access to ARDI and ASPI; evidence of actual application of knowledge and information available through TISC services; evidence of increased innovative activities by nationals as a result of TISCs; use and frequency of use of TISC services; evidence of technology transfers as a result of TISC services; and an understanding of flexibilities to support national innovation. These would ensure that the issue of access to information and use of information was addressed in a comprehensive manner to enhance and promote technological development.

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

218. The Secretariat referred to the query from the Delegation of Germany on the project document. The document was written before the evaluation document was published and there was a bit of discontinuity between the two. However, the Delegation had raised a pertinent point and the Secretariat would do everything to align these and not to lose any information that had been gained from the evaluation of Phase I in Phase II. The Secretariat (Thierry Rajaobelina) reiterated that it would follow up the implementation of the recommendations included in the evaluation report and would verify that. The Secretariat was pleased that Member States were pushing for implementation of the recommendations and this would certainly facilitate its work when it came to evaluating the next stage.

219. The Chair thanked the Secretariat for its response and brought the consideration of Phase II of the project to a close.

Agenda Item 7: Monitor, assess, discuss and report on implementation of all Development Agenda recommendations and consideration of the Director General's Report on Implementation of the Development Agenda (Contd.)

Consideration of Document CDIP/9/3 - Project Evaluation – Conference on “Mobilizing Resources for Development”

220. The Chair opened discussions on the evaluation of the Conference on “Mobilizing Resources for Development” and invited the evaluator, Mr. Glenn O’Neil, to introduce the evaluation.

221. Mr. O’Neil provided a brief overview of the evaluation. It assessed project management, effectiveness and sustainability. The two main objectives of the project provided the starting point for the evaluation. Its first objective was to convene a conference aimed at mobilizing extra budgetary resources for WIPO. In this regard, the project’s output was successful and the

conference was successfully organized within the planned timeline and agreed budget in November 2009. With regard to the broader outcome indicators, two additional donors were added. The target for funding received in the given time period was not met. However, if it were to include amounts pledged as well as those in the advanced stages of discussion, the target was exceeded by approximately 30 per cent. The second objective of the project was to establish FITs or other voluntary funds specifically for LDCs. This objective was not met. No funds had been established to date. However, some FITs had increased their funds or focus on LDCs and initiatives were underway in other areas to support LDCs through other modalities, mechanisms and funding. A narrow interpretation of this project would find that it only partially achieved its objectives, given the limited changes to the levels of funding received in 2010/11. However, a broader interpretation of the project would find that the project was a key starting point for a concerted resource mobilization strategy with close to 4 million Swiss francs in secured and anticipated funding. Although it was difficult to determine precisely the contribution of the 2009 conference to resource mobilization, contributions that were identifiable include the development of a Partnership and Resource Mobilization strategy, the adoption of a new approach in this area together with better internal understanding and collaboration that had shown promising initial results. Based on the findings of the independent evaluation, five recommendations were proposed. First, recognize and support a multipronged strategy for resource mobilization that required a minimum of four years to produce concrete results. Second, continue to monitor progress of resource mobilization through program 20 and consider a more in-depth review of efficiency and effectiveness after a four year period. Third, reconsider the appropriateness of establishing a separate multi-donor FIT for LDCs and consider alternative approaches to supporting LDCs such as intensifying collaboration with multinational partners and increased support for LDCs in existing FITs. Fourth, encourage additional support within WIPO to increase its ability to develop project proposals in order to support and boost resource mobilization while recognizing the time and resources required. Lastly, and this was more on project management, when creating similar projects of this nature, consideration should be given to the inclusion of internal risks and challenges, in addition to setting out midterm outcomes and indicators that sat between the shorter term outputs and longer-term outcomes.

222. The Delegation of Australia congratulated the Chair on his election. The Delegation welcomed the report on the Conference on “Mobilizing Resources for Development” and it was broadly supportive of the conclusions and recommendations. The Delegation informed the Member States that Australia was close to finalizing a Memorandum of Understanding with the Secretariat to govern the Australian FIT. The Australian fund would be aligned with the Development Agenda recommendations along with WIPO as planning frameworks. The fund would be used to consolidate and build upon the country's long standing and demand driven work on national IP strategies and practical capacity building in the Asia Pacific region. However, the fund would also allow it to expand beyond Asia to other parts of the world. It would also recognize emerging issues in WIPO programs. For example, it would support the WIPO Re: Search program which aimed to take practical action in the fight against neglected tropical diseases. The fund was a clear indication of the country's sincere support for the Development Agenda. The Delegation also stressed that there would be a considerable focus on LDCs in the Australian fund.

223. The Delegation of the United States of America thanked Mr. O'Neil for the preparation of the report on the project for mobilizing resources for development. In supporting the project three years ago, the Delegation had hoped that the November 2009 conference would quickly attract extra budgetary resources to meet the ever increasing demand for WIPO technical assistance services. It was said that such resources were critical at a time of economic crisis when declines in patent filings were placing pressure on existing WIPO resources. The Delegation saw from the report that although the conference did not immediately lead to the increase in extra budgetary funding that the members of the Committee had hoped for, it

nevertheless did establish a starting point for a more concerted effort on the part of WIPO to secure such resources. In that broader sense, the Delegation agreed with the author of the report that the project had been an important step forward. The Delegation appreciated the report's recommendations for improving resource mobilization in the future. Two recommendations were particularly worthy of future consideration. The first was that WIPO should adopt a multi pronged strategy for resource mobilization under a longer, perhaps, four year time span. The second was that WIPO should consider the advisability or reconsider the advisability of establishing a multi donor FIT for LDCs and instead explore alternative approaches such as increased cooperation with multilateral partners and increased support for LDCs within existing FITs.

224. The Delegation of Germany had a question on Appendix 3, "Financial Analysis of FITs". Although the table was on income received, the grand total provided at the bottom of the table included total funds received, pledged and under discussion. What was pledged or under discussion was not income that had been received. As such, the Delegation sought clarification as to why these categories had been classified under income received.

225. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for its report. However, the Group reiterated the necessity to translate the full document into all UN languages. It was not a lengthy document and the Arabic translation was incomplete. The Group supported the idea of mobilizing resources through a multi pronged strategy and the need to increase support for LDCs in existing FITs. The Group thanked the Australian Government for its pledge to establish a FIT which was geared towards the Development Agenda and with a focus on LDCs. The Group encouraged other donor countries to follow suit. In this regard, the Group also requested the Secretariat to clarify which donations were considered to be funds and which were regarded to be pledges. In some cases this could be confusing. The Group also sought clarification on paragraph 20 in the section on "Conclusions and Recommendations". The paragraph stated that a separate multi-donor FIT for LDCs may not be the most appropriate mechanism to support LDCs and suggested working with multilateral partners such as the African Development Bank (ADB). Although the Group encouraged such cooperation with the ADB, it requested for clarification as to why a multi-donor FIT would not be feasible. The Group believed that it was important that processes were put in place for Member States to identify priority areas in which project proposals should be pursued. This was a key to the implementation of the Development Agenda and it should be Member States that identified the priority areas for project proposals to be pursued.

226. The Delegation of Brazil reiterated the importance of carrying out external evaluations. The Delegation thanked the Secretariat for making the document available for the current session. The report prepared by the consultant, Mr. O'Neil, contained useful information for Member States. It included some recommendations for the consideration of the Committee which the Delegation could support. The Delegation stressed the need to develop general guidelines for extra-budgetary resources in accordance with Development Agenda recommendations. The need was identified by the Authors of the external review on WIPO technical assistance in the area of cooperation for development. Document CDIP/9/3 referred to information which the Delegation would like the Secretariat to make available to members of the Committee. First, paragraph 14(iv) on page 5 referred to the annual meetings of WIPO's donors which were described as providing a very useful exchange of information between donors and WIPO. In this context, the Delegation would like to know if there were reports or anything else that resulted from those meetings. These documents would be of interest. Second, paragraph 14(vii) on page 6, referred to guidelines for partnerships with the private sector that had been drafted and were scheduled to be finalized in 2012/13. The Delegation would like to know whether the Secretariat could make these draft guidelines available to the Committee.

227. The Delegation of Spain referred to the statement made by the Delegation of Egypt on translations and requested for the translation of the full document into Spanish, bearing in mind that it was very short. To avoid having to repeat this statement for all evaluation reports as well as for all those documents where only summaries were available in Spanish, the Delegation requested for a complete translation of all documents into Spanish.

228. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, thanked Mr. O'Neil for his objective evaluation of the results of the conference. The Delegation reminded the Committee that the project was pursuant to Recommendation 2 which clearly provided that developing countries should be assisted, particularly in the area of funding. The conference was aimed at providing additional extra-budgetary resources for WIPO's work to assist developing countries to benefit from the intellectual property system. The Delegation referred to paragraphs 45(vi) and (vii) on page 12 of the report. Paragraph 45(vi) was on the WIPO resource mobilization strategy. In this context, the Delegation referred to cluster C, paragraph 1, of the joint Development Agenda Group/ African Group proposal which requested the Secretariat to inform Member States of what was being done in this area. Paragraph 45(vii) was on developing guidelines for partnership with the private sector. The Delegation reminded the Committee that the Development Agenda Group/ African Group proposal had set out elements that the Secretariat should take into account in drafting these guidelines.

229. The Delegation of Bolivia thanked Mr. O'Neil for the evaluation report. The report was a very important exercise and the Delegation supported all its conclusions and recommendations. It was a very important document as it provided Member States with a clearer view of the achievements of the project. The Delegation had two specific questions concerning the report. First, it was stated in Annex 4 that consultations had been held with civil society organizations. However, none were included in the list of organizations that were interviewed. The list included those from the industrial and commercial sectors. As such, the Delegation requested for clarification on the organizations that were included under the category of civil society, whether this referred only to industry or were civil society or non-commercial organizations also included. Second, on the conference, the evaluator concluded that it had led to greater awareness on intellectual property and development. This was based on what the participants at the conference had said. However, the Delegation would like to know the basis for this conclusion as the report did not provide any evidence to support this statement. The Delegation would also like to know whether the evaluator had analyzed the contents of the conference to determine which measures were aimed at development and whether the contents of the conference corresponded to the purpose and objectives of the Development Agenda. It was very important to ensure that the objectives and contents of all projects corresponded to the objectives of the Development Agenda.

230. The Chair invited the Vice-Chair, Mrs. Alexandra Grazioli, to replace him for the rest of the session as he had to leave for another engagement.

231. The Delegation of South Africa expressed support for the statement made by the Delegation of Algeria on behalf of the Development Agenda Group on linking the outcomes of the project evaluation. It recalled that when it took the floor on behalf of the African Group yesterday, it had put forward a few questions and the Secretariat had indicated that some of these may be dealt with during the discussions on the evaluation. The Delegation supported the statement made by the Delegation of Algeria on the recommendations of the evaluation report. Although the evaluator had not referred to the external review report, some of the recommendations could be linked to the recommendations in that report. Paragraph 25(i) on page 7 of the evaluation report recognized and supported a multi pronged strategy. This was dependent on what was said on page 6 in terms of partnership and the resource mobilization strategy which had been developed by the Secretariat. The Delegation would like the Secretariat to present that strategy to the Committee as it had not seen it and it was linked to

the recommendation in paragraph 25(i) of the report. The Delegation did not support the recommendation to reconsider the appropriateness of establishing a separate multi-donor FIT for LDCs. The evaluator had highlighted that other issues had contributed to the lack of success, including the global financial crisis. Reasons had not been provided as to why the recommendation should be forgone. The Delegation expressed support for the recommendations included under paragraphs 25(iv) and (v).

232. The Delegation of Germany referred to the issue of earmarking. Perhaps a recommendation could be included for donors to provide funds which were not earmarked and to leave it to WIPO to channel the funds to LDCs or anywhere else where these were needed. This was worth some consideration because 90 per cent of the funds were earmarked.

233. The Vice-Chair invited the Secretariat to respond to the questions raised.

234. The evaluation consultant, Mr. O'Neil, responded to some of the specific questions concerning the evaluation. On the question raised by the Delegation of Germany on Annex 3, the Delegation was correct. The title was perhaps misleading as it referred to income received. The total income received was included in a subtotal. The funds that had been pledged or were in the advanced stages of discussion were, of course, not yet received. Changes could be made to the text to reflect this. He turned to the issue of the multi-donor FIT for LDCs which was raised by the Delegations of Egypt and South Africa. The conclusion, as provided in paragraph 20 on page 6, that a separate multi-donor FIT for LDCs may not be the most appropriate mechanism to support LDCs was based on the fact that after more than three years, no funds had been committed to a separate FIT for LDCs. However, a lot of effort had also been made with multilateral partners and with existing FITs for more work to be done on behalf of LDCs and for more commitment to LDCs. On the question raised by the Delegation of Bolivia on civil society organizations, he had spoken to private companies as well as a limited number of those which he considered to be representatives of civil society. TFO Canada, a partnership organization that worked closely with civil society was an example. In addition, many of the people from the business sector that he had interviewed worked closely with civil society. Ms. Jordan from South Africa was an example. He would have liked to have interviewed more people from civil society but it had not been possible due to time and access constraints. The Delegation of Bolivia also asked the question on measuring the extent to which the conference had raised awareness. This was a good point. The level of awareness was gauged through talking to conference participants and observers. As stated in the report, this was based on discussion and feedback received from a limited number of persons as well as on the meeting notes. The Secretariat (Joe Bradley) responded to some of the other questions raised by the delegations. On the minutes of the annual FIT donor meetings, although these were not available, there were conclusion or follow-up points from those discussions. The Secretariat would check and clarify the extent to which these could be made more widely available. On the WIPO partnership and resource mobilization strategy, work began on that last year. A strategy had been developed and was undergoing internal review. A number of different sectors were involved in the implementation and design of that strategy. The Secretariat would present the details of the strategy once it was ready for approval. On private sector partnerships, one of the indicators included in the Program and Budget for 2012/13 was to have guidelines in place for these partnerships. The UN business guidelines that were developed towards the end of 2009 provided the basis for work undertaken thus far by the Secretariat. It was in the process of adapting and applying the said guidelines in the WIPO context. These would be discussed with Member States. On the issue of earmarking, yes, it would be good if donors were ready to give funds without tying them to particular projects. There was quite often a degree of both in the discussions with donors and inevitably, there were particular priorities that had to be achieved. WIPO was not the only organization that endeavored to have untied funds but there was a compromise around where the priorities may be. In terms of how the resource mobilization strategy was shaped, the Secretariat did look at such issues. It also looked at a longer term

approach, four years instead of two years, and to set realistic targets for that period. On the LDC FIT, the possibility of contributing to such a fund was discussed with a number of donors. The Secretariat did not receive any positive feedback with regard to making contributions to a specific WIPO LDC FIT. The Secretariat also explored whether there were other options to mobilize resources for LDCs. Many donors had commented that there were existing funding mechanisms and the Secretariat should try to make more use of those. The Secretariat looked at the WTO LDCs needs assessment process and the Enhanced Integrated Framework (EIF) to see if there were opportunities there and a number of existing FIT donors were increasingly focused to work with LDCs as part of their FIT activities.

235. The Delegation of Brazil raised a follow up question. Page 6 of the report referred to guidelines for partnership with the private sector. It was stated that these guidelines had been drafted and were scheduled to be finalized in 2012/13. The Delegation would like to know if the draft guidelines could be made available to the members of the Committee.

236. The Delegation of Algeria thanked the Secretariat for responding to its query. However, the intention was not for Member States to take note of the partnership and resource mobilization strategy when it was completed but to be involved in the development of that strategy. This was very important. The Delegation was interested to examine the draft strategy and not to rubber stamp a final version.

237. The Delegation of South Africa referred to the multi-donor FIT for LDCs. The Delegation believed that it was important to maintain the FIT as it was still too early to dismiss it. There could be two approaches involving the FIT and the Secretariat doing what it had to do in terms of mobilizing funds. Although it was mentioned that the donors had reservations concerning the FIT, details had not been provided and the Delegation would like the Secretariat to elaborate on these. The FIT should be kept and the Committee should consider complementary approaches, rather than alternative approaches, to the multi donor fund.

238. The Delegation of Germany referred to the issue of earmarking. An idea would be for some donor projects to replace activities that WIPO would have carried out in the absence of donor funding. WIPO could then channel those savings towards the LDCs or other activities.

239. The Delegation of Egypt expressed support for the statement made by the Delegation of South Africa. Although the multi-donor LDC FIT had not received any contributions in over three years, this was not a viable reason for dismissing the FIT. The Committee should consider whether donors were adequately aware of the FIT. This was the question and not whether the FIT should be cancelled or kept.

240. The Secretariat referred to the query from the Delegation of Brazil on making available the guidelines for partnership with the private sector. Yes, that would happen. The Secretariat was developing the UN business guidelines and adapting them to WIPO's context. These would be made available to the Member States when they were ready. On the issue raised by the Delegation of Algeria with regard to the preparation of the resource mobilization strategy, the Secretariat had taken note of the points made. The point raised with regard to the FIT for LDCs was valid. The idea of an LDC FIT could be kept but Member States should also be realistic in terms of where money might come from and explore complementary approaches to ensure that the LDCs received the support they required. That was reflected in recommendation 2 of the Development Agenda. On the point made by the Delegation of Germany, the Secretariat would certainly look at options to get around the issue of earmarking.

241. The Vice-Chair concluded the discussions by stating that the Committee had taken note of document CDIP/9/3.

Consideration of Document CDIP/9/2 - Director General's Report on Implementation of the Development Agenda

242. The Chair invited the Director General to present his report. He recalled the appreciation expressed in the general statements on the work undertaken by WIPO to implement the Development Agenda and the commitment of the delegations to the pursuit of those goals.

243. The Director General apologized for not being present at the opening of the CDIP meeting on Monday as he was away on mission. He congratulated the Chair on his election and was confident that good progress would be made on the Development Agenda under his leadership. The Director General made some general comments on the report set out in document CDIP/9/2. Three years had passed since Member States and the Organization had adopted new strategic objectives and a new strategic direction. That included a focus on institutionalizing the Development Agenda considerations as an integral part of WIPO's work. It was important to remember that when the 45 recommendations of the Development Agenda were adopted three years ago, the Organization had not yet determined or decided how it was going to act upon those recommendations. There were only 45 bare recommendations to begin with. In that light, there was reason to congratulate the work that had been accomplished in the CDIP. The Director General also expressed his thanks to the colleagues who had worked on the Development Agenda, in particular, under the leadership of Geoffrey Onyeama, Deputy Director General for Development, and Mr. Irfan Baloch, the Director of the Development Agenda Coordination Division, for their remarkable work. As a consequence of the collective efforts of the Secretariat and the Member States, the mainstreaming of the Development Agenda was now taking effect. This was clear as it may be recalled that some time ago, the CDIP was operating in a very unsatisfactory cycle. Although the Committee had approved a project, it had to wait for the Program and Budget Committee to meet in order to extend financing before the project could begin. That was now history because all the Development Agenda projects had been fully integrated into the Program and Budget for 2012/13. They were, in other words, mainstreamed. Similarly, it can be said that every aspect of the Development Agenda was taken into account by the respective divisions in implementing the work of the Organization. Consideration was always given to the development dimension. The Secretariat had, including from the management point of view, also succeeded in responding to the Development Agenda recommendations that were addressed particularly to the Secretariat. The Director General referred to work that had been accomplished on RMB, the adoption of a Code of Ethics throughout the Organization, and various other components of the strategic realignment process. He made some brief comments on document CDIP/9/2. The document was divided into three parts. The first part provided an overview of the mainstreaming of the Development Agenda. It sought, in particular, to detail some of the improvements that the Organization was trying to introduce in the delivery of technical assistance. This was being done through country-specific intellectual property and innovation strategies. Country-specific plans were implemented under those strategies. The Organization had sought to introduce greater planning in the implementation of those strategies and plans. It had strengthened its cooperation with the rest of the UN system and other intergovernmental organizations, particularly in response to recommendations 30 and 42 of the Development Agenda. A summary of the work done by each of the other bodies of the Organization with respect to the Development Agenda was contained in part 1 of the report. Part 2 provided an update on the Development Agenda projects which sought to implement certain of the recommendations. The CDIP had approved 23 projects covering 29 recommendations to a value of approximately 23.5 million Swiss francs. That was a solid achievement. A number of those projects were now under evaluation by the Committee. The third part of the document sought to address the question of the strategic approach to the Development Agenda. This was an area where the Secretariat was in constant need of assistance from the Member States. The Director General turned to WIPO's technical assistance and provided a few details of how that was being improved. It was an enormous task as it involved approximately 150 countries covering all the

regions of the world including those of countries in transition. Each country had its own specific circumstances, context and needs. Although it did not always succeed, the Organization sought to make available the best that it had to offer to each of those countries. This was an enormous task as it required planning, division of labor across the Organization and coordination. Although there was still room for improvement, particularly with the assistance of Member States, significant progress had been made. There was now a methodology for assisting countries to develop their own country strategy for IP and innovation. The regional bureaus were the keepers of the master plan for the assistance provided by the Organization with respect to any particular country. That assistance was organized under a country strategy and a country plan. The bureaus were also responsible for ensuring that the technical assistance activities of other divisions of the Organization, including the PCT, Madrid and Hague operations, the Innovation Sector, and the Infrastructure Sector were brought to bear in a coordinated manner. This was done through the adoption of annual work plans and increasingly with tools that were being developed to allow for a full picture of all of the activities that were planned for a particular country by all the various sectors of the Organization. Thus, the approach adopted with regard to both the implementation of the Development Agenda and efforts to enhance the quality of the service delivered in the area of technical assistance had resulted in improvements. However, further improvements could be made and this was under discussion. In this regard, the Secretariat was very open to suggestions from Member States. In his final remarks, the Director General noted that over the course of the last year, the working atmosphere in all the committees had improved as a result of the constructive and active engagement of all delegations. This had facilitated progress in all committees. However, the improved atmosphere was also dependent on progress being made. As such, the Director General appealed to all delegations to maintain a constructive engagement as this was extremely important for work on the Development Agenda to go forward in the manner in which it had been going forward with continuous improvement.

244. The Chair thanked the Director General for his introduction. The report was constructed in three parts, namely, an overview of the mainstreaming of the Development Agenda into WIPO's program activities and its various bodies, an update on the implementation of Development Agenda projects, and the Organization's strategic approach to the implementation of the Development Agenda. He noted that the Director General had stressed the enormity of the task and had sought the guidance and support of Member States.

245. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Director General for his report on the implementation of the Development Agenda in 2011. Member States had unanimously adopted the WIPO Development Agenda through the decision of the General Assembly in 2007. The Member States had also, by the virtue of the General Assembly's decision in 2009, unanimously agreed that the aim of the Development Agenda was to ensure that development considerations were integral to WIPO's work. The Group expressed its appreciation to the Director General for his strong leadership and personal commitment to spearhead the institutional reforms and change required to effectively implement the said General Assembly decisions to mainstream the WIPO Development Agenda as an integral part of all WIPO's program activities and its various bodies, and to enable a development-oriented international intellectual property system to assist developing countries and LDCs in their aspirations for economic, social and technological development, and at the same time safeguard public policy objectives. The Delegation made a few remarks with respect to the Director General's report. First, the African Group welcomed efforts by the Secretariat to mainstream the Development Agenda recommendations. However, although the Development Agenda recommendations had been streamlined in the Program and Budget for 2012/13 and program performance reports had been strengthened to include information on the implementation of the recommendations as well as projects undertaken by each program, the 2009 General Assembly decision on the Development Agenda coordination mechanism had not yet been implemented by the Program and Budget Committee. Recently, the developing and

least developed Member States were surprised that the Committee on WIPO Standards which concluded its meeting last Friday, was prevented from making any reference to the Development Agenda on the pretext that WIPO standards were technical and therefore, had no relevance to the Development Agenda. Political will continued to be lacking as this CDIP session had not succeeded in resolving this important matter. There was a striking inconsistency between, on one hand the agreement of all Member States in the General Assembly to mainstream the WIPO Development Agenda and the Secretariat's efforts in that regard, particularly in relation to the Program and Budget and standard-setting under Program 12, and on the other, the strong opposition to apply that decision to the Program and Budget Committee and the Committee on WIPO Standards. The Group would engage positively in the informal consultations to be led by the Chair of the General Assembly on mainstreaming the WIPO Development Agenda and coordination mechanism in order to reach an agreement to ensure the implementation of the General Assembly decision and to dispel any doubts or concerns on the backtracking of development in WIPO. Second, the 2007 General Assembly decision that established the CDIP also defined its mandate. This included the phrase, "discuss IP and development related issues as agreed by the Committee". This was yet to be implemented by the Committee. Since 2010, including in the session on the adoption of the proposed agenda item on IP and development-related issues, the Committee had failed to reach agreement on this matter. The Group looked forward to the adoption of the agenda item as soon as possible in order to facilitate focused discussions on important issues related to IP and development in Africa, including WIPO's contribution to the MDGs, as partly discussed in the study by the external consultant, and to provide guidance to what was referred in the Director General's report as WIPO's contribution to the UN inter-agency processes in relation to the Development Agenda after 2015. Third, the Group welcomed the Secretariat's efforts to improve the delivery of WIPO technical assistance for development, in accordance with Development Agenda recommendations and the recommendations of the report on the external review. Recent efforts on national IP strategies, country plans and the Code of Ethics were initial steps taken in the right direction to implement the recommendations of the external review. This was despite the fact that the Code of Ethics did not currently refer to Development Agenda principles and did not apply to external consultants contracted by WIPO. Those efforts also required implementation and evaluation, in addition to the implementation of other relevant recommendations of the report on the external review. The Group had carefully examined the Secretariat's response to that report and had expressed specific remarks and concerns with regard to its content. On the way forward, the Group and the Development Agenda Group had jointly presented a proposal containing outstanding recommendations for implementation by the Organization in the coming period. However, yesterday's discussions on the proposal had not been fruitful. The Group looked forward to an outcome for this important issue. Fourth, as rightly noted in the Director General's report, the Development Agenda continued to guide and inform WIPO activities in the area of norm-setting. The Group looked forward to constructive discussions in the forthcoming General Assembly. Political will was required to take collective strategic decisions on the convening of the diplomatic conferences for the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, on legal texts for the protection of genetic resources, traditional knowledge and folklore as well as on SCCR recommendations on copyright exceptions and limitations. Fifth, the Group thanked the Secretariat for the continued implementation of the 19 Development Agenda projects. It supported the project proposal submitted by Burkina Faso to strengthen the audiovisual sector in African countries and looked forward to the adoption of the project in the current session of the Committee. On the way forward for the Development Agenda projects, strategic questions included determining the next steps after the projects were completed and how developing Member States could benefit from the results of those projects. The Group agreed with the statement included in the Director General's report that "The projects on IP and public domain, patents and public domain, IP and competition policy, IP and socio-economic development and the work on flexibilities in the multilateral legal framework, to name a few, have produced studies and exploratory work which might merit follow-up activities by the

Organization". In that regard, follow-up work could include mobilizing resources for development on an ongoing basis, and using the outcome of the projects on IP and the public domain and IP and competition policy to guide the work of the SCCR and the SCP. When highlighting the completion of the projects, the Committee should also be mindful of the need for positive results and for these to guide and inform WIPO's future work. As stated in the Director General's report, the financial resources allocated to the implementation of the 23 Development Agenda projects amounted to approximately 23 million Swiss francs. The highest possible returns should be ensured in this regard. Lastly, the mainstreaming of the WIPO Development Agenda had come a long way since its adoption in 2007. There was a need to maintain progress and for the results to be carefully measured. Results based management had been successfully established. However, additional work was perhaps required for what could be termed, "results-based WIPO Development Agenda mainstreaming". In that regard, no efforts would be spared by the Group to reach out to partners and to work with the Secretariat to achieve the shared vision for development-oriented intellectual property regimes to promote creativity and innovation for all, and to facilitate the use of IP flexibilities, exceptions and limitations to serve public policy objectives.

246. The Delegation of Iran (Islamic Republic of), speaking on behalf of the Asian Group, expressed its sincere appreciation and thanks to the Director General for his initiative and commitment to present a timely report on the implementation of the Development Agenda. The three-part report provided a macro level assessment of the work undertaken by the Organization and included a comprehensive overview of ongoing efforts to mainstream the Development Agenda into all areas of its work. It was clear from the report that concrete progress was being achieved and several important steps had been taken by the Director General and his team to ensure greater development orientation in WIPO's work. Positive developments included the mainstreaming of development across all its substantive strategic goals and in all the relevant programs in the Program and Budget as well as the program performance reports; integration of Development Agenda projects and activities in the Organization's result-based management framework; integration of the Development Agenda in the WIPO Academy's training modules; formulation of the roster of consultants; development of the Code of Ethics; enhancement of civil society participation; and the completion of various projects in the CDIP. The Group noted with satisfaction that the Development Agenda principles continued to guide WIPO technical assistance activities aimed at greater empowerment of developing countries and LDCs in using IP for development. It also acknowledged that important steps had been taken to tailor the development of national IP strategies to the IP related needs and priorities of individual countries. This included the inception of the country plan process based on an agreed, transparent, comprehensive and tailored assistance framework between WIPO and a particular country. The Group noted that the ultimate objective of that process was to ensure that the Organization's technical assistance was development oriented, demand driven and transparent, and was based on a country's needs and level of development with respect to design, delivery and evaluation. It also noted with satisfaction that various projects such as those on IP and the public domain, patents and the public domain, IP and competition policy, IP and socio-economic development and work on flexibilities in the multilateral legal framework had produced studies and exploratory work which may merit follow-up activities by the Organization. The Group further noted the successful implementation and outcomes of the various projects. In its view, the recommendations included in the reports on completed projects were useful and should be taken into consideration. The Group would like the results of the various studies to be properly utilized in the provision of technical assistance to Member States. It was encouraged by all these positive developments. More would always be required in order to realize and improve the mainstreaming of the Development Agenda in the activities of the Organization. In its view, the implementation of the Development Agenda sought to transform the way in which the Organization operated and to ensure that development considerations were integral to all its work. This was a dynamic, continuous and incremental process. The Group also noted that the

report of the Director General was a macro level assessment of the implementation of the Development Agenda. In that regard, it would like to see more detailed information on up-to-date project developments as well as a description of the main project achievements in the report. In particular, it would like progress reports to be regularly updated on the WIPO web site prior to each session of the CDIP. It would also be grateful if the Secretariat developed a methodology to enable project managers to provide Member States with detailed up-to-date information on the status of projects prior to each Committee meeting. Although the report referred to the coordination mechanism for mainstreaming development in the work of the committees, the Group emphasized that the mechanism had not functioned properly and therefore, had not produced positive results. There was a lack of coordination with regard to development related activities among the various Committees, particularly in relation to norm-setting activities. In other words, in the absence of a functioning coordination mechanism, the Committee had not been able to discharge the second pillar of its mandate, namely, monitoring, assisting, discussing and reporting on the implementation of the Development Agenda recommendations in coordination with other WIPO bodies. In that regard, the Group welcomed the initiative of the Chair of the General Assemblies to discuss the issue with the objective of finding modalities for the coordination mechanism to function. On WIPO's cooperation with other inter-governmental organizations, the report demonstrated that the Organization had been extremely active in engaging in discussions with various other UN programs and in providing support to the negotiation processes in several UN agencies. It noted that the Organization had responded to over 200 invitations and requests and participated in more than 70 meetings organized by the UN and other inter-governmental organizations in 2011. Although the Group was confident that the Secretariat had contributed constructively to dialogues related to IP in those other organizations, it was important that the Secretariat reported on its engagement and cooperation with other organizations so as to enable Member States to enhance their understanding and appreciation of WIPO's role in relation to important global issues. This was an important issue and the Group hoped that it could be considered by the Committee under the proposed new agenda item on IP and development.

247. The Delegation of Paraguay, speaking on behalf of GRULAC, expressed its thanks to the Director General for the presentation of his report on the implementation of the Development Agenda. His presence was an indication of the importance attached to this agenda item. The Group supported the preparation and presentation of these reports. It hoped that the practice would be maintained in order to reflect the views of the Organization at the highest level. The report clearly showed that the preparation of country plans was a priority in the planning and implementation of cooperation activities. Projects and activities were included within a specified period of time to achieve defined objectives. Further improvements were required in that regard. The process for seeking official approval of plans needed to be accelerated. Time and effort were unnecessarily wasted when a decision was lacking on an activity. Although many activities included in country plans were underway with the cooperation of the offices, specific frameworks should perhaps be defined for the 2012/13 biennium. In that regard, it should be recalled that the country plans sought to achieve a balance between IP protection and the specific situation of countries in order for IP to support the development of countries. As a result, the capacity of these countries to promote innovation and IP development should be enhanced. As such, the Group was confident that the Organization would encourage the strengthening of country plans.

248. The Delegation of Pakistan aligned itself with the statement made by the Delegation of Iran (Islamic Republic of) on behalf of the Asian Group. It thanked the Director General for his personal oversight and interest in the Development Agenda and its implementation. Document CDIP/9/2 was an example of the results of the continued guidance of the Director General and the importance attached by the Organization to the Development Agenda. The Delegation had read the report with enthusiasm and interest, and was encouraged by the comprehensive and persuasive overview of the implementation of the Development Agenda. The report indicated

that several important steps had been taken by the Organization under the leadership of the Director General to ensure greater development orientation in WIPO's work, and that concrete progress was being made to meaningfully and genuinely mainstream the Development Agenda. The Delegation commended the Director General and his team for laying the foundations for sustained and meaningful organizational transformation whereby development considerations automatically became an integral part of WIPO's work. It noted with satisfaction the positive steps taken in the right direction, including mainstreaming development across the substantive strategic goals and all relevant WIPO programs; strengthening of program performance reports to reflect the contribution of each program to development; integration of projects and activities in WIPO's RMB; development and circulation of the WIPO Code of Ethics; providing technical assistance particularly on national IP strategies; and implementation of Development Agenda recommendations through the WIPO Academy's training programs. The Delegation was happy to note that progress reports on the implementation of specific Development Agenda recommendations would continue to be regularly provided. It was clear from the three-part macro level report that concrete progress was being made by the Organization. The Delegation noted with satisfaction that the Development Agenda principles continued to guide the Organization's technical assistance activities aimed at greater empowerment of developing countries and LDCs in using IP for development. It further acknowledged that important steps had been taken to tailor the development of national IP strategies to the IP related needs and priorities of the individual countries. The inception of the country plan process based on an agreed, transparent, comprehensive and tailored assistance framework between WIPO and the concerned country was among the positive steps. The Delegation also noted with satisfaction that various projects such as the project on IP and the public domain, patents and the public domain, IP and competition policy, IP and socio-economic development, and the work on flexibilities in the multilateral legal framework had produced important studies and exploratory work. There was a need to capitalize on these for follow-up activities by the Organization. The recommendations suggested in the reports on completed projects were also useful and should be taken into consideration. Although it was encouraged by these positive developments, the Delegation understood that the implementation of the Development Agenda was a continuous and incremental process. There would always be room for improvement. In its view, the Development Agenda was an endeavor that sought to continuously ameliorate the way the Organization operated to ensure that development considerations formed an integral part of all the work it undertook. As the report of the Director General was a macro level assessment of the implementation of the Development Agenda, the Delegation understood that it did not include detailed information on new and up-to-date project developments as well as a description of their main achievements in the report. However, it would be appreciated if progress reports were to be regularly updated on the WIPO web site prior to each session of the CDIP. The Delegation would also like the Secretariat to develop a methodology to enable project managers to provide Member States with detailed up-to-date information on the status of projects prior to each Committee meeting. Although efforts to mainstream the Development Agenda through the Program and Budget was a positive development, there was scope for improvement in mainstreaming the Development Agenda into the Program and Budget process, as pointed out in the external review of WIPO technical assistance in the area of cooperation for development. The Organization could benefit immensely from the recommendations of the external review on technical assistance. Although the report referred to the coordination mechanism for mainstreaming development in the work of various WIPO Committees, the Delegation emphasized the need to strengthen the implementation of the mechanism to achieve the desired results. It would also like to see the early availability of the WIPO portal on flexibilities pursuant to the work in progress on IP related flexibilities as mentioned in the Director General's report. The Delegation was encouraged by the fact that WIPO had been extremely active in engaging in discussions with different UN programs. It was confident that the Secretariat had contributed constructively to dialogues related to IP in those organizations. However, it would be useful for the Secretariat to provide updates to Member States on its engagement and cooperation with other organizations so as to enhance their understanding

and appreciation of WIPO's role in relation to these important global issues. In concluding, the Delegation thanked the Director General for his positive report and looked forward to his continued interest in the matter.

249. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, thanked the Director General for his full engagement in mainstreaming the Development Agenda into all WIPO activities. The Group also appreciated the good work done by the Secretariat under the leadership of the Director General and his senior management team. It thanked the Director General for the preparation and presentation of his report on the implementation of the Development Agenda. The report provided an overview of current efforts to integrate the Development Agenda into all areas of the Organization's work. The report reflected the substantial progress that had been made and mentioned several important steps that had been taken by the Member States and the Director General and his team to integrate the Development Agenda recommendations into WIPO's activities. The Group welcomed the efforts to further mainstream the Development Agenda recommendations into WIPO's work, including in the Program and Budget for the current biennium. Nevertheless, the opposition to the implementation of the General Assembly decision on the Development Agenda coordination mechanism in relation to the Program and Budget Committee served to undermine all those efforts. It was also inconsistent that the third pillar of the Committee's mandate had yet to be concluded. The Group insisted on including an agenda item on "Intellectual Property and Development" in the agenda of the Committee to allow for the complete implementation of the three pillars of the Committee's mandate. The proposed agenda item would facilitate discussions on the important linkages between IP and development and would provide space for discussing important issues which were not currently discussed in the Committee. The Group noted the implementation of 19 approved projects in 2011 and the evaluation of the results of the completed projects. Although it welcomed the encouraging progress, the Group emphasized the need for broader implementation of the Development Agenda recommendations. For example, the introduction of a module on the Development Agenda in the WIPO Academy's training programs was a very good initiative. However, the content of that training module should provide a broader view of the various aspects of intellectual property, including the integration of development into IP systems. With regard to WIPO's engagement in the work of other intergovernmental organizations, the most important issue was not so much the fact that WIPO contributed to the work of those organizations but rather the nature and the content of its contribution, particularly now that there were multiple opportunities to discuss issues such as climate change, public health, food security, and transfer of technology, where intellectual property rights were crucial. The Group was satisfied that the Secretariat had contributed constructively to debates on intellectual property in those organizations. However, it was equally important for the Secretariat to be accountable for its commitment and cooperation with all Member States and to integrate the Development Agenda recommendations into these important organizations with the knowledge that issues such as access to technology at affordable cost was of great interest to developing countries. In addition, the Group was pleased that some projects were already in their final stages or had been completed. However, it stressed that this did not mean that certain Development Agenda recommendations had been fully implemented or discussed. The implementation of the Development Agenda remained a work in progress and the objective was to achieve a more balanced intellectual property system. The Group shared the Director General's assessment that the work on flexibilities in the multilateral legal framework, the project on IP and the public domain, patents and the public domain, and IP and competition policy merit follow-up activities. This would contribute to consolidating the good results achieved and would guide and inform WIPO's future work. The Director General's report also referred to the development of the WIPO Code of Ethics as an example of the mainstreaming of the Development Agenda. As such, the Group would like the Code of Ethics to refer to the UN-WIPO agreement and the Development Agenda. There was also a need to clarify the definition of what could be considered as a development oriented activity. Not all budgetary expenditure on developing countries could be considered to be on

Development Agenda implementation. These considerations had led to their joint proposal with the African Group on WIPO technical assistance in the area of cooperation for development which could be considered as the basis for the Committee's work on this issue. In concluding, the Group thanked the Director General and the Secretariat for their useful and encouraging efforts which was an important step forward in the implementation of the Development Agenda and hoped that they would continue to show commitment in order to consolidate and strengthen those results.

250. The Delegation of the United States of America, speaking on behalf of Group B, thanked the Director General and the Secretariat for preparing the report on the implementation of the Development Agenda for 2011. The report highlighted many positive developments in the past year. A few, in particular, deserved special mention. First, the launch in 2012 of a country plan process for development cooperation activities between WIPO and Member States would complement the Development Agenda project on the development of national IP strategies and the WIPO framework on national IP strategies for development initiative. This would provide a macro level policy framework to link IP strategy to broader development goals. Second, the report highlighted recent developments in the WIPO Academy, namely the new e-Learning center to make distance learning sources available in Arabic, Chinese, and Russian, and the updating of WIPO's flagship general course on IP to include IP and development topics. In concluding, the Group once again thanked the Director General and the Secretariat for the outstanding report.

251. The Delegation of Brazil thanked the Director General for his detailed report and presentation on the implementation of the Development Agenda for 2011. The information provided reflected the commitment of the Organization to the development needs of Member States. The report also demonstrated how the recommendations were being mainstreamed into all areas of the Organization's work. Although the report was quite comprehensive, the information provided to Member States could be enhanced with the inclusion of more information on the activities carried out by the Organization, in particular qualitative evaluations. These could, for instance, elaborate on how ongoing initiatives contributed to the effective implementation of the Development Agenda recommendations. The Delegation was pleased that WIPO was engaged in cooperation with other international intergovernmental organizations or IGOs. It would be interesting to have additional information on the modalities for such cooperation and on how the Development Agenda recommendations were being incorporated into those activities. The activities carried out by WIPO in cooperation with other IGOs could be described in specific reports which could be made available to Member States during the sessions of the Committee. With regard to the Program and Budget for the 2012/13 biennium, as mentioned in paragraph 5 of the report, the Delegation attached great importance to the fact that development expenditure had increased in the last few years. However, at its next session, the PBC should consider further refining the definition of development expenditure. By doing so, the Member States would be assured that activities which were not development oriented were not classified as such. The Delegation welcomed the disclosure in the Program and Budget that the share of development expenditure was now 22 per cent. It hoped more resources would be allocated to development activities in the coming years. The Delegation acknowledged that the development of a Code of Ethics was a positive step towards the consolidation of the institutional changes required by the Development Agenda in the Organization's activities. However, it shared the concerns expressed in the external review of WIPO technical assistance on that subject. Other steps were also necessary to increase transparency and accountability in the activities performed by WIPO's personnel and consultants. Among these was the full availability of information in the roster of consultants, as it had mentioned in previous sessions. With regard to technical assistance for the establishment of IP regulatory frameworks, there was a need for a balanced approach that not only took into account innovation and creativity but also broader public policy objectives such as access to knowledge and public health issues. The Delegation noted that Annex 1 on the

status of implementation of the Development Agenda recommendations as of December, 2011, only contained references to CDIP documents. Reference to documents produced by other committees would help Member States to better assess the cross-cutting nature of Development Agenda mainstreaming into all areas of the Organization. In concluding, the Delegation thanked the Director General again for the hard work and reiterated its commitment to work constructively with all delegations and the Organization towards the full mainstreaming of the Developing Agenda.

252. The Delegation of Denmark, speaking on behalf of the EU and its Member States thanked the Director General for his report on the implementation of the Development Agenda in document CDIP/9/2. The report gave a comprehensive assessment of the work carried out by WIPO in 2011 in the implementation of the Development Agenda. The EU and its Member States had taken note of all the activities included in the report and welcomed the efforts made by the Director General and his staff to achieve the goals for the preceding year as set out by the Member States. The EU and its Member States were looking forward to continuing the work within this Committee and other relevant WIPO bodies to further consolidate the Development Agenda along with the overarching issue of intellectual property protection.

253. The Delegation of the People's Republic of China thanked the Director General for the interest that he had shown in the Development Agenda. The Delegation also thanked the Secretariat for the preparation of the documents. It was delighted to see that there had been some positive achievements in the implementation of the Development Agenda. These would bring great benefits to developing countries in the area of intellectual property. These included in particular, a project to assist countries to use intellectual property resources more effectively and to enhance national IP capacities. There was also the project on establishing start-up national IP academies which would provide solid support for capacity-building and training in participating countries. The Delegation welcomed the progress achieved in the various Development Agenda initiatives under the leadership of the Director General. However, as indicated in the external review report, some initiatives had yet to achieve the expected results. The Delegation hoped that with enhanced working methods and processes, the Organization would be able to improve on this in future.

254. The Delegation of South Africa aligned itself within the statements made by the Delegations of Egypt and Algeria on behalf of the African Group and the Development Agenda Group respectively. The Delegation began by expressing its views on the CDIP. The Committee had a unique and profound history within WIPO. The Committee had, and continued to allow developing countries to explore different ways to utilize their intellectual property systems for development. The ongoing mainstreaming of the Development Agenda into all WIPO processes was encouraging. The Delegation was pleased with the work of the Committee which had, thus far, generated many positive results. Among these were a number of high quality analytical studies as well as tangible initiatives such as the result-based management framework which was now an integral part of the WIPO management system, the establishment of the TISCs which were in high demand, the creation of various databases which were aimed at bridging knowledge and information gaps, and the integration of the Development Agenda into the WIPO Academy's distance learning programs. The Delegation was particularly pleased with the number of completed Development Agenda projects. It looked forward to continuing discussions on the evaluation of those projects. However, there were still issues that the Committee had not been able to resolve successfully, notably, the implementation of the coordination mechanism and the third pillar of the CDIP on IP and development-related issues. In 2010, the WIPO General Assembly approved the coordination mechanism with a view to its implementation by all relevant WIPO bodies. The Delegation was concerned that this decision had not been carried out consistently throughout the relevant WIPO bodies. A list of relevant WIPO bodies should have been finalized to allow all development bodies to implement the mandate. Unfortunately, Member States were still discussing whether

a certain WIPO body was relevant or not and the informal consultations had led to unnecessary delays in meetings. This issue must be resolved as soon as possible to allow the WIPO bodies to discharge their mandate without any further delay. Although the Committee had, in its previous session, decided that the two issues would be discussed in the intercession, the approach used to discuss these on the margins of the Committee had not brought them to a conclusion. As such, the Delegation preferred these to be discussed in the formal sessions of the Committee and urged Member States to demonstrate the necessary political will to bring these issues to a conclusion. The Delegation turned to the Director General's report on the implementation of the Development Agenda in 2011. The Delegation thanked the Director General for the report in document CDIP/9/2. It highlighted the state of play with regard to the implementation of the Development Agenda in 2011. The Delegation noted with appreciation that the report had been improved when compared with the report for the previous year. This was consistent with the suggestions made by Member States. Although the report only provided a macro level assessment of the implementation of the Development Agenda, the Delegation would provide both micro and macro level comments on the report. In general, it observed that most of the issues raised in the report were aligned with the findings and recommendations of the Deere / Roca report. As the African Group and the Development Agenda Group had already elaborated on those issues, the Delegation would confine its comments to the questions which it wished to raise with regard to the report. First, the Delegation would like to know the extent to which the Code of Ethics, as mentioned in paragraph 7 of the report, incorporated the Development Agenda. The Code did not refer to the Development Agenda although the Director General had highlighted its importance in mainstreaming the Development Agenda. Second, it was mentioned in paragraph 13 of the report that the WIPO Academy's flagship general course on intellectual property and development would be offered in WIPO's seven languages. However, paragraph 28 of the same report referred to 6 official languages. As such, the Delegation sought clarification as to whether there were 6 or 7 WIPO languages. Third, it was stated in paragraph 14 that WIPO would be contributing to UN inter-agency processes related to the post 2015 Development Agenda. In this context, the Delegation requested for further information on issues concerning the inter-agency processes and WIPO's role in the UN system as a whole. This was an important issue that should not be confined to a macro level discussion as most of the activities undertaken by the Organization were fairly new to the Member States. Fourth, it was mentioned in paragraph 17 of the report that WIPO contributed to the publication of the United Nations Environment Management Group report on "Working Together Towards a Balanced and Inclusive Green Economy: a UN System-Wide Perspective". In this context, the Delegation would like to know the nature of WIPO's contribution taking into consideration the fact that the concept was yet to be internationally defined. Fifth, it was stated in paragraph 18 of the report that the Director General was one of the commissioners of the ITU-UNESCO Broadband Commission. The Delegation would like to know how the Director General had promoted the Development Agenda in the Commission. Lastly, paragraph 22 of the report referred to WIPO's contribution to the New Partnership for Africa's Development (NEPAD). The Delegation had, in the past, requested for further information on how WIPO was interfacing with NEPAD. It would be appreciated if the Director General or Secretariat could provide additional details on this issue. In addition to these questions, the Delegation also stressed that although it was mentioned in the report that some relevant bodies had reported to the General Assembly, this should not be taken to imply that the coordination mechanism was being fully implemented by all relevant bodies. As it had mentioned earlier, not all relevant bodies were reporting to the General Assembly. There were also many important activities which were briefly and somewhat arbitrarily reported in the Director General's report without a description of their links to the Development Agenda. The questions put forward by the Delegation were examples and were very important. Thus, and as this was only the Director General's third report on the implementation of the Development Agenda, the Delegation believed that there was room for improvement. As such, the Delegation requested the Director General to consider providing a comprehensive and detailed report on the implementation of the Development Agenda in future,

focusing both on micro and macro level assessments, and with clear linkages to the Development Agenda. In concluding, the Delegation thanked the Director General once again for his excellent report.

255. The Delegation of Bolivia thanked the Director General for his excellent report on the implementation of the Development Agenda. The report demonstrated the Organization's commitment to the implementation and mainstreaming of the Development Agenda throughout its activities and bodies as well as the efforts made to bring about change in the Organization. Progress had been made since the adoption of the Development Agenda in 2007. WIPO had a particular responsibility as it was the international organization for intellectual property and it was viewed as such. Whatever it did on intellectual property and came out with, in terms of recommendations and guidelines, had a tremendous impact on the world and developing countries in particular. One of the main objectives of the Development Agenda recommendations was to ensure that the Organization's contributions and activities in developing countries and international forums promoted a balanced view of the protection of intellectual property. Intellectual property should not be promoted at all costs. It was important to ensure that both the benefits of intellectual property protection and the potential costs and impact on development were discussed. These should take into account public interest and the different levels of development among countries. This was the key to the Development Agenda. There was a need to ensure qualitative change in the assistance, recommendations and guidelines provided by WIPO. The Delegation recognized the efforts that had been made and the report indicated that substantial progress had been achieved in this regard. However, two key elements deserved further attention. The first element was on technical assistance and in particular, legislative advice. This had an important impact in developing countries. It was important to ensure that guidance which was provided reflected a balanced view of intellectual property. The Delegation welcomed the changes that had been introduced by the Organization in terms of technical assistance activities. These would be of great benefit to developing countries. However, there was also a need to implement the recommendations of the report on the external review of WIPO technical assistance. Some of those recommendations were very useful and would strengthen the Organization and its credibility by ensuring that its technical assistance activities would be more beneficial for developing countries. Another area which deserved further attention was the Organization's involvement with other UN agencies. Although the Delegation was grateful for the information that had been provided, it required more qualitative and substantive information on the role and participation of WIPO in those forums to ensure that the Organization was addressing intellectual property protection in a balanced manner in those forums. The Delegation turned to the issue of sustainable development and in particular, the negotiations for Rio+20. The report mentioned that WIPO had contributed to the UN Environmental Management Group's report on the green economy. The Delegation would like to know more about WIPO's participation in that regard. That report did not say much on intellectual property. However, there was a paragraph which stated that the protection of intellectual property promoted technology transfer to developing countries and that IP protection facilitated access to green environmental technologies by developing countries. This did not necessarily reflect a balanced view that was consistent with the Development Agenda. In concluding, the Delegation acknowledged the efforts that had been made and were very grateful to the Director General for his report. However, there was a need for the report to reflect the qualitative and substantial changes that were being made within the Organization.

256. The Chair invited the Director General to respond to the comments and questions put forward by the delegations as he was leaving for an important commitment.

257. The Director General apologized for having to leave for a short period as he had to meet with an external visitor to the Organization. However, he would like to address the specific questions raised by the Delegations of South Africa and Bolivia. As far as the Code of Ethics

was concerned, the Committee would recall that recommendation 6 of the Development Agenda stated that, "WIPO's technical assistance staff and consultants shall continue to be neutral and accountable, by paying particular attention to the existing Code of Ethics, and by avoiding potential conflicts of interest". This was what the Organization had sought to do. Three years ago, the Secretary General of the United Nations had proposed a Code of Ethics which was subsequently adopted within the United Nations. The Organization's Code of Ethics was based on the Secretary General's Code of Ethics but it had also gone a little further. The Organization had also appointed a Chief Ethics Officer who was responsible, amongst other things, for financial disclosure and for ensuring that this was implemented across the Organization. With regard to the languages, the Delegation of South Africa was correct in noting that there was a mention of six and then of seven. There were six official UN languages, namely, English, French, Spanish, Arabic, Chinese and Russian. However, in the Organization, there was the occasional use of a 7th, which was Portuguese. This was by virtue of a decision that had been taken. Portuguese was not an official UN language. This was the reason for the difference between the references to six and seven. Some years ago, the Member States had decided that interpretation into Portuguese should be provided during the General Assemblies and that was when it was provided. On the question of the post-2015 goals that the UN system would set under the guidance of the Secretary General, this was a major process. The Secretariat would like to make it clear that it was making itself available to the rest of the United Nations system and to contribute in respect of the Organization's specific mandate in the exercise of developing preparatory material that would in turn be considered by the Member States in deciding on the nature of the Sustainable Development Goals (SDGs) or whatever else may be adopted post-2015 and following the Millennium Development Goals. On the United Nations Environment Program (UNEP) and the green economy, as the Member States were aware, UNEP had produced a major report on the green economy. The Organization had sought to contribute in a technical manner within the context of its mandate, at the request of UNEP, within the Chief Executives Board. The Chief Executives Board was presided over by the Secretary General and met twice a year. It was composed of the heads of all specialized agencies, funds and programs. It had three subsidiary bodies, a High Level Committee on Programs (HLCP), a High Level Committee on Management and the United Nations Development Group. The Organization participated actively in all of those bodies. Mr. Achim Steiner was the Executive Director of UNEP and the Chair of the HLCP, the body that contributed to the development of UNEP's green economy report. He reached out to the rest of the UN system and had sought their technical input for that report. On the Broadband Commission that was established by the International Telecommunication Union, it was mentioned in paragraph 18 that the Director General participated in the Commission. The Commission was engaged in collective work. Two reports were presented and the latest was at the meeting of the General Assembly of the United Nations last year. Those documents and the recent document that came out of a ministerial meeting that was held in the Former Yugoslav Republic of Macedonia, demonstrated that development featured prominently throughout the whole of the Broadband Commission's work. Indeed, that in a certain sense was the reason why the Broadband Commission existed. On the New Partnership for Africa's Development or NEPAD, the Organization had proposed a cooperation agreement with NEPAD but it had yet to receive a reply from NEPAD. However, the Organization did participate in the science and technology as well as the trade and industry clusters of NEPAD. The Director General turned to the questions raised by the Delegation of Bolivia. The question of the Organization's relationship with other UN agencies was not an easy one. This had been discussed in the CDIP on many occasions and to a certain extent, the Secretariat faced somewhat inconsistent demands. On the one hand, the Member States were telling the Secretariat that it was part of the UN system. It must participate and form constructive partnerships with the rest of the UN system. On the other hand, the Member States were asking the Secretariat not to say anything because it was the Member States that decided on policy and wanted to monitor everything that was said by the Secretariat. The Secretariat was aware of that tension and was trying its best to manage it. It was very aware that the Member States did not want the Secretariat to make

policy statements on issues which the Member States had not developed policies. The Secretariat was very aware of that and did not do that. The Director General would like the Member States to inform the Secretariat if it did and it would cease to do so. However, it tried to participate as part of the UN family, to have constructive relations with other intergovernmental organizations and to share the specific expertise that was particular to the Organization. As pointed out, intellectual property was crucial to many of the global challenges. Innovation was the way in which the global community was going to address those challenges, because if things were done in the same way as they were being done now, the world would be left with the challenges. It was only by doing things differently that people would be able to innovate and address those challenges. Thus, the Secretariat was very aware of that and confined its comments to technical inputs as a specialized agency, to provide information on the role of intellectual property and to seek to enhance the understanding of others of what was, after all, a very technical subject matter.

258. The Delegation of Djibouti associated itself with the statements made by the Delegations of Egypt and Algeria on behalf of the African Group and the Development Agenda Group respectively. It welcomed the report of the Director General on the implementation of the Development Agenda. The Delegation was glad to note that the report gave a clear picture of the implementation of the Development Agenda and the way it was being mainstreamed into the WIPO programs and activities. The Delegation was pleased to learn that the Strategic Realignment Program, the Project on the Enhancement of the Results-Based Management Framework and the Organizational Design Initiative had contributed to the implementation of the Development Agenda. The Delegation welcomed any initiative towards the successful implementation of the Development Agenda.

259. The Delegation of Morocco congratulated the Chair on his election and assured him of its support. The Delegation also thanked the Director General for his personal commitment and his team for all their work and the progress that had been achieved on the Development Agenda. Although the progress achieved did not always live up to the expectations of Member States, progress had been made and the Delegation welcomed it. The Delegation expressed support for the statement made by the Delegation of Egypt on behalf of the African Group on the report of the Director General. Like other delegations, the Delegation would like to have more information on certain points for which information was lacking. For example, on the resources that had been allocated to the Development Agenda, it was stated in Appendix 1 that the projects adopted for the 2012/13 biennium amounted to 6.4 million Swiss francs. It was also mentioned that reserve funded projects amounted to 7.9 million Swiss francs. In this context, the Delegation would like to know which projects were financed through the reserve fund. In addition, it was stated that 6.1 million Swiss francs from the projects funded under the 2010/11 regular budget had not been spent. The Delegation would like to know why this had not been spent. The report did not include any information on these points. This was why the Delegation would like the next report to include more information on these and other points raised by previous delegations.

260. The Delegation of Thailand expressed support for the statement made by the Delegation of Iran (Islamic Republic of) on behalf of the Asian Group. The Delegation was pleased that the Development Agenda principles continued to guide WIPO technical assistance activities aimed at greater empowerment of developing countries and LDCs in using intellectual property for development. The Delegation had taken note of the Director General's report on the implementation of the Development Agenda in document CDIP/9/2 and expressed its sincere appreciation to the Committee in mainstreaming the Development Agenda in the past few years. Thailand was one of the three pilot countries in the Development Agenda project on IP and product branding for business development in developing countries and LDCs. It appreciated the opportunity to take part in promoting the use of IP tools to develop branding for local products which it hoped would ultimately lead to sustainable development. The Delegation was

pleased to inform the Committee that the first series of capacity-building workshops had finally been completed in March 2012. WIPO had conducted a capacity building workshop on collective marks, development and market research, for one of the three pilot communities in Thailand. It was postponed from last September due to the severe floods in the country. The workshop introduced the concept of branding and contributed to creating awareness of intellectual property rights. The community had developed a better understanding of branding and would consider applying for a collective mark. As mentioned in the Director General's report, a methodology was developed by an international consultant to assist local communities in designing IP and branding strategies for their most valuable products. The relevant national authorities were in the process of studying those strategies as well as coordinating with potential partners. The implementation of this project would require joint efforts from government agencies, academic institutions, the private sector, local government and the people in all three communities. The authorities were looking forward to discussing the branding strategies with the project manager in Bangkok in June. Members of the Delegation had also visited two of the three pilot communities which produced a range of woven textiles and brocade silk. The Delegation was pleased to inform the Committee that the textile weavers had been granted geographical indication (GI) marks by the Ministry of Commerce for three of their designs and five more were under way. The weavers had developed a better understanding of the concept and importance of GIs and were becoming more familiar with their use. With regard to brocade silk, this had been registered as a GI since 2007. The WIPO project had put an emphasis on broadening the customer base in Thailand and abroad. A study had been conducted on branding strategies and GIs which covered the upstream processes, including management and quality control, as well as downstream processes, including product development, packaging and designs. The authorities recognized that IP tools on their own were not enough to ensure successful product branding. Product design to meet consumer demands, brand establishment and marketing strategies were also essential for IP commercialization. As such, the authorities had initiated three complementary projects to help fulfill the design and marketing needs of the three pilot products to ensure successful branding, namely, product design and knowledge enhancement for the communities; capacity building and knowledge transfer in relation to eco-design products; and product design for locally woven products. In validating the proposed branding strategies, the challenge of implementing the WIPO product branding project and the said complementary projects remained. Local craftsmen questioned the extent to which GIs can help to increase the quality and value of their products. Moreover, their current products could be sold without GI certification and consumers did not usually differentiate between GI and non-GI certified products. On the contrary, GI certification increased their production costs and their use in the production process made things more complicated. As such, it was essential to raise IP awareness among producers and consumers. The branding project should help to raise local awareness and to differentiate between GI certified and non-certified products. Special attention should be paid to GIs and value creation as this could make buyers more aware of the unique qualities of a product. It was also equally important for the project to help promote the understanding of local craftsmen on how GI can be used as a tool to help preserve traditional knowledge that had been passed down by many generations. Finally, the Delegation reaffirmed its country's commitment to the branding project throughout its three-year span and stood ready to learn from the project, not only on how IP and branding strategies can be used as practical tools for local business development, but also on the challenges in terms of specific activities to be jointly undertaken with WIPO. It looked forward to the delivery of expected results and target deliverables.

261. The Delegation of Burkina Faso thanked the Director General for his report on the implementation of the Development Agenda. The report had provided an overall view of progress in implementing the Development Agenda throughout WIPO. The Delegation welcomed the efforts made by the Director General and his team to implement the recommendations of the Development Agenda in the various activities and bodies of WIPO. The Delegation also expressed support for the statement made by the Delegation of Egypt on

behalf of the African Group. The Delegation had faith in the Development Agenda and had submitted a proposal to the Committee which it hoped would be adopted. It also appreciated the close collaboration between WIPO and other international bodies, such as the WTO, on evaluating the needs of the LDCs. This was reflected in the Director General's report. The Delegation welcomed the efforts made by WIPO to respect the principles contained in the Development Agenda recommendations. In concluding, the Delegation thanked the Director General once again for his report.

262. The Delegation of India congratulated the Chair on his appointment. The Delegation also thanked the Director General and the Secretariat for their hard work and sincere efforts in preparing for this session of the Committee. The Delegation aligned itself with the statements made by the Delegations of the Iran (Islamic Republic of) and Algeria on behalf of the Asian Group and the Development Agenda Group respectively. The Delegation also expressed its appreciation for the Director General's report on the implementation of the Development Agenda. The efforts made by the Member States, the Director General and his team to ensure greater development orientation in WIPO's work; the mainstreaming the Development Agenda through the Program and Budget; the integration of Development Agenda projects and activities into WIPO's result-based management framework; and the inception of the country plan process on the basis of an agreed, transparent, comprehensive and tailored assistance framework between WIPO and the concerned country were positive developments. The report of the external review of WIPO technical assistance was a very important document. The Delegation supported the joint proposal by the Development Agenda Group and African Group on WIPO technical assistance which was aimed at improving development cooperation activities in future. The Delegation was also of the view that, as pointed out in the external review of WIPO technical assistance, the assistance provided by the FITs should also be adequately reflected and the term "development cooperation activity" should be defined for the purpose of the Program and Budget. This would also provide greater clarity on the manner in which resources were utilized. The Delegation appreciated the Director General's undertaking that progress report on the implementation of specific Development Agenda recommendations would continue to be provided regularly. The Delegation looked forward to playing a constructive role in the discussions of the Committee.

263. The Delegation of the Republic of Korea thanked the Secretariat for the preparation of the comprehensive report on the implementation of the Development Agenda. It was aware that the report sought to provide a macro level assessment of the work undertaken thus far in the implementation of the Development Agenda. However, the Delegation would like to raise some points to improve WIPO's work in the implementation of the Development Agenda. According to the overview of approved projects provided in Annex 2 of the Director General's report in document CDIP/9/2, nine projects had been completed. However, it was mentioned in part 2 of the same document that five projects had been completed. Whichever the case, final evaluation reports for six completed projects were being presented to the Committee in its current session. The Delegation had taken note of the successful implementation and outcomes of the projects reviewed. In its view, the recommendations suggested in the reports on the completed projects were useful and should be taken into consideration. However, the information provided on the projects lacked detail and updates were not available from both the WIPO web site and the Director General's report. In particular, the progress reports on the web site were from the previous session of the Committee and had not been updated prior to this session. Furthermore, the Director General's report only included overall descriptions of the main achievements of the projects. Therefore, the Delegation would be grateful if the Secretariat were to develop a methodology to enable project managers to provide Member States with detailed and up-to-date information on the status of projects prior to each meeting of the CDIP.

264. The Delegation of Hungary, speaking on behalf of the Central European and Baltic States, thanked the Director General and Secretariat for the valuable and informative report on the

Development Agenda. The report was comprehensive and gave a full picture of the relevant activities carried out in 2011. The Group welcomed, in particular, the Organization's recent efforts on country plans and national IP strategies to ensure efficient, development oriented, demand driven and transparent delivery of technical assistance, based on a country's needs and level of development. This also included an important phase on evaluation. In general, the Group considered technical assistance to be a two-way street. It supported technical assistance activities that were based on specific demands and built on progress that was already achieved in a given country. With regard to WIPO's relationship with other international organizations and in particular, the WTO, the Group recognized and welcomed the recent efforts made by the Organization to work closely with the WTO on the latter's LDCs needs assessment process. In concluding, the Group thanked the Organization for all its efforts with regard to the countries with economies in transition.

265. The Delegation of Indonesia thanked the Director General for preparing and presenting the excellent report on the implementation of the Development Agenda. The Delegation expressed its support for the statements made by the Delegations of Iran (Islamic Republic of) and Algeria on behalf of the Asian Group and the Development Agenda Group respectively. The report provided an overview of progress to ensure a greater development orientation in WIPO's work. The Delegation was pleased to note that the mainstreaming of the Development Agenda into WIPO's program activities was increasingly evident and developing countries and LDCs could benefit from this. The Delegation also noted that the Development Agenda principles continued to guide WIPO technical assistance activities to empower developing countries and LDCs in using IP for development. It supported the continued efforts to mainstream the Development Agenda into WIPO's work and was looking forward to further progress in the implementation of the Development Agenda and the mainstreaming of the Development Agenda into the global intellectual property system.

266. The Delegation of Venezuela thanked the Director General for his report and commitment to implement the Development Agenda. The Delegation recognized that there was nothing on the Development Agenda prior to 2007. Since then, considerable progress had been achieved. The General Assembly had given a mandate to implement the Development Agenda. The Delegation did not agree with the distinction drawn between the substantive and other bodies within WIPO. This was an attempt to exclude the Development Agenda from the latter. The Delegation also recognized the Organization's commitment to the MDGs. Intellectual property should be a means and not an end in itself. The criticisms that it had levied against the Secretariat stemmed from its conviction that all delegations, including the Secretariat, should recognize the given mandate. The Delegation appreciated the efforts made by the Director General to request the developed countries to demonstrate greater commitment to the effective implementation of the Development Agenda. There was a need for substantive progress beyond the rhetoric and statements of good intentions that were frequently heard. The attempts to block or reorient agreed decisions had made it extremely difficult to carry out effective and beneficial work for developing countries.

267. The Delegation of Germany referred to the statements made by the Delegations of Morocco and South Korea. The report contained a lot of information but not all that was required. Thus, there was room for improvement. The projects were addressed in Annexes 1 and 2 of the report. Information was sometimes provided on delays in the projects and was not as transparent as it should be. The Delegation recalled that at the last session of the Committee, the Delegation of Pakistan had requested for a table to provide an overview that would make it easy for delegations to monitor the status of implementation as well as budget utilization. The Delegation had expected this to be also provided at this session. The Delegation had not been able to find the table on the WIPO web site as it was not an official document. A copy was recently given to the Delegation by the Secretariat. However, the Delegation would like the Secretariat to make this information continuously available in order to

maintain the level of transparency that was required. As such, it would be appreciated if the Secretariat could continue to provide the table. A good place for it to be included would be the Director General's report. The table would provide a useful overview of the status of implementation as well as the budget.

268. The Delegation of Nepal emphasized the need to balance intellectual property protection and development considerations in WIPO's activities. This was based on the fundamental understanding that the current imbalance in favor of the protection of intellectual property rights was neither equitable nor inclusive. In this context, focusing on the development aspects of IP, especially with regard to developing countries and LDCs, was crucial. The CDIP was a vital WIPO body for ensuring greater development orientation in the overall functioning of WIPO, including its norm-setting activities. The Delegation underlined the need for projects addressing the Development Agenda recommendations to be increased in number and size. The resources should also be scaled up with a focus on IP infrastructure that can contribute to addressing the formidable challenges faced by the LDCs. The Delegation thanked the Director General and the Secretariat for the preparation of the comprehensive report and looked forward to the full implementation of the Development Agenda and to prioritize the needs of developing countries and LDCs.

269. The Chair invited the Secretariat, in the absence of the Director General, to respond to the additional questions that were raised, particularly with regard to the detailed information that was requested.

270. The Secretariat (Mr. Geoffrey Onyeama) thanked the delegations for their very important and useful questions. The Secretariat had taken note of the requests and information provided. It had noted the observations of the Delegation of Thailand on their country's experience with branding. That project was still ongoing and was progressing satisfactorily. Notwithstanding the unfortunate and tragic flooding in Thailand, the Secretariat remained committed to the successful completion of the project. The Secretariat had taken note of the observations of Delegations of Djibouti, Burkina Faso and India. As regards the observation by the Delegation of Korea, seven projects had been completed. Six were reported at the last CDIP because the first completed project, which was on the conference for extra-budgetary resources, had been completed a long time before and was not included. The Secretariat had also taken note of the observations and requests by the Delegations of Hungary, Indonesia and Venezuela. The Organization did not make a distinction between its substantive and other bodies. In fact, it insisted and maintained that all the committees were on the same level and there was no such distinction, substantive or otherwise. The Secretariat had taken note of the request by the Delegation of Germany. Many delegations had mentioned the need for the progress report to be a lot more detailed and to provide a better overview of the progress of the various projects in terms of budget and implementation. The Secretariat had taken all these on board and would respond accordingly. The Secretariat (Maya Bachner) stated that with regard to the query from the Delegation of Morocco on the funding of the various projects, if it understood correctly, this concerned the total budget which had been allocated to the Development Agenda projects as mentioned in Appendix I of the Director General's report. A more detailed table was distributed at the last session of the CDIP with more information in terms of the projects. The Secretariat clarified that the Director General's report was a macro level report. The budgetary information had been summarized for this purpose. The upper part of the table in Appendix 1 was taken from the Program and Budget for 2012/13 and included projects which had been budgeted for under the Program and Budget for the current biennium. There were also the reserve funded Development Agenda projects which amounted to 7.902 million Swiss francs. Detailed information on these was included in the table that was distributed at the last CDIP session. The same applied to the Development Agenda projects funded under the regular budget for 2010/11. A total of 6.109 million Swiss francs remained and the details, broken down in terms of projects, can be found in the table which was distributed at the last CDIP session. With

regard to the budget and implementation of ongoing projects, these would be examined in detail in the discussions on progress reports at the next session of the Committee in November. Nevertheless, as the information was currently available, the Secretariat could also provide this upon request. However, this was usually examined during more in-depth discussions on the progress reports for the various projects.

271. The Chair thanked the Deputy Director General and his team for the clarifications and answers to the questions that were raised. He declared that the Committee had completed its consideration of the Director General's report.

Consideration of Document CDIP/9/4 - Project Evaluation: Intellectual Property Technical Assistance Database (IP-TAD)

272. The Chair opened discussions on the evaluation of the project on IP-TAD and invited the external evaluator, Mr. Tom Pengelly, to provide an introduction.

273. Mr. Pengelly provided an overview of the evaluation of the project on IP-TAD. The report was contained in document CDIP/9/4. The project was linked explicitly to recommendation 5 of the Development Agenda which stated that, "WIPO shall display general information on all technical assistance activities on its web site, and shall provide, on request from Member States, details of specific activities, with the consent of the Member State(s) and other recipients concerned, for which the activity was implemented". It should be noted that the project was combined with the project on recommendation 6 concerning the roster of consultants. Those two projects were done with a single database involving one IT solution and by the same project team. However, the evaluation and the accompanying report only focused on IP-TAD and did not include the database with the roster of consultants. The evaluation included three elements which were similar to the evaluation undertaken on the conference on resource mobilization, in terms of project management, effectiveness and sustainability. Four key conclusions were drawn from these. First, the project team implemented the activities within budget and in a timely manner. Second, on the provision of institutional knowledge which was one of the key objectives of the project, the database had solidified the institutional knowledge of the Organization around technical assistance, although there was still room for improvement and for completing the coverage of the database. It was definitely a concrete step towards the objective of providing institutional knowledge as it made available information on WIPO technical assistance that was not previously readily accessible in the public domain. Third, in terms of increasing the availability of information on WIPO's technical assistance to a range of stakeholders, both internal and external, from the discussions with stakeholders, particularly within the Secretariat, it seemed that there could be other more detailed and extensive information sources that the Secretariat could draw on, especially with regard to designing projects for future technical assistance activities. Lastly, the database marked an important step forward in terms of increasing transparency. This was despite the limitations that were placed on transparency. For example, financial information was not included for the activities. This was a deliberate choice by the Secretariat and was not a limitation of the database from a technical point of view. Those were the four broad conclusions of the evaluation. The report also included four main recommendations which the Committee should consider going forward, particularly as this was very much an ongoing process. Important concrete steps had been taken with the project but more could definitely be achieved. The first recommendation concerned project management. Important lessons can be learnt in terms of the project documents that were used in WIPO, particularly for the Development Agenda projects. More detail was required especially for complex projects which involved technical challenges. These included information on the calculation of the project budget, selection of project team members, solutions for delivering the project, contracts and so on. There was definitely scope for improvement. The second recommendation was on the sustainability and future of IP-TAD. The final chapter for this had still to be written. There was a demand for the services provided

by the database. There was a possibility to integrate the IP-TAD database into WIPO's Enterprise Resource Planning (ERP) system. IP-TAD was currently a stand-alone database. Integration into that wider system would help to reduce maintenance costs and improve its accuracy and coverage. Hence, there were some choices to be made by the Member States and the Secretariat. It was proposed that a "roadmap transition plan" should be created in the form of an options paper to indicate the various alternatives for synchronizing and/or integrating IP-TAD with the ERP. The third recommendation was on user requirements. Whatever was decided in terms of the technological solution for the future of the database, this should take into account the findings of the evaluation with regard to user requirements in terms of the depth, scope and coverage of the information as well as the categorization and provision of information through a user-friendly interface which was also technically complete. The final recommendation was on the marketing and sign posting of the database. IP-TAD must become more widely known in order to increase its relevance and usage. The marketing of the database should be considered in the wider context of marketing WIPO technical assistance. For example, if there was a regional meeting on WIPO technical assistance, a short presentation could be included on IP-TAD to increase the awareness of Member States. Immediate efforts could also be made to increase the visibility of the database on the WIPO web site so as to encourage its use.

274. The Delegation of Egypt, speaking behalf of the African Group, thanked the Secretariat and the external evaluator for the report. As mentioned in document CDIP/9/4, the project "encountered general resistance to providing the relevant information from departments managing technical assistance activities". It was also mentioned that IP-TAD's existence was not well-known. The project monitoring and reporting tools were also found to be inadequate. The data was only complete from July 2011 and prior to that, it was incomplete because user focal points did not enter data in a systematic manner. The database currently contained only limited information. Following an examination of the IP-TAD portal and after consulting with their capital-based experts, the Group concurred with all of the above observations. It also emphasized that IP-TAD was not well-known, at least from an African perspective. The awareness of the tool was very limited. Moreover, the few capital-based experts who had stumbled upon it had indicated that the database currently contained limited information without details on the objectives, expected outcomes, budget, recipients, participants, donors and so on with regard to the activities. The Group expressed its disappointment with the Secretariat's inability to properly implement the IP-TAD project. It was also disappointed that approximately 800,000 Swiss francs or close to a million dollars had been spent in one year alone on a project that the Secretariat itself described as not well-known. However, there was no use to cry over spilt milk. With regard to the way forward, the Group agreed with many of the recommendations mentioned by the evaluator. The Secretariat should ensure prompt data entry into IP-TAD and for complete information on technical assistance activities to be made available in the database. It therefore requested the Secretariat to ensure that the results of external independent evaluations of activities were made publicly available in an accessible, user-friendly and searchable format through the database and for the design of the database to be better aligned with the Organization's overarching results-based framework. In addition, IP-TAD should include not only the activities that had been executed but also the projects that were planned. Finally, projects of similar design should have more elaborate documents with a methodology and clear budgetary framework based on detailed specifications and costs.

275. The Delegation of Brazil welcomed the practice of external independent evaluations. The Delegation thanked the Secretariat for making the evaluation report available for this session of the Committee. The Delegation attached great importance to IP-TAD and was pleased that it was implemented within the agreed budget. It was also pleased that from a technical perspective, the database had met the requirements established by the Member States. The Delegation supported the recommendations made by the evaluator for the consideration of the Committee. However, it would also like to suggest an additional recommendation for the

Committee's consideration. This was related to the need for the database to be kept up to date and complete in terms of the required information. It was mentioned in the evaluation report that "the Project Document does state that the database 'will include details of the activities such as general information on the activity, who requested the activity, objectives, expected outcomes, budget, recipients, participants, donors, experts, consultants, speakers, evaluation reports and other relevant documentation'". According to the report, this was clearly not the case at present. Member States had repeatedly requested for improvements with regard to the volume and quality of information included in the database. Information on technical assistance provided in the last five years should be made available. It was a matter of concern that there was insufficient collaboration from WIPO staff dealing with technical assistance activities, as mentioned in paragraph 3.1.4 on page 11 of the report. The insertion of all relevant information into the database was necessary to meet the transparency requirements of the Development Agenda recommendations. The report also mentioned the roster of consultants. As stated by the Delegation in the last session of the Committee, the roster of consultants should contain the full CV of all consultants. The potential conflicts of interest should also be disclosed. The Delegation noted that these points were also raised in the Deere / Roca report on the external review of WIPO technical assistance.

276. The Delegation of the United States of America believed that greater transparency in WIPO technical assistance projects was critical. The Delegation had been a supporter of the IP-TAD concept from its inception. A solution needed to be found that either made IP-TAD fully functioning or a replacement mechanism developed, whichever was most time and cost effective. While it understood that there were challenges in training the staff of a large institution like WIPO to fully use a new database, the Delegation believed that this was a critical component of making the database sustainable. As mentioned by the Delegations of Egypt and Brazil, the WIPO offices that performed technical assistance should take on the responsibility for entering data into IP-TAD in a timely and detailed manner. The Delegation would also like more information on the proposed roadmap transition plan, or the options paper as was stated, including cost and time frame. The Delegation would like to know whether there was an additional cost associated with developing the options paper and if the evaluator had considered any no-cost options, potentially using existing WIPO staff, for instance, as ways forward instead of the development of the options paper. In addition, the Delegation would also like to know how the problem of the incompatibility of IP-TAD with other WIPO IT systems could be resolved. In this context, the Delegation would like the evaluator to explain the compatibility issues that were mentioned in the evaluation report between IP-TAD and the ERP system.

277. The Delegation of Australia agreed with the objectives in general. However, it did not agree that a project inception and specification phase was necessary for all CDIP projects. This seemed like a good recommendation for database or IT based projects, rather than for all projects. The Delegation was interested to know why this should be extended to other types of projects.

278. The Delegation of Bolivia expressed its thanks for the very useful independent evaluation report. It highlighted a number of problems and included recommendations that the Delegation could fully support. The Delegation also recommended that these be implemented. It would like to know more about the resistance within the Secretariat to provide the relevant information. The Delegation also stressed that it had made many previous requests for the database to be completed. It had tried to navigate through the database earlier in the day. The Delegation had found it very difficult to use and contained very little information. The Delegation recognized that it had improved over the last few months and additional information had been included since the last session of the Committee. However, it was necessary, as other delegations and the evaluator himself had said, to have much more substantive information, such as the agenda for the meetings, meeting objectives, documents and so on. The Delegation did not want to repeat what had been by other delegations and just wanted to highlight the importance and

need for the database to be effective. The initial system was supposed to be introduced in the first quarter of 2010. It was now 2012 and the system still did not meet the requirements of Member States with regard to transparency and access to data. As such, the Delegation urged the Secretariat to improve the database and hoped that resistance could be overcome in order for the data which was made available to be useful.

279. The Chair invited Mr. Pengelly to respond to the questions raised by the delegations.

280. Mr. Pengelly thanked the Member States for their comments and feedback. He would respond to some of those points and perhaps the Secretariat could elaborate on the rest. Some of the points that were made echoed the findings and recommendations of the report. As mentioned by the Delegation of Brazil, it was good that the Secretariat included evaluations in the overall cycle of implementation for all Development Agenda projects. The Delegation of the United States of America had enquired on the cost of the options paper and whether this could be done at no-cost, for example, by WIPO staff. The Secretariat had the skills and expertise to produce the paper in-house and that was how he had envisaged it to be done. However, he did not know what their other commitments were. On the compatibility of the database with the ERP, this involved the data sets that the ERP covered or was set up to cover, and how that was off-loaded into a separate IP database to offer a different view of the same data set. For example, the supporting documents for a technical assistance activity like a workshop, including agenda documents, budgetary data, data on the consultants who undertook that activity, participants who were there, presentations and so on, could all be included but it would depend on how the ERP was constructed. If it was set out to do so this would be possible. If not, then someone would have to manually make the interface work, as was the case at present. On the question from the Delegation of Australia, he completely agreed with the opinion expressed by the Delegation. It was stated in the report that an inception or specification report was recommended when the project document wasn't sufficiently elaborated, and in this case the activity was quite a complex one, as a way of dealing with that situation, rather than to revert to the CDIP or Member States to request for a new project document. The Secretariat would use that project document and produce an inception or specification report to elaborate on the issues. There could be a decision point and choices could be made at the appropriate level and instructions given to the project team. That could have been the situation with the IP-TAD project. The intention was not to apply this across the board. The recommendation on the inception report was also relevant to the point highlighted by one of the delegations on inadequate monitoring and reporting. Those were the questions which he was best placed to answer. On the policy and scope of information provided through the database, those were clearly choices as much as technological challenges for the Secretariat. He understood that the Secretariat had considered a number of issues in weighing up those choices at the highest level. A number of delegations had commented on the Secretariat's responsibility for inserting data into the database. He shared their interest on this point but with regard to the future, he would suggest organizing and establishing the database, particularly in relation to the ERP system, in such a way that the population of the database would be as automated as possible. This would eliminate, as far as possible, the manual entry of data, whether by a dedicated team as it was at the moment, or by staff in the regional bureaus. This was not just an issue of responsibilities. It was also a very expensive way of maintaining the database. Automating data entry as much as possible through integration with the ERP would provide the most sustainable option and a cost-effective solution for the future.

281. The Chair thanked Mr. Pengelly for his clarifications and concluded the discussions on the evaluation of the project on IP-TAD.

Consideration of Document CDIP/9/6 - Independent Report on Evaluation of the Pilot Project for the Establishment of “Start-Up” National IP Academies

282. The Chair invited the Secretariat to introduce document CDIP/9/6 on the evaluation of the project on the Establishment of “Start-Up” National IP Academies.

283. The Secretariat (Thierry Rajaobelina) explained that the independent evaluation was carried out by the IAOD. Claude Hilfiker, the Head of the Evaluation Section, and Professor Tom Ogada, who worked with the IAOD on the evaluation would be available to answer questions on the evaluation. As in the case of other evaluations under the Development Agenda, the evaluation had been undertaken to assess the relevance, effectiveness, efficiency and sustainability of the project in terms of its design and management. The pilot project had enabled the Secretariat to test and confirm the validity of its concept. It had been recognized as being feasible and appropriate and its potential effectiveness and viability had been proven. With regard to the achievement of specific objectives, as the pilot phase of the project was still under way, it was still too early to draw conclusions on this. However, in view of the relevance of the project to developing countries and LDCs, the report included a recommendation for the Committee to approve the extension of the project to Phase II. With regard to modifications required in Phase II, the ambiguities surrounding certain elements such as the definition of a start-up academy, what was financed by WIPO and what was funded by the local partner should be clarified and included in a roadmap. The time and resources devoted to the implementation of the pilot project were considerable. It was still too early to draw any conclusions on the effectiveness of the project. However, it was recommended that the WIPO Academy should modify the project document to provide more clarity on the delivery strategy and to make the process more efficient, flexible and demand driven. With regard to the usefulness of the project, the evaluation indicated that the project was meeting the needs and expectations of most developing countries and LDCs. However, the Secretariat would need to consider some issues going forward including the demand for the project from the Member States may be higher than what the Secretariat could support; the specific needs of the Member States differed from country to country depending on their unique and development aspirations; some of the countries had identified capacity building in their national IP strategies while others had included training programs in the action plans of the IP institutions; and the number of applications from LDCs was lower. It was believed that the LDCs had specific priorities such as assistance with the physical infrastructure or salaries of local staff, which were not addressed by the project. It was recommended that the WIPO Academy should develop a set of tools and methodologies which can be made available for use by Member States not contemplated in the project and who wished to establish their own national IP academies. Due to the high demand for the project, it was recommended that Member States should consider the future direction of the project beyond Phase II in order to meet future requests from Member States and to consider a gradual phasing out of the on-going cooperation. On synergy and sustainability, more attention should be given in Phase II to improve coordination and synergies within and outside WIPO. This should include strengthening the role of the regional bureaus on the project and coordination with the UN agencies in the host countries. More attention should also be given to sustainability in Phase II. As mentioned earlier, the IAOD would follow up on these recommendations as in the case of all its other recommendations. In concluding, the Secretariat reiterated the recommendation for the Committee to approve the extension of the project to Phase II.

Agenda Item 8: Consideration of work program for implementation of adopted recommendations Contd.)

Consideration of Document CDIP/9/10 - A Pilot Project for the Establishment of "Start-Up" National IP Academies – Phase II

284. The Vice-Chair invited the Secretariat to present document CDIP/9/10 on Phase II of the Pilot Project for the Establishment of "Start-Up" National IP Academies. The Committee would discuss document CDIP/9/6 on the evaluation of Phase I in conjunction with document CDIP/9/10 to speed up its work.

285. The Secretariat explained that the first phase of the Pilot Project for the Establishment of "Start-Up" National IP Academies, as approved in the third session of the CDIP, was coming to an end. The overall objective of the project was to strengthen national and regional institutional and human resource capacity to meet increasing local demand from IP specialists, professionals, government officials and other stakeholders with minimum investment of resources. The beneficiary country or regional office was expected to independently operate the start-up IP training institution after a period of two years from the signing of a cooperation agreement with WIPO. Some best practices were identified in the implementation of Phase I. One of the key lessons learnt was that the incubation period, or in other words, the period between the receipt of a request from a Member State to participate in the project and the signing of the cooperation agreement for the establishment of the national IP training center, can vary significantly. It depended on national factors such as the availability of human and financial resources; the existence of a legal administrative framework for the creation of a specialized training institution; and political stability. The creation of an IP training center should be a priority in the national IP strategy of a Member State. It was an important contribution and required long-term commitment from the government. This was not a project in which the Secretariat was requested to engage in a study or report. The project required a cooperation agreement with a beneficiary state for its implementation. It needed strong commitment and favorable conditions in the beneficiary country. During the incubation period, the WIPO Academy would guide the Member State to put in place the basic conditions required for the implementation of the project. A cooperation agreement would be signed once these were in place. The country would officially enter into the project and implementation would begin for a period of two years. In Phase I, cooperation had been formally initiated with six countries, namely, Colombia, Dominican Republic, Egypt, Ethiopia, Peru and Tunisia. The original timeline for the implementation of Phase I had proved to be overly optimistic. It was found that more time and resources were needed to enable requesting countries to meet the basic conditions, including the necessary human resources and legal administrative framework required for a self-sustaining national IP training center to offer quality training programs which dealt properly with the balance between intellectual property and the public interest. Phase II of the project took into account the lessons learnt, inputs received from Member States, and the recommendations of the independent evaluator. It was submitted for the consideration and approval of the Committee. The project document proposed the extension of the project timeline to December 2013; approval of additional resources as allocated under the Program and Budget for 2012/13; and increasing the number of pilot countries from four to six, namely Colombia, Dominican Republic, Egypt, Ethiopia, Peru and Tunisia. More than 20 countries had requested to participate in the project. However, the project could only be implemented in six countries due to funding constraints. As an outcome of Phase II, WIPO was expected to have assisted those six Member States to establish self-sustaining IP training centers which would deliver at least two regular training programs that were tailored to the specific needs of the country, including on emerging issues in IP. The programs would be conducted by the national trainers and coordinators. As an outcome of the project, two sets of kits for training trainers and administrative staff were expected to be produced. These would include curricula, a portfolio of trainers and training materials. The WIPO Academy was also expected to produce a

set of tools and guidelines for the creation of national IP training institutions. These would be offered as reference material to Member States that were interested in creating or developing their national IP training institutions. Phase II was intended to conclude the remaining project phases in each of the six Member States. At present, all six national projects were in the implementation phase. However, each project was unique and was based on the specific needs and requirements of the country concerned. The local IP training center was expected to produce a business plan with actions to ensure medium-term sustainability for the two years following the end of the cooperation period. WIPO would assist in that undertaking.

286. The Delegation of Paraguay, speaking on behalf of GRULAC, thanked the speakers for their reports. With regard to Phase II of the Pilot Project for the Establishment of "Start-Up" National IP Academies, the Group was of the view that under WIPO rules, the Organization must assist Member States in the development of infrastructure and other services in order for their IP institutions to be made more efficient and to achieve a balance between the protection of intellectual property and the public interest. It was clear that the project was designed to strengthen national capacities, in particular, human resources in order to satisfy increasing local demand from professionals in the area of intellectual property. The project was being implemented in three countries in the region. The representatives of those countries had expressed satisfaction with the results of the project and the implementation reports had been excellent. The Group recognized that there were many other countries who were interested in the project. As such, it was very important to extend it to more beneficiaries. The Group understood that Phase II required approval. There was a need for this to be a regular WIPO activity in order for it to benefit more countries. The Group had noted the importance of the project and it was unfortunate that the current climate had made it impossible to extend the project to countries other than those mentioned in the document. The Group hoped that the Committee would continue to support the project.

287. The Delegation of the Dominican Republic thanked the Secretariat for the preparation and presentation of the documents. The Delegation also thanked the Secretariat for selecting its country as a beneficiary country for the Pilot Project for the Establishment of "Start-Up" National IP Academies under the Development Agenda. The project was an enormous step forward for its national industrial property and copyright offices. The Delegation agreed with what was said in document CDIP/9/6. This was in line with what the Delegation had stated at the previous session of the Committee. The Delegation reiterated its request for the project to continue into Phase II as the activities had been fruitful. It had also created a demand which the Dominican Republic would not be able to satisfy on its own. The establishment of a new IP institution was extremely important for its country. The Delegation had made a request last November for the agreement between WIPO and the Dominican Republic to be signed by the end of this year. The mandate must be renewed to ensure the success of the project. The Dominican Republic was fulfilling its commitments. It had a timetable which required support from WIPO in its implementation. At present, there were two parallel activities. The first was the training of trainers. That activity had been useful in strengthening human resource capacities in its two national offices. In the second phase, innovative curricula would be developed in areas which were of interest to its country. Its administration fully supported the contents of documents CDIP/9/10 on the extension of the project.

288. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for document CDIP/9/6 on the evaluation of Phase I of the project. This project was one of the most important and concrete manifestations of the Development Agenda. From the Group's perspective, a start-up national academy had already been launched in Tunisia. Several other African countries such as Egypt, Algeria and Kenya were in the pipeline. The IP academies and their training programs were essential tools for the diffusion of a development oriented IP culture in various walks of life. The start-up IP academies would help to promote a fair balance between IP protection and the public interest as well as to meet national development priorities

and goals. In addition to meeting the capacity building demands of IP related personnel such as IP specialists, professionals, government officials and stakeholders, the IP academies can also contribute to the sustainable development of human resources; enhancing knowledge on IP and its flexibilities; updating government officials on IP issues under discussion in WIPO; and provide a forum for the discussion of IP issues and the importance of IP for national development. The project had been assessed to be implementable and relevant. It could also be effective and sustainable. The African Group strongly supported the project and endorsed the implementation of Phase II. It hoped that the Secretariat would vigilantly carry out the implementation of Phase II and mobilize all the necessary resources required for its effective implementation. The Delegation turned to document CDIP/9/10. The Group noted that the pilot project on start-up IP academies was in conformity with Development Agenda Recommendation 10, "To assist Member States to develop and improve national IP institutional capacity through further development of infrastructure and other facilities with a view to making national institutions more efficient and promote a fair balance between IP protection and the public interest". As such, the Group requested for the overall objective of the project to be modified to incorporate the need to promote a fair balance between IP protection and the public interest as well as to meet national development priorities and goals. It also requested the project managers to give due attention to one of the most important developmental aspects of IP, the benefits to be accrued by developing countries in the use of IP flexibilities, in all aspects of the training programs. The Group requested for an evaluation of the curricula and training programs to be included in the indicators for success.

289. The Delegation of Peru thanked the Secretariat for undertaking this project under Recommendation 10 of the Development Agenda. As mentioned in the earlier presentation, Peru was one of the pilot countries in the project on start-up IP academies which was aimed at improving national capacities in IP through the development of infrastructure and other capacities. The National Institute for the Defense of Competition and the Protection of Intellectual Property (INDECOPi) in Peru was established as a center of excellence at the national and regional levels. INDECOPi had organized a number of courses and workshops in response to demand from local professionals. Promotional activities had also been undertaken with a view to extending the scope of the institution at the national and regional levels. With the assistance of WIPO, the authorities hoped to enhance INDECOPi's existing infrastructure and prestige, achieved through its 19 years of existence. With the support of the WIPO Academy, INDECOPi had trained a number of officials as trainers. It hoped to train university professors so as to include courses on intellectual property in university curricula. Peru attached a great deal of importance to the project on start-up IP academies. The project was being implemented in Peru. The Delegation supported the statement made by the Delegation of Paraguay on behalf of GRULAC. GRULAC had supported the project and had requested for the necessary financial resources and technical assistance to be provided in all the phases of implementation. Although Phase 1 had been successful, it was obvious that a number of activities needed to be continued to achieve its objectives and to ensure that the IP academies would be self-sustaining. As such, and taking into the evaluation of Phase I, it was critical to continue the project under Phase II, as described in document CDIP/9/10. Phase II should ensure that the academies would be self-sustaining and were able to provide two training programs on important IP issues. This should include the training of human resources and the development of IP programs which took into consideration local needs. In view of the numerous requests from Member States to participate in the project and the satisfaction expressed by those already in the project, it was obvious that the Committee should approve Phase II and its financing in order to achieve the project's objectives in the coming years. The Delegation continued to support this project which was of great benefit to developing countries and in line with the goals and principles of the Development Agenda.

290. The Delegation of Bangladesh thanked the Director of the WIPO Academy for presenting the project and Professor Tom Ogada for his objective evaluation. The Delegation was happy

that the project had proved to be feasible and viable. It was also pleased that the project was found to be relevant to the needs and aspirations of most developing countries and LDCs. Intellectual property was associated with innovation, investment, economic growth, prosperity and the overall development of a country. However, not all countries were in a position to equally benefit from its protection. Developing countries and in particular, LDCs, lacked basic IP infrastructure and enforcement regimes to reap the benefits of IP. Developing countries and LDCs must have the necessary institutional capacities and human resources to use IP as a tool for development. In this respect, the establishment of start-up IP academies in developing countries and especially in LDCs could contribute significantly towards bridging the existing gap between the desired and the available. The project would enhance individual and collective capacities if properly implemented. It would also assist in establishing necessary infrastructure for the enforcement of intellectual property rights. The project could assist in the formulation and introduction of IP related rules and regulations that would be of benefit to consumers and right holders. As a LDC, Bangladesh was particularly interested in the establishment of start-up IP academies in LDCs. The delegation drew attention to the fact that the general TRIPS flexibility for LDCs would expire next year. Only six of the 31 WTO LDC members had been able to complete the TRIPS needs assessment process. LDCs required institutions such as the IP academies. It was clear from the presentation by the Secretariat and the evaluation report, that the project had generated a lot of interest among the Member States. Unfortunately, the funding allocated to the project could only cover six countries. As such, and to benefit completely from the project, the Delegation would like the project to continue to the next phase and if necessary, additional financing could be provided through WIPO's regular budget or any other suitable source. The Delegation hoped the Member States would also favorably consider extending the project to LDC applicants on a priority basis.

291. The Delegation of the United States of America referred to document CDIP/9/6 on the evaluation of Phase I of the project. The Delegation appreciated the thorough and detailed nature of the report. It had also made note of the positive progress made so far on the start-up national IP academies even if they were somewhat behind schedule. They clearly required a considerable amount of coordination. The Delegation was really pleased that the project had been one of the success stories in the implementation of the WIPO Development Agenda recommendations. The Director General's report for last year had noted the popularity of the project among Member States and had highlighted the fact that 11 countries had requested for assistance to set up IP academies during an eight month period in 2011. The Committee had just heard that actually 20 countries were requesting for such assistance. The Delegation was very pleased that the final evaluation confirmed the importance of the project for many Member States while offering recommendations for improving project effectiveness in a Phase II project. On the evaluation, the Delegation agreed with the report on the importance of making full use of all possible synergies across WIPO as the pilot projects moved forward. It also appreciated the suggestion in the report that tools and methodologies be made available by the WIPO Academy to countries or regional organizations that wanted to start their own national IP academies outside of the pilot project itself. This could have a large multiplier effect in the creation of new academies around the world. With regard to document CDIP/9/10/Rev. on the approval of Phase II of the pilot project, the Delegation was very pleased that the start-up national IP academies seemed to be on their way to improving IP training capacity and human resources in six countries. As it had just mentioned, with the development of tools and methodologies that can be used by other countries to develop their own academies, there would be even greater reach around the world. The Delegation had wanted to seek clarification on whether Phase II was intended to be the final phase of the start-up national IP academies project and that future assistance would take the form of providing those self-help tools and methodologies. However, it understood that this was something that would have to be discussed by the CDIP in the future if it was felt that future phases may need to be taken on after the completion of the academies in the six countries. The Delegation enquired about the goal mentioned in document CDIP/9/10 Rev. to contribute to the creation of a forum for discussions on the use of IP for social and

economic development at the national and regional levels. The Delegation would like to know whether the forum referred to the network of IP academies that was proposed in the document or was some other type of forum envisioned. The Delegation also enquired as to how it would be ensured that all possible synergies across WIPO were being tapped as the pilot projects moved forward. Again, this was a recommendation from the evaluation report. The Delegation did note in the exit strategy that “other divisions of WIPO will be encouraged to liaise with the training institutions for the development of local training programs”. The Delegation would like to know whether there were also other ways for the substantive and regional bureaus of WIPO to be connected to the overall project. Finally, the Delegation had been prepared and was prepared to support the adoption of document CDIP/9/10/Rev. as presented to the Committee. However, it had heard some suggestions from other delegations on potential amendments. The Delegation stated that if amendments to the language were being proposed, it would need to see the proposed language in writing before it could support any such amendments to the project.

292. The Delegation of Chile thanked the Director of the WIPO Academy for introducing Phase II of the project. The Delegation also thanked Professor Ogada for his report on the implementation of Phase I. The recommendations of the evaluation report highlighted the importance of the project for various Member States and its positive impact. It had encouraged many Member States to request to be included in the project. Enhancing institutional and human resource capacities nationally and regionally would help to create a better balance between the public interest and intellectual property. As such, the Delegation supported the implementation of Phase II and the provision of necessary financing for implementation in the hope that the results of the project would be of benefit to all members of the Organization.

293. The Delegation of Tunisia thanked the Secretariat for the documents. Tunisia was one of the pilot countries in the project on start-up national IP academies. Efforts had been made by WIPO since the beginning of the first phase to establish these academies. Due to the exceptional events that had taken place in Tunisia in 2011, these efforts had only just been resumed in Tunisia. The Delegation was very happy with the stages that had been carried out. It would like the Committee to approve Phase II of the project. Tunisia was aware that at a certain stage, its IP academy would need to be self-sustaining and was setting up the necessary mechanisms to ensure the viability of the project. The Delegation expressed its support for the project and its full approval for the implementation of Phase II. In concluding, the Delegation thanked WIPO once again for its assistance and kind cooperation.

294. The Delegation of Turkey thanked Mr. Ogada for his report. The Delegation also thanked the Secretariat for the documents and the presentation. Turkey was interested in the project and had been formally involved in the first phase since November 2010. The Delegation informed the Committee of some of the activities that had taken place in Turkey in the implementation of the project. The WIPO consultant and expert had prepared a needs assessment report and a recommendations report in consultation with their national experts. These were approved in the beginning of 2011 following the completion of the questionnaire prepared by WIPO. The authorities later identified certain actions which were required and these were shared with WIPO. In the meantime, experts from the Patent Office and the Directorate General of the Copyright Office had participated in the training programs organized by WIPO for the administrative staff of IP academies. A “training of trainers” session was also jointly organized with WIPO to train the future trainers of the IP academy. Since 2010, Turkey had been making efforts to establish IP centers and was willing to continue with this initiative. It was continuing with the establishment of the IP training centers. Recently, the Patent Office and the Directorate General of the Copyright Office had signed a protocol and the centers would be operational soon. The Delegation thanked the WIPO Academy for supporting its national endeavors. Although Turkey would not be taking part in the next phase of the project, the Delegation strongly supported the continuation of the project. The limitations of the project were

obvious as 14 other interested countries could not be included in the second phase. The Delegation requested the Secretariat to explain how it was going to proceed with those countries that were not taking part in the second phase of the project. This point was also addressed by Professor Ogada in his report and specifically under paragraph (c) in the section on recommendations.

295. The Delegation of Colombia thanked the Secretariat for the preparation of the documents. The Delegation also thanked the WIPO Academy for its presentation. It was of vital importance that the project should continue. WIPO should continue to provide support. The Delegation was convinced that all countries would be able to benefit from such projects. The Delegation recognized the benefits of the project. Colombia had been working extremely hard to provide intellectual property services and had developed a number of different initiatives to enhance the understanding of the users of intellectual property and to make it user friendly. It had also sought to reach those users who needed to understand the system better. Their needs ranged from the basics of intellectual property to tools which were required in order to work in this area. The support provided by WIPO was important in order to create an institutional structure that promoted and taught intellectual property as well as to increase the effectiveness of the project. The project served to strengthen capacities and helped to ensure national development. Today, their IP academy provided informal education in a simple, straightforward and accessible manner. Colombia had been a pioneer in the development of user friendly curricula and was an example for the countries of the region that were interested in providing teaching that was accessible to all those who wished to learn about intellectual property. The Delegation informed the Committee of the principal activities of their IP academy. With the support of WIPO, the IP academy or API had concluded agreements with universities for their courses to be included in the universities. Trainers were being trained and with WIPO's support, the API had designed and adapted courses for distance learning and for improving the skills of local tutors. DL101, the WIPO Academy's introductory course, was now taught by Colombian professors. The API had also designed basic courses which involved innovative and practical teaching methods for SMEs, professionals, researchers, inventors and so on. These were extremely important for increasing understanding on how to obtain marks, patents and so on. The API had included courses from other academies, including those in the global network of IP academies. The authorities had access to ASPI for specialized information on patents. During 2012, with the support of the many academies, the authorities planned to hold IP workshops as well as seminars on IP education and understanding of IP. The Delegation urged WIPO to continue supporting the project to ensure the sustainability of the national academy. It must continue to train people as their human resources were lacking in this regard. It also needed to respond to future needs. With continued cooperation, the project would contribute to the maintenance of a proper balance between the public interest and intellectual property in the spirit of the Development Agenda.

296. The Delegation of Bolivia thanked the Secretariat for the preparation and presentation of the documents on Phase II of the project and the evaluation of Phase I. It was very encouraging that there were so many requests to extend the project to other countries. There was a considerable need for training in developing countries and Recommendation 10 was linked to the achievement of that goal. An important aspect of Recommendation 10 was that training and capacity building should promote a better balance between the protection of intellectual property and the public interest. The intention was not to multiply the number of teaching institutions but rather to ensure that the content was in line with the spirit of that recommendation. It was extremely important to ensure that this was reflected in the project document. As in the case of other external evaluations, this aspect cannot be properly evaluated unless it was clearly set out in the project document. With regard to the evaluation of the first phase of the project, the Delegation would like the evaluators to explain why this aspect had not been included in the evaluation, in other words, whether these academies had really promoted a better balance between IP and the public interest. On the extension of the project

and Phase II, the Delegation supported the statement made by Paraguay of behalf of GRULAC on the extension of the project and the implementation of Phase II. However, like the African Group, the Delegation would like the project document to be amended in order to reflect the objective of establishing a better balance between the public interest and IP. In Phase I this was not reflected. However, this had not been given sufficient importance in Phase II and the Delegation would like the Secretariat to explain why this it had not been highlighted. The document referred to emerging IP issues and that the training would be aimed at that. However, Recommendation 10 specified the need to promote a better balance between the protection of IP and the public interest. The Delegation suggested that instead of referring to emerging IP issues, the document should refer to the balance between the protection of IP and the public interest by quoting from Recommendation 10. This was the language that had been agreed. The same could be said with regard to the indicators of success, oversight and evaluation. The indicators which were selected should be appropriate as these would be used in the evaluation of the project. As such, the Delegation suggested that the indicators and the oversight and evaluation methods should also reflect that aspect of Recommendation 10 on the balance between IP and the public interest. The Delegation had a number of suggestions in terms of appropriate language that could be included and would be happy to provide these in writing.

297. The Delegation of Denmark, speaking on behalf of the EU and its Member States, thanked the Secretariat for document CDIP/9/10 Rev. on Phase II of the project for the establishment of start-up national IP academies. The EU and its Member States had always been in favor of strengthening capacities within national and regional IP institutions as well as the national IP environment in general. That was why they had endorsed Phase I, as contained in document CDIP/3/INF/2 Annex 5, to help developing countries and LDCs to establish national IP institutions. With regard to Phase II, the EU and its Member States could support the continuation of the project. They believed that the establishment of national IP academies would enable the six Member States to further increase IP capacity building in their countries. However, an important part of the project concerned the follow-up measures to be taken by the various countries. Without continued efforts by the countries to maintain the training centers after the project had ended, the resources which had been spent may be wasted and this would inevitably create a low incentive for the CDIP to enter into such projects. The issue of project sustainability was highlighted in the independent report on the evaluation of Phase I in document CDIP//9/6. They fully supported the remarks made in the recommendations on this issue. Therefore, the EU and its Member States supported the suggestion for cooperation agreements to be signed with the requesting Member States on commitments to continue with the operations of the national training centers. In this regard, they would like the Secretariat to explain how it intended to evaluate the future measures and outcome of the operations carried out by the national training center. In addition, they would also like to know to what extent the Secretariat had incorporated the conclusions and recommendations that were set out in the independent evaluation report on Phase I into the project on Phase II.

298. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, referred to the evaluation of Phase I of the project. The Delegation stressed the importance of the project for its members as it enabled them to strengthen their institutional and human resource capacities as well as to sensitize their populations, trainers and decision makers on the important role of IP in innovation and the knowledge economy. This was why it was very important to understand and evaluate the orientation of its programs and trainers. The evaluation did not facilitate an understanding of the orientation of the programs and modules as well as the experts that were nominated by WIPO to train their decision makers. The Group would like this to be taken into account in future evaluations in order to understand how the modules and the trainers had implemented the project and whether the project had enabled the countries in which it was being implemented to understand the close link between intellectual property rights and innovation. With regard to Phase II of the pilot project, the Group requested

for the project paper to be amended to take into account Development Agenda recommendations, and in particular, Recommendation 10. It was not proposing anything new and just wanted Recommendation 10 to be fully taken into account. In this context, the Group proposed that in the sections on the description of the project and the objectives of Phase II, the paragraphs on the overall objective of the project should be amended to read as follows; “The overall objective of the “Start-Up” National IP Academies project is to strengthen national and regional institutional and human resource capacity through further development of infrastructure and other facilities with a view to making national institutions more efficient and promote a fair balance between IP protection and the public interest well as to meet national development priorities and goals”. This overall objective should also be reflected in the specified objectives of the project. Thus, in the said sections, the paragraphs on specific objective (a) should be amended as follows; “Assisted Colombia, Dominican Republic, Egypt, Ethiopia, Peru and Tunisia to establish self-sustainable IP training centers able to deliver at least two regular training programs on IP and public interest issues”. The paragraphs on objective (b) should be amended to read as follows; “Built critical human resources able to develop and deliver IP training programs taking into consideration local needs and the need for fair balance between IP protection and the public interest”. The paragraphs on objective (d) should also be amended as follows; “Contributed to the creation of a forum of discussions on the use of IP and its flexibilities for social and economic development at the national and regional levels”. These were the Group’s suggestions for the objectives of the project. There was nothing new as these reflected the agreed language of Recommendation 10. The Group just wanted Phase II to be closely linked to Recommendation 10. On the links with the Program and Budget, the Group would like Strategic Goal 3 to be fully linked with the project, as well as other strategic goals which were related to enhancing the understanding of the Development Agenda by Member States, IGOs, civil society and other stakeholders. The Delegation would provide its comments in writing to the Secretariat.

299. The Delegation of Trinidad and Tobago thanked the Secretariat for the presentation of the documents. The Delegation made a few comments with respect to the independent evaluation of the pilot project on the establishment of start-up national IP academies in document CDIP/9/6. The Delegation acknowledged that the objective of Phase I of the project was to test the new model for developing countries and LDCs to establish IP training institutions with minimum resources to meet the increasing demand from IP specialists, professionals, government officials and other stakeholders. The project was of particular importance to its country. The implementation of the pilot project was at an advanced stage in Trinidad and Tobago. All preliminary work, expert missions and stakeholder consultations had been completed. The final report for the project had been drafted by a consultant and submitted to the Secretariat. The report was sent to the IP office for comments and a response had been submitted to the Secretariat. As a direct result of the project, the authorities were in the process of developing a curriculum with the police academy on IP and the enforcement of IP rights. There was also a second training module with a law school in Trinidad in the form of a specialized IP clinic. The Delegation was pleased to inform the Committee that its national IP academy was already in operation. It would operate through the national IP office in the Port of Spain for the first two years. An administrator for the academy had been identified as well as 16 teachers. Several of those teachers would come from the private sector as well as the offices of the DPP and customs. Their training was ongoing. The Delegation stated that the implementation of the pilot project had been encouraging in its country. The Delegation thanked the Secretariat and the WIPO Academy for its technical assistance and advice in assisting Trinidad and Tobago to establish an IP academy through the IP office. As a result of all these achievements, the Delegation fully supported the project and endorsed the implementation of Phase II under document CDIP/9/10 Rev.

300. The Delegation of the People’s Republic of China noted that efforts to assist developing countries and LDCs to establish IP academies were meaningful because specialized IP experts

provided the basis for a country to start work on IP. Once a base was established, work can begin on promoting and using IP systems. Therefore, the Delegation endorsed WIPO's work in this area. 15 years ago, the People's Republic of China had established its own IP training center. The country had some IP training experience which it was ready to share and exchange with other countries. The Delegation supported the approval of Phase II of the project in contained document CDIP/9/10/Rev.

301. The Delegation of Canada stressed that the project was very important and there was a need to discuss it. The Delegation expressed support for the statement made by the Delegation of the United States of America. The best practices should be shared and made available to countries outside the pilot project in order for them to benefit from the project. The Delegation supported Phase II of the project. This would enable the countries to develop institutional capacities. The Delegation also recognized the importance of taking into account the results of the evaluation.

302. The Delegation of Morocco thanked the WIPO Academy for the project document and Professor Ogada for the evaluation report. The Delegation supported the project and the approval of Phase II because of the benefits that had already been mentioned by other delegations. The Delegation also supported the statement made by the Delegation of Egypt on behalf of the African Group. However, the Delegation also expressed its regrets with regard to the limitations of the project. A majority of the requests from Member States to participate in the project were not satisfied due to budgetary constraints. The Delegation had expressed its interest in the project since its adoption in 2009. As such, it would like to know how the Secretariat could meet these requests from interested countries and whether it was possible for funds to be transferred from other projects where there were not so many requests from Member States to this project which had been so successful and welcomed by Member States.

303. The Delegation of Spain referred to the evaluation of Phase I of the project. Its observations were in line with those of the European Union. The Delegation noted that in Phase I, the pilot project covered four countries, namely, Peru, Tunisia, Colombia and the Dominican Republic, for a period of three years. However, the project document stated that the project would be implemented in one country in each of the regions, namely Africa, Arab countries, Asia and Pacific, Latin America and the Caribbean. However, in practice, only two regions had been assisted and the others remained unsupported. This was something that should be borne in mind as the needs varied from one region to another. As certain regions were not presented, some implementation problems had not been addressed. According to the original project document, the first pilot national academy project should have been launched in the first quarter of 2010 and the successive projects until the end of 2011. The timetable which was established for the project had not been respected and all projects were established in the third quarter of 2011. The Delegation requested for information on the reasons for the delays. It was possible that this was found in the full document. However, as the Delegation had to work with a summary of the document, that information was missing. The Delegation was pleased that during the project, more efficient and effective methods were sought in order to achieve its objectives. The evaluation visits were preceded by a questionnaire in order to get an idea of the concerns of each of country. It was an excellent idea to continue seeking efficiency and effectiveness in the implementation of these projects. Finally, the Delegation requested for clarification on the final cost of the project as the evaluation report clearly stated that all the IP academy projects were less than a year old and approximately 339,000 Swiss francs had been spent out of the 420,000 Swiss francs that had been allocated to the project. As such, the real cost of Phase I of the project was likely to exceed the original budget. This may be due to the delays in the implementation of the project. The Delegation would like to know if any information was available on the costs forecasted for Phase I.

304. The Delegation of Barbados thanked the presenters and the Secretariat for the preparation of the documents. This was an important project for those developing countries that needed assistance in developing their IP skills and in building adequate human resources and capacity in the area of IP. Therefore, the Delegation supported the implementation of Phase II. It recognized that financial resources were limited and that choices had to be made. Thus, only six countries were chosen for Phase II. However, the Delegation would like to know what was proposed for those countries in Phase I that had not yet been able to reach Phase II. Some countries had proceeded in good faith to take steps towards the establishment of their IP academies. The Delegation requested the Secretariat to clarify whether those countries that were still in Phase I and had not reached the point of signing cooperation agreements would continue to be given assistance in the establishment of their IP academies. It was always the case that some countries would be able to proceed on a project more rapidly than others and the fact that some were behind was an indication of the need for more resources and not less. Therefore, in reiterating its support for Phase II, the Delegation would like those lagging behind to continue to receive assistance in completing Phase I and to move into Phase II. It would be unfortunate if those initiatives were left in a state of semi-completion. It was important that these countries did not lose the opportunity to use IP as a tool for development. In this regard, the Delegation also noted the requests from other countries to access the facility and hoped that the exit strategy which had been described would allow for other countries to benefit. The Delegation thanked WIPO for this important initiative. Those countries lagging behind should continue to receive assistance for moving into Phase II and new countries should be able to benefit from the program.

305. The Delegation of Guinea supported Phase II of the project because of the results that had already been achieved in the implementation of Phase I. The Delegation hoped that the implementation of Phase II would take into account geographical distribution. The countries that had benefited from the project were not necessarily those that needed it most. The Delegation had in mind the plight of the LDCs. Thus, the Delegation hoped that the implementation of the second phase would take into account those with the greatest needs.

306. The Delegation of Angola stated that this was a very important project for developing countries. As mentioned by the majority of Member States, countries that had not participated in Phase I should be given an opportunity to benefit from Phase II. There were about 20 requests from countries that were interested to take part. Countries that had already taken part in Phase I should be given the opportunity to carry on but other countries that had submitted requests should also be included. However, as the project would be moving on to the second phase, several factors should be kept in mind for the third phase. First, the Committee should consider how the IP academies in countries that had taken part in the first phase could become autonomous or self-sustaining in the second phase in order for these countries not to be chosen again and to extend the project to other countries. There should be a greater stress on LDCs as well as other countries that had not benefited from the project. The Delegation sought clarification on certain issues. First, in the project document, the section on the description of the project referred to emerging issues in IP. The Delegation would like the Secretariat to clarify what it had in mind in terms of the issues that could be included. It was important for the Delegation to have clarity on this because a WIPO concept may not be necessarily understood elsewhere. Second, on the needs assessments, it was mentioned that in the case of Ethiopia, a needs assessment report had been completed and approved by the national authorities. In this context, the Delegation would like to know whether this had anything to do with the WTO needs assessment process for LDCs and if so, whether the IP start-up academy was part of the needs assessed by Ethiopia.

307. The Representative of the TWN supported the Secretariat's efforts to ensure that the CDIP projects were externally evaluated. This was moving in the right direction but as the Representative had noted earlier, there were a number of shortcomings in the evaluation

framework. For instance, in relation to document CDIP/9/6, the evaluation failed to assess the orientation of the project during the implementation period. In other words, there was no evaluation on whether the academies promoted a fair balance between IP protection and the public interest, as required under Recommendation 10 of the Development Agenda. In particular, there should have been an evaluation of the relevant training materials to assess whether these complied with Recommendation 10. The development dimension should also have been included. On document CDIP/9/10, the objectives of the project and the outcome indicators should be improved to reflect Recommendation 10. The indicators should reflect the main objective which was to promote a fair balance between IP protection and the public interest. Currently, the indicators were on the number of trainers and start-up academies. These would not provide an indication of the implementation of Recommendation 10.

308. The Delegation of Nicaragua stated that national IP academies were very important to make use of available human resources and to enhance awareness of the IP system among researchers, trainers, teachers and others. The system in Nicaragua was being transformed. It was trying to encourage innovation through IP tools. The national office needed a large scale project to strengthen the capacities of its staff and to make it possible for more specialists to be made available to create greater awareness in this area. It was vital for the WIPO Academy's portfolio of courses to be made available in all official languages. The Delegation had looked at the web site. At the moment, it appeared that these were only available in English and it was vital for the courses to be made available in all languages.

309. The Vice-Chair thanked the Delegations for their interventions and invited the Secretariat to respond to the questions and comments on the evaluation before turning to Phase II.

310. The Secretariat (Mr. Thierry Rajaobelina) thanked the delegations for their interventions on the evaluation report prepared by the IAOD with the assistance of Professor Ogada. There were a number of comments, particularly, on the recommendations that were made. As mentioned yesterday, the IAOD would follow up on the implementation of recommendations in the report. The IAOD followed up on all its recommendations twice a year. It would make sure that the recommendations were taken into account in the continuation of the project. The Delegation of Bolivia and other delegations had referred to the scope of evaluation and had expressed regrets that the evaluation had not examined to what extent the project had taken into account Recommendation 10 of the Development Agenda and the issue of IP and the public interest in general. It was mentioned in paragraph 44 of the report that it was still too early to carry out such an evaluation. However, this would be taken into account in the evaluation of Phase II. Some delegations had also mentioned the need to assess the quality of the trainers in future evaluations of the project. This would also be taken into account in future evaluations.

311. The Vice-Chair thanked the Secretariat for its response. As there were no further comments from the floor, she invited the Secretariat to respond to the questions and comments on Phase II of the project.

312. The Secretariat (Mr. Marcelo Di Pietro Peralta) thanked the Delegations for their contributions. Many points had been raised and some shared certain concerns. The Delegation of the Dominican Republic had requested for clarification on what would happen after the end of the two year period of cooperation. This was linked to the issue of whether the project would be renewed in the next biennium or included as a permanent program of the WIPO Academy. In the meantime, until a decision was taken, the WIPO Academy would be monitoring the functioning of the IP academies. It would monitor the quality, content and results of the two training programs they were initially supposed to deliver. The WIPO Academy would contribute to the training of the second generation of trainers. It would also facilitate coordination with WIPO's substantive sectors and regional bureaus. WIPO experts and regional

experts would contribute to the national programs in order to support and supplement local capacities. If a decision was taken to include the project as a regular program of the WIPO Academy, consideration could be given to the establishment of a special unit to conduct follow ups for the two years following the end of the cooperation period. It should also be kept in mind that it was proposed, in the project document, that WIPO could assist the local IP training centers to produce a business plan with actions envisaging medium-term sustainability for the two years following the end of the cooperation period. Local coordinators would be trained on program management and fundraising to facilitate the sustainability of the training centers. With regard to the statement made by the Delegation of the United States of America, Phase II was not the final phase. The project was still in phase I. The project in the first four countries was still ongoing and would begin in two other countries. Thus, this was not a final phase. It was the completion of phase I and this could be viewed as an extension of the project. The forum of discussions that was mentioned in the project document would be at three levels. It would facilitate discussion among experts and stakeholders at the national level. It would also serve as a regional forum in terms of linking all the coordinators and some of the trainers of the national training centers with coordinators and trainers in other IP academies in the region. In addition, all the start-up IP academies would also be invited to join the international network of IP academies that was somewhat chaired by WIPO. This provided the possibility to share experiences and to cooperate with IP training institutions across the world. With regard to synergies, it was mentioned in the evaluation report that the WIPO Academy had been working closely with the regional bureaus. It would continue to do so. In addition, when the IP academies had reached the stage where they were ready to provide substantive training, the WIPO Academy would need the assistance of the other substantive sectors of the Organization. At the moment, the activities were mostly concentrated on training with regard to specialized issues and on how to develop tools and methodologies in order to put in place training programs. Some personnel had already been trained. When activities began on the substance and content of the local programs, the substantive sectors would be invited to join the project. The Secretariat turned to the concerns raised by the Delegation of Turkey and other delegations on the budget for the project. The budget allocated for Phase II was approved in the Program and Budget for 2012/13. The allocation was approved by the Member States. This was estimated to be enough to cover six beneficiary countries. As mentioned in the evaluation report, there were no funds to cover the requests from the other 18 countries. However, those other countries could still benefit. For example, as mentioned, tools and guidelines would be developed and these could be used to assist developing countries to create or develop their own IP training institutions. Other budgetary flexibilities could also be explored to satisfy some of the remaining requests from interested countries. However, at present, the Secretariat was not in a position to provide a clear answer to this question. The WIPO Academy could explore the budgetary possibilities with the regional bureaus. The bureaus were currently developing national IP strategies and perhaps the establishment of an IP training institution could be linked to an IP strategy. With regard to the geographical balance, the process for becoming a beneficiary of the project had been explained. As it was demand driven, a country must apply to become a beneficiary. It was explained, in the evaluation report and the project document, that there were two phases. The first phase was a preparatory phase in which a country requested or expressed its interest to become a beneficiary of the project. It then had to assess the implications in terms of the commitments, resources and minimum conditions that were required in order for it to become a beneficiary and to sign the cooperation agreement with WIPO. This was something that took time and the interest of some requesting countries had waned maybe because of other considerations or priorities. The WIPO Academy had started with many possible candidates as they were not really sure whether they would be able to undertake the project. It had signed six agreements with countries or Member States that had decided to proceed and had the resources to implement the project. As this was a demand-driven approach, a country cannot be pushed to view the establishment of a start-up IP academy as a national priority. This was why there was not a complete balance in terms of including countries from all the regions. However, there were countries from Latin America, the Arab region and

Africa. Ethiopia, an LDC, was also included. With regard to the statement made by the Delegation of Angola on emerging IP issues, the wording would be changed as there appeared to be consensus in terms of referring to the fair balance between IP protection and the public interest as provided under Recommendation 10 of the Development Agenda instead of emerging IP issues. However, with regard to emerging IP issues, the Secretariat had in mind the interface between IP and global challenges, including access to health, food security, human rights and climate change. The EU and its Member States had raised several issues, including how the recommendations of the evaluation report had been included in the project document for Phase II. The first recommendation was on the extension of the pilot process for another two years. This had been included in the project document. The second recommendation was on the modification of the project document to provide more clarity on the delivery strategy and to make the process more efficient, flexible and demand driven. This had also been included in the project document for Phase II. The term “academy” was clarified, the applied methodology was explained and a summary of the activities undertaken within the framework of the cooperation with each of the participating countries had been included. The number of project phases had also been changed. The initial four phases had been reduced to two in order to make the process more efficient and faster. The third recommendation was on the development of a set of tools and methodologies which can be made available for use by Member States, not contemplated in the project and wished to establish their own national IP academies. This was included as one of the deliverables under Phase II. The fourth recommendation was on synergy and sustainability. In terms of synergy, as mentioned earlier, it was proposed that the Organization’s substantive sectors and regional bureaus would be included in the project. It was also mentioned in the project document that national stakeholders could contribute to the IP training institution. With regard to sustainability, as mentioned earlier, a business plan would be developed for the two years following the end of the cooperation period and training would be provided for the local coordinators on fundraising and the management of training programs. The Secretariat (Carlotta Graffigna) referred to the financing of the project. A decision had been made to integrate the project into the regular budget of the Organization. Hence, it was no longer a reserve funded project as it had been mainstreamed into the Program and Budget. For the current biennium, an amount of 510,000 Swiss francs had been allocated to Phase II of the project. This mainly covered operational costs with a small amount allocated to personnel costs. The funds would be used for the six countries if the Committee agreed with the proposals that were set out in the project document for Phase II. With regard to the other requesting countries, the situation in the current biennium had already been explained. The Secretariat could explore the possibility of some internal budgetary transfers within the regular budget of the Organization as the project had been mainstreamed into the regular budget. On the future of the project and the scaling up of resources, some delegations had mentioned that a number of countries had expressed an interest to be included in the project but had either not yet reached the stage of signing an agreement or there were insufficient resources to include them in this biennium. There was also some support for the idea of turning the project into a permanent activity of the WIPO Academy. Some delegations had expressed the idea that perhaps the project could be included as a regular program of the WIPO Academy and therefore, included in its regular budget. In this context, the Committee should work very closely with the Program and Budget Committee because the resources that would be available as of 2014 for this project would need to be decided within the framework of the PBC. Thus, all countries that were interested in increasing the resources or supporting a different model for integrating the project into the WIPO Academy’s work, should work in cooperation with the PBC in preparation for 2014/15 or in the revision of the current budget if there was one. However, as mentioned earlier, the resources for the current biennium were as they were. These were clearly identified under program 11. In view of the estimated costs, these did not allow the project to extend beyond the 6 countries which were named in the project document for Phase II.

313. The Delegation of Spain stated that the two questions that it had put forward had not been answered. These were on the reasons for delays in the implementation of the projects and the final cost of Phase I.

314. The Secretariat apologized for not responding to the queries from the Delegation of Spain. With regard to the final cost of Phase I, the last financial report was about to be completed and the Secretariat could inform the Delegation of the details later. However, it should be noted that all the funds that had been allocated to the first phase of the project would be spent. On the delays in the implementation of the projects, it was mentioned that the initial or incubation phase required the possible beneficiary countries to assess whether they would join the project. This took a lot of time. It involved a mission, an evaluation of needs, the completion of a questionnaire, and internal meetings to decide whether the Member State was able to establish the minimum conditions in terms of human resources, infrastructure and an administrative framework in order to establish a national IP academy. This was a special project which required the training of trainers and a commitment that those trained would remain, otherwise the training would be wasted. Thus, there must be an engagement from the Member State. The incubation period took longer than expected and this led to some of the delays. The political situation in certain countries also contributed to the delays. There were some countries that could not go ahead with the project due to political instabilities. Thus, work had to stop with those countries.

315. The Delegation of Angola stated that it had raised a question on needs assessment. It was mentioned in paragraph 2.3 of the project document for Phase II, that the needs assessment report had been approved by the national authorities in Ethiopia and priority actions had been identified. In this context, the Delegation would like the Secretariat to clarify whether the needs assessment was undertaken only for the project or if it was part of a broader IP issue. The Delegation also would like to know if it was linked to the WTO needs assessment process for LDCs in relation to the implementation of the TRIPS Agreement.

316. The Secretariat apologized for not responding to the question raised by the Delegation of Angola. The needs assessment was undertaken with Ethiopia to assess the possibilities, conditions and requirements for establishing a start-up IP academy in the country. Although it was linked to the country's general IP strategy, the needs assessment exercise was focused on the project. It involved a mission and the completion of a special questionnaire in order to develop a work plan for the establishment of a start-up IP academy.

317. The Delegation of Pakistan had listened very carefully to the Secretariat and the comments from the Member States. The Delegation had concluded that the Committee was on the right path. Nevertheless, certain clarifications and steps were required. The Delegation assumed that these had been duly noted by the Secretariat. However, it wished to differ on one point. The Secretariat had referred to Recommendation 10 in terms of semantics. However, this was not about semantics. Recommendation 10 was very clear and provided the basis for the project. The project was intended to build national IP capacities and the purpose was twofold. The first was to make these more efficient. The second was to promote a fair balance between IP protection and the public interest. The Delegation was not convinced that the project promoted a balance between IP and the public interest. More clarity was required with regard to this issue before the project could be approved. Perhaps the Secretariat could assist in enhancing the understanding of the Delegation on how the project was actually implementing that aspect of Recommendation 10.

318. The Secretariat stated that each project to establish a start-up IP academy was agreed with the beneficiary country. A consultant who was an expert on both IP and IP teaching with relevant experience was identified for each country. This was approved by the Member State in the sense that it was jointly decided by the Member State and the Secretariat. A mission to the Member State was organized to assess the IP teaching facilities in the public and private

sectors. A broad consultation was organized by the beneficiary agency of the government. It involved all local stakeholders. As such, the process was guided by the government. The consultant would assist in achieving a better outcome and result. The IP training needs were then mapped in consultation with all relevant agencies. The current needs, as perceived by the government, in the areas and target groups where training was required were set out. Once this was done, a report on the needs and what was required to address those needs was jointly prepared with the government. It was the government of the beneficiary country which decided on the priorities and the content. On that basis, the WIPO Academy would start with the organization of training programs. These were organized with its experts in consultation with the beneficiary Member State. The reason why the Secretariat had mentioned these details was to indicate that the training activities which were organized were in accordance with the local needs, priorities and strategy of a particular country. The idea was to provide a country with the tools to train their citizens in accordance with its local requirements in the area of IP.

319. The Delegation of Pakistan would like its comments reflected in the project document and looked forward to the revised project document.

320. The Vice-Chair thanked the Committee for the fruitful exchange of views. This agenda item would be closed for the time being. The Committee had noted the information contained in document CDIP/9/6 and its work on that document had concluded. There was general support for moving into Phase II of the project but consultations were still under way with concerned delegations. The Committee would hold a plenary session for the adoption of the revised Phase II project document. It would remain in abeyance for the time being.

Consideration of Document CDIP/9/13 - Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries

321. The Vice-Chair opened discussions on document CDIP/9/13 on the strengthening and development of the audiovisual sector in Burkina Faso and certain African countries. She invited the Secretariat to introduce the document.

322. The Secretariat stated that at the eighth session of the CDIP the Delegation of Burkina Faso had submitted a project proposal on the strengthening and development of the audiovisual sector in Africa. The proposal was not discussed but the Delegation of Burkina Faso was invited to revise its proposal. The revised proposal was contained in document CDIP/9/13, "Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries". The proposal was based on Recommendations 1, 2, 4, 10 and 11 of the Development Agenda. The Secretariat invited the Delegation of Burkina Faso to introduce the document and to provide an overview of what was planned under the proposed project.

323. The Delegation of Burkina Faso stated that its country had been convinced for many years that the audiovisual and cinema sector could play an important role in economic and social development. Therefore, under the aegis of the WIPO Development Agenda, the Delegation had submitted a project proposal for the strengthening and development of the audiovisual sector in Burkina Faso and certain African countries. This was contained in document CDIP/9/13, dated April 4, 2012. As mentioned, the proposed project was presented at the last session of the Committee. The project was in conformity with the spirit and letter of the Development Agenda and in particular, Recommendations 1, 2, 4, 10 and 11. The project was initially titled, "Strengthening and Development of the African Audiovisual Sector". This had been modified to include a reference to Burkina Faso and certain African countries. Hence, it did not include the entire continent. The reason for the change was because the project would be undertaken as a pilot project in a few countries, taking into account their specific needs and priorities as provided under Recommendation 1 of the Development Agenda. The Delegation believed that the project would meet the needs of LDCs in general and African countries in

particular. It also fell within the scope of the said recommendations of the Development Agenda. It sought to contribute to the implementation of the Development Agenda through the creation of an enabling environment that would allow the audiovisual sector to finance, produce and distribute its audiovisual works as a result of the strengthening of the professional market and legal structures. The project would be undertaken in three stages. In the initial stage, an evaluation of the current role played by IP in the financing, production and distribution of audiovisual works in Burkina Faso and the other countries participating in the project would be undertaken. A study on the collective negotiation of rights and collective management of rights in the audiovisual sector in a selected number of countries with significant experience in this area would also be conducted. The second stage involved training and professional development. This would consist of a business, results-orientated training program composed of workshops and on-site training to improve understanding of the use of intellectual property rights in the creation, financing, production and distribution of audiovisual content. It would include a distance learning module which would be administered by the WIPO Academy. This would be the first WIPO specialized training course on the subject and would allow for the dissemination of knowledge in a cost-effective and efficient manner to interested Member States. The third phase sought to ensure more effective use and legitimate exploitation of audiovisual intellectual property-based rights. The project would advance the development of infrastructure and data management tools for documentation, collection and distribution of audiovisual rights. In countries already equipped with an infrastructure such as Burkina Faso, the project sought to support the consolidation of skills and further development of practices in accordance with international processes and practices such as the use of presale agreements. Training activities would also address how to successfully negotiate and license rights with broadcasting organizations as a tool to fight audiovisual piracy. The project would be launched during the Pan African Film and Television Festival (FESPACO) which would be held in Ouagadougou in February 2013. It would be presented to a gathering of prominent international experts and government officials from African countries that would be participating in the festival. The Delegation thanked the Secretariat and all those who had worked with them in the preparation of the project proposal. A side event was held on Tuesday to explain the project to the Member States. It appeared that the project had been well received. The Delegation hoped that all the Member States would support the adoption of the project. The Delegation provided some additional information on the project. The project aimed to contribute to the use of the intellectual property system for the financing, production and distribution of audiovisual works and to advance the development of an effective and balanced framework and infrastructure for the exercise and management of IP rights-based transactions in the audiovisual sector. The project sought to achieve its objectives through addressing the regulatory framework, enhancing the capacities of those involved in the audio visual sector, and strengthening the relevant institutional capacities and infrastructure for the management and exploitation of rights. The pilot project would cover a period of 24 months. Burkina Faso and two other countries would be selected to participate in the pilot project. The conclusions and results of the project would be extended to other African countries through mechanisms which would be established. These would include distance training through the WIPO Academy; use of the presale mechanism which would be made available to other African countries; and an increase in the movement of capital between African countries. As such, the benefits of the project would be shared with other African countries.

324. The Delegation of Egypt, speaking in its national capacity and on behalf of the African Group, declared that it was highly impressed with the content, quality and targets of the project. This was further reflected in the side event organized by the Delegation of Burkina Faso on Tuesday. The project was the first project to be presented within the framework of the CDIP by a Sub-Saharan African country. The selection of the two other pilot African countries would be the responsibility of the Secretariat. It would receive a formal declaration of interest from those two other pilot countries. The Group stood ready to provide the Secretariat with any guidance it may require in the selection process. It firmly believed that the project fell entirely within the

mandate and objective of the Committee as it facilitated the use of IP for the service of development. The project had many positive benefits for other African countries as many of them had young emerging audiovisual industries. The Group fully supported the project and recommended that it be approved by the Committee.

325. The Delegation of the Ivory Coast joined the Delegation of Egypt and the African Group in supporting the presentation made by the Delegation of Burkina Faso. This was a very important project for the cultural development of their countries. Its implementation would enable them to encourage and adopt a more professional approach to the various initiatives in this field.

326. The Delegation of Angola joined the Delegation of Egypt and the African Group in supporting the project that was presented by the Delegation of Burkina Faso on strengthening capacities in the audiovisual sector. This was a very important project not only for African countries but also for other countries. In addition to building capacities in the audiovisual sector in Africa, the project also stressed on a very important issue. This concerned the diversification of the methods of financing and the use of essential contracts, both of which were very important for the film making industry. The project also included an innovative aspect. It provided for on-line training which would benefit not only African countries but also other countries across the world. As such the Delegation recommended that the project be adopted by the CDIP.

327. The Delegation of Senegal endorsed the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation welcomed and supported the project presented by the Delegation of Burkina Faso. The project was very timely as it concerned the audiovisual sector which had a lot of potential in Africa despite the lack of financing. The project had been presented in a structured manner and took into account all the aspects of the audiovisual industry in Africa. The pilot project would be undertaken on a small scale. The budget required for its adoption could be supported. The project helped to improve WIPO technical assistance in connection with the development of the audiovisual sector. It would also provide a balanced approach to monitoring IP-related transactions in the audiovisual sector. It was well known that this was a very promising sector for Africa. The project would certainly contribute to ongoing efforts in African countries as it sought to develop a sustained framework for the audiovisual sector and to increase revenue streams. As such, the Delegation fully supported the project and hoped that it would be adopted by the Committee.

328. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, fully supported the project presented by the Delegation of Burkina Faso as it allowed for the implementation of Recommendations 1, 2, 4, 10 and 11 of the Development Agenda as well as capacity building in African countries and developing countries in general. This was very important for all countries that wished to strengthen and develop their audiovisual sector to promote development.

329. The Delegation of Morocco endorsed the statement made by the Delegation of Egypt on behalf of the African Group and could also go along with everything that had been said by other delegations on the project. The innovative pilot project was very important and interesting. It was one of the best project proposals put forward since the establishment of the Committee as it stemmed from professionals and took into account the realities in the field. It reflected the real needs, the fundamental needs, for cultural development not just in Africa but in all developing countries. If the project managed to resolve some of the problems concerning financing, distribution and protection, this would be a big step forward in terms of cultural development. This was why the Delegation strongly supported the project. In concluding, the Delegation thanked the Delegation of Burkina Faso for developing a project that was innovative and absolutely vital for cultural development.

330. The Delegation of South Africa aligned itself with the statements made by the Delegations of Egypt and Algeria on behalf of the African Group and the Development Agenda Group respectively. The Delegation noted that most Development Agenda projects had been initiated by the Secretariat even though it was often said that the Development Agenda should be a Member States driven process. In conformity with that principle, the Delegation encouraged and welcomed efforts made by Member States to submit proposals for Development Agenda projects. It recalled that in 2009, the Delegation of Egypt had submitted a project on South-South cooperation. This was later turned into an African Group proposal and adopted by the Committee last year for implementation this year. In this regard, the Delegation commended the Delegation of Burkina Faso for submitting a proposal which was aimed at enhancing the audiovisual sector in Africa. Burkina Faso was the second African country to do so. The proposal would complement the implementation of the proposed treaty on the protection of audiovisual performances to be negotiated in Beijing in June 2012. The Delegation lent its full support for the adoption of the project in the current session. As the proposal was first submitted at the eighth session of the CDIP, there had been sufficient time for Member States to consider the proposal.

331. The Delegation of Guinea congratulated the Delegation of Burkina Faso on their presentation and in particular, for their proposal which was aimed at strengthening and developing the audiovisual sector in Burkina Faso and certain African countries. The concerns expressed by Burkina Faso were in line with those of its country. That was why the Delegation was pleased with the objectives of the proposal, in particular, the strengthening of human and institutional capacities. The Delegation strongly supported the project and invited other delegations do the same in order to assist African countries to strengthen and develop their audiovisual sectors.

332. The Delegation of Congo noted that the project was well placed for strengthening and developing the audiovisual sector in Burkina Faso and certain African countries. The proposal was initiated by Burkina Faso. The introductory statement made by the Delegation of Burkina Faso had enabled the Delegation to note the innovative nature of the project. The Delegation congratulated the Delegation of Burkina Faso for identifying the concerns of the audiovisual sector. The project would assist in promoting creativity and in consolidating the audiovisual sector. It would also take into account the technological capacities of the countries. As a country responsible for organizing the Pan-African Music Festival, the Delegation fully supported the project and hoped that it would be adopted by the Committee in its current session.

333. The Delegation of the United States of America, speaking on behalf of Group B, thanked the Delegation of Burkina Faso for the project on the strengthening and development of the audiovisual sector in Burkina Faso and certain African countries in document CDIP/9/13. The Group found the project extremely interesting and fully supported its adoption. The Group believed that this initiative was exactly the type of project that should form the basis of the CDIP's work on how IP can be used for development.

334. The Delegation of Tunisia noted the importance of the project for Burkina Faso and for the African continent as a whole. The Delegation associated itself with the statement made by the Delegations of Egypt and Algeria on behalf of the African Group and the Development Agenda Group respectively. The Delegation supported and endorsed the project.

335. The Delegation of Denmark, speaking on behalf of the EU and its Member States, found the project on the strengthening and development of the audiovisual sector in Burkina Faso and certain African countries in document CDIP/9/13 interesting and promising. In this regard, the EU and its Member States thanked the organizers of the side event on Tuesday for a fine presentation on this issue. They were aware of the challenges faced by the African audiovisual

sector. The EU and its Member States therefore supported the objectives of the project with respect to enhancing the use of the intellectual property system in the financing, production and distribution of audiovisual works as well as to advance the development of an effective and balanced framework together with infrastructure for the exercise and management of IP rights-based transactions in the audiovisual sector. The EU and its Member States found that the project had the potential to help the audiovisual sector in several countries in Africa and the main focus-group of beneficiaries may be able to profit from the project. In particular, it was their hope that the development of a distant learning program on copyright and related rights for the audiovisual industry would also be of use to other countries that were not directly addressed by the project. Should the project be adopted, the EU and its Member States would be keen to know which two other African countries may be part of the project.

336. The Delegation of Japan associated itself with the statement made by the Delegation of the United States of America on behalf of Group B. The Delegation had a positive impression of the Burkina Faso proposal. Its aim to foster productivity through the strengthening of IP was highly appreciated. In March 2012, a sub-regional seminar on intellectual property rights was held in Burkina Faso. The seminar was supported by Japan's FIT for Africa and the LDCs. The Delegation understood that, as the host country, Burkina Faso had greatly contributed to the success of the seminar. The Delegation hoped that the project proposed in document CDIP/9/13 would also be successful and contribute to the development of certain African countries including Burkina Faso. In concluding, the Delegation reiterated that Japan would like to raise awareness of intellectual property through various activities and continued dialogue with developing countries and LDCs.

337. The Delegation of Togo supported the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation supported the project proposed by the Delegation of Burkina Faso. It was an innovative project. The Delegation congratulated the Delegation of Burkina Faso and supported the adoption of the project.

338. The Delegation of the People's Republic of China thanked the Delegation of Burkina Faso for the presentation of the project. The Delegation fully supported the project. The implementation of the project should help Burkina Faso and other African countries to promote the development of intellectual property.

339. The Delegation of Trinidad and Tobago thanked the Delegation of Burkina Faso for the presentation and explanation of their project on the strengthening and development of the audiovisual sector in Burkina Faso and certain African countries in document CDIP/9/13. The Delegation found the proposal very interesting and would support it. The pilot project and its results would not only be beneficial to Africa but also many other developing countries including Trinidad and Tobago and the wider Caribbean region. The proposal would promote the legal, commercial, cultural and economic exploitation of IP in the African continent. This was consistent with Recommendation 2 of the Development Agenda. The proposal was similar to a project that was undertaken in the early 1990s in Trinidad and Tobago. That project had dealt with the modernization of the IP office in the Port of Spain and was very successful as it laid down a very solid foundation for the future success of the IP office. The Delegation would recommend this approach to development, particularly, if it would lead to the modernization of the IP systems in Burkina Faso and other African countries included in the pilot project.

340. The Delegation of Switzerland thanked the Delegation of Burkina Faso for their presentation of the project on the strengthening and development of the audiovisual sector in Burkina Faso and certain African countries in document CDIP/9/13. As mentioned by other delegations, it was good for Member States to take the initiative to present projects that met specific needs and which aimed to use intellectual property for development. This was the initial aim of the Development Agenda. The Delegation also thanked the Delegation of Burkina Faso

for organizing a briefing for delegations to enable them to have a better understanding of the details of the project and its final objective. It had also provided an opportunity to raise questions and to request for clarifications on specific details. The proposal had some very useful elements for achieving its objectives. As a result of the information provided during the briefing and the presentation, the Delegation could support the project. The Delegation emphasized some aspects which were important for the implementation of the project. It was useful for the project to be developed as a pilot project involving Burkina Faso and two other African countries. The implementation of the pilot project would enable the Committee to obtain useful experience and information for the possible extension of the project to other countries. To achieve its objectives, it was important to select countries with audiovisual sectors that were comparable to Burkina Faso's. It was also important for the two other selected countries to be in the same geographical region to achieve synergies and to use the resources effectively. The preparation of a scoping paper was included under activity 1 in the document. This would enable the Committee to have a specific idea of the present situation and the specific needs of the three beneficiary countries. That information would be used to target activities that would meet those needs effectively. The development of a teaching program which could be integrated within the programs of the WIPO Academy would ensure the sustainability of the project. Given the limited means of the project, it was very important for the participants in the workshops to be directly linked to the audiovisual sector. It was also important to ensure that the participants were at a comparable level to enable them to understand the challenges and to participate in the technical discussions. As such, it was very important for the participants to prepare themselves for these workshops by following the WIPO Academy's distance learning program. The Delegation was confident that the project would contribute effectively to strengthening the IP systems to allow for the development of markets in the audiovisual sector in Africa and in developing countries.

341. The Delegation of Nigeria joined the Delegation of Egypt and other delegations in supporting the project proposed by the Delegation of Burkina Faso. It would no doubt be of benefit to many African countries. It was a laudable project and the Delegation hoped that it would be favorably considered by other delegations.

342. The Delegation of Djibouti endorsed the statements made by the Delegations of Egypt and Algeria on behalf of the African Group and the Development Agenda Group respectively. The Delegation thanked the Delegation of Burkina Faso for presenting the proposal which was in line with the principles of the Development Agenda and reflected the link between IP and development. Therefore, the Delegation recommended that the project should be adopted by the Committee.

343. The Delegation of Russia thanked the Delegation of Burkina Faso for their very interesting document and project aimed at strengthening and developing the audiovisual sector in Burkina Faso and certain African countries. The project contained very specific and interesting proposals. That was why the Delegation supported the project. The Delegation hoped that it would be successfully implemented as the experience obtained from that project could then be very useful to other interested countries.

344. The Delegation of France shared the views expressed by the Delegations of Denmark and the United States of America on behalf of the EU and Group B respectively. The Delegation supported the proposal from the Delegation of Burkina Faso which was clearly in line with the philosophy of the Committee to place intellectual property at the service of development.

345. The Delegation of Australia thanked the Delegation of Burkina Faso for the initiative and joined other members of Group B in supporting the project. Along with the Delegation of South Africa, the Delegation welcomed the member-driven nature of the project. It was a practical

project with the potential for tangible outcomes with good management. The Delegation looked forward to the project going ahead.

346. The Delegation of Brazil thanked the Delegation of Burkina Faso for the presentation. The Delegation fully supported the approval of the project. It was a very interesting project. It was aligned with Development Agenda Recommendations 1, 2, 4, 10 and 11. Burkina Faso and other Sub-Saharan countries had emerging audiovisual sectors. The project would further strengthen their audiovisual sectors by investing in training and professional development as well as in strengthening institutional capacities. The Delegation's comments on the document were related to section 3 on review and evaluation. This was important for the initiatives to be successful and sustainable. The Delegation encouraged medium and long term evaluations for projects of this nature in order to measure sustainability over time. To this end, the experts involved in the project should have experience in development-oriented policies. The results could serve as a benchmark for similar initiatives which the Delegation hoped to see in future.

347. The Delegation of Kenya associated itself with the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation also commended the Delegation of Burkina Faso for its well-designed project. The Delegation thanked the delegations for their unwavering support for the project.

348. The Delegation of Botswana aligned itself with the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation fully supported the project proposed by the Delegation of Burkina Faso.

349. The Representative of the TWN found the document to be very interesting in relation to the audiovisual sector. As mentioned by the Delegation of Brazil, the project could benefit from a stronger review and evaluation component. It was not clear whether external evaluation was included in the review and evaluation of the project. The Committee had benefited from the external evaluations of various other projects. It would be very useful for external evaluation to be included, particularly to assess whether the spirit of the Development Agenda and the requirements of the recommendations listed in the document were achieved.

350. The Vice-Chair invited the Secretariat to respond to the comments that had been made.

351. The Secretariat (Ms. Carole Croella) thanked the delegations for supporting the project. The Secretariat had taken note of the comments and suggestions that were made. On the selection of countries, due note was taken of the availability of the African Group in the selection process. The Secretariat had also taken note of the suggestion made in relation to the need for the beneficiary countries and the beneficiaries of the project to have some experience in the field of copyright and intellectual property in general. This was a very good suggestion. The Secretariat had also taken note of the very useful comments made by the Delegation of Brazil and the Representative of the TWN in relation to the evaluation component of the project. However, the Secretariat stressed that independent evaluation was included in the project.

352. The Vice-Chair thanked the Secretariat for its response. The Vice-Chair declared that it was obvious that the project had been adopted by the Committee and she was sure that this was very good news for the Delegation of Burkina Faso.

353. The Delegation of Burkina Faso thanked the delegations and assured the Committee that its government would do everything in its power to ensure the success of the project. The Delegation thanked the delegations for their support and their suggestions which had enriched the project. The Delegation also thanked the Secretariat for its work. The Delegation noted that the Secretariat would be involved throughout the implementation of the project.

Agenda Item 7: Monitor, assess, discuss and report on implementation of all Development Agenda recommendations and consideration of the Director General's Report on Implementation of the Development Agenda (Contd.)

Consideration of Document CDIP/9/7 - External Independent Evaluation Report of the Project on Intellectual Property and the Public Domain

354. The Chair understood that the Delegation of Germany wanted to make a general statement on the evaluations.

355. The Delegation of Germany noted that apart from the six evaluation reports under discussion in the Committee, a seventh was also available. It concerned an evaluation conducted by the IAOD on the technical assistance provided by WIPO to Kenya. It was the first time that the IAOD had undertaken an assessment of this nature. The report was completed earlier this year and had not been shared with the Member States. The work of the IAOD was not easily accessible to the Member States. Delegates had to sit in the office of the Head of the IAOD to read a report. Copies were not allowed. The Delegation recalled that this issue was raised last year in the PBC and during the General Assembly. A decision was not taken and there had not been a follow up. The Delegation sought clarification from the IAOD on whether the evaluation report for Kenya was of any value to the Committee. The Delegation thought it was, at least as far as internal coordination was concerned, as it was on technical assistance provided by the different sectors of WIPO. As such, the Delegation would like the IAOD to provide more information on that report and to make the report accessible to the Member States through the Committee, without the need to go to the office of the Head of the IAOD. However, this would only take care of the report on Kenya. The Committee still had to follow up on the general issue of making access easier for Member States as a rule. The rule that required delegations to go to the office of the Head of the IAOD to access such reports had to be changed. In this context, the Delegation would like to know if the Secretariat was preparing something on this issue for the forthcoming General Assembly. The current practice needed to be changed and the report on Kenya should be made available to the Committee.

356. The Secretariat could not provide a definite answer as the report was prepared by the IAOD. The Secretariat would need to be fully informed before committing to anything. However, it understood that the document would be made available on WIPO's web site and would be accessible by everyone. When this issue was discussed in the *Ad Hoc* Working Group, the Secretariat had tried to obtain further information. It understood that the report would be made available soon. However, the Secretariat had taken note of the observation made by the Delegation of Germany and this would be communicated to the IAOD and others responsible for making the report available to the Member States.

357. The Delegation of Germany reiterated that it would also like to know if the Secretariat was preparing something for the forthcoming General Assembly on changing the said rule as this only took care of the report on Kenya. The Delegation was aware that the IAOD's investigations were confidential. However, this was only on evaluation audits. According to the Head of the IAOD, in the course of the year, only two to three countries had come to his office for these reports. Hence, the Delegation questioned whether money should be spent on evaluations if the reports were not read.

358. The Secretariat stated that the IAOD was an independent audit and oversight mechanism. As such, it may be difficult for the Development Agenda Coordination Division or anyone else for that matter, to impose anything on the IAOD as it had its own reporting line. As such, it was mentioned that the observation made by the Delegation of Germany would be communicated to the IAOD to make the division fully aware that the Member States would like to see all the

reports it produced. The Secretariat would also request the IAOD to respond with all the necessary information.

359. The Chair thanked the Secretariat for its response and opened discussions on the external evaluation of the project on intellectual property and the public domain. He invited the external evaluator, Mr. Musungu, to introduce the evaluation.

360. Mr. Musungu thanked the Secretariat, in particular, the Development Agenda Coordination Division, the Project Manager and all those who had provided support in connection with the evaluation. The evaluation report was contained in document CDIP/9/7. It had been out for almost two months. Mr. Musungu provided an overview of the findings and conclusions of the evaluation. The purpose of the evaluation was twofold. It was intended to provide an opportunity for the Member States, Secretariat and other WIPO stakeholders to learn from the experiences of project implementation in order to improve the design and execution of future activities in this field. The evaluation was also aimed at providing evidence based information to support decision-making in the CDIP. The report provided details of the methodology for the evaluation as well as its key findings and conclusions. There were also four appendices with additional information, including the questionnaire that was used to for data collection. A table, summarizing the extent to which the project had realized its objectives, was included in Appendix 1 of the report. The first objective of the project was to enhance understanding of the definition of the public domain and the availability of tools for identifying subject matter that had fallen into the public domain. Four performance or outcome indicators were used to evaluate whether that objective had been met. These were based on the project document. The first indicator was the level of debate in the CDIP on IP and the public domain. Based on the evaluation and feedback from respondents, it was concluded that the issue of IP and the public domain had attracted increased attention in the CDIP as well as in other WIPO committees. This suggested an enhanced understanding or at least discussion of the issue. The second indicator was the number of policymakers that had participated in the project events. For this project, there was one main event. This was the conference on copyright documentation. 148 individuals from Member States and other WIPO stakeholders had participated in that meeting. The feedback received in previous Committee meetings and during the evaluation was that Member States and other stakeholders had found the meeting to be useful. The third indicator was the level of use of studies and surveys undertaken under the project. This indicator was not assessed as data was not available. This was partly because some of the studies had not been completed at the time of the evaluation. In terms of satisfaction with the copyright documentation meeting, 77.8% of interview / questionnaire respondents were satisfied with the conference. This was a significant per centage. The second objective of the project was to develop new tools or guidelines based on the findings of the studies with respect to the public domain. The main indicator for this was the number of guidelines or recommendations developed at the international, regional or national level. With respect to this objective, no outcome was identified. The evaluator was unable to identify any new tools or guidelines that were developed under the project or attributable to the project. Thus, that objective of the project was not met. The third objective was to provide effective opportunities for the exchange of national and regional experiences on IP and the public domain. The two main indicators for this were the number of participants in the copyright documentation conference and the level of response to surveys conducted under the project. As mentioned earlier, around 150 individuals had participated in the copyright documentation conference. The surveys were important as they provided information to allow Member States to understand what was happening elsewhere. 80 Member States had responded to the second survey on Voluntary Registration and Deposit Systems. This was about 43.2 per cent of the WIPO membership. Although it was less than 50 per cent, the figure was significant and hence, the project could be said to have provided an opportunity for exchange of information. The fourth objective concerned continued work on IP and the public domain issues at WIPO and in Member States. The first indicator for this was an increase in demand for analysis or

technical assistance on IP and public domain based on stakeholder views. 66.7% of interview / questionnaire respondents saw a growing need, going forward, for work on IP and the public domain. The other indicator was the rate of use of studies based on downloads or requests for copies. This indicator was not assessed as data was not available. With regard to the conclusions of the evaluation, a summary was included in the executive summary of the report. With respect to project design and management, the evaluation concluded that the project, including the structure and content of the original project document as well as the reporting and evaluation framework, was fairly well designed. The project document provided sufficient guidance and a reasonable framework for discussions on progress in the CDIP as well as for evaluation. The findings also demonstrated that the project implementation period needed to be longer, probably three years, and that the studies and survey could be more action-oriented to permit Member States to make concrete decisions. As mentioned earlier, some of the studies or work had not been completed at the time of the evaluation, although it was intended to be an end of project evaluation. Finally, based on feedback received as well as the information and documents reviewed, it was concluded that the project was quite well managed in terms of activity planning and execution as well as resource utilization and internal coordination within the Secretariat. Various Divisions within WIPO were involved in the project. There was very good coordination among them to ensure that the project was implemented. Although other evaluations had provided a range of recommendations, he had decided not to provide any specific recommendations on the way forward because the findings and conclusions spoke for themselves. It was left to the Committee to make those decisions. However, as this was one of the first evaluations to be undertaken on a Development Agenda project, the report included recommendations with respect to the process of evaluation of this project and Development Agenda projects in general. The practice of establishing an evaluation framework within projects was good and should be continued. It could assist the Committee as well as the broader stakeholder community to understand what had gone on in the implementation of a project and to assess its outcomes. However, as mentioned earlier, some work had not been completed at the time of the evaluation. This was not the fault of anyone in particular. Thus, it was suggested that for this type of project, an external independent evaluation should only be carried out after all the activities had been undertaken and the Secretariat had prepared an end of project report as well as a self-evaluation report. It was recommended that for projects of two years or less there should only be one end of project self-evaluation. Once the Committee had reviewed the self evaluation, a decision could be made on whether an independent external evaluation was needed. This approach was more realistic. It was also likely to produce better results and would avoid a situation where an independent evaluation was unable to fully assess the results as well as the quality of outputs. The self-evaluation exercises that were carried out under the project for the sixth and eighth sessions of the CDIP were essentially progress reports. Progress reports were not evaluations.

361. The Delegation of the United States of America thanked Mr. Musungu for preparing the independent evaluation of the project on IP and the public domain. The Delegation was pleased to be able to agree with the conclusions in the report. It was referring to the four conclusions with respect to the project results in the executive summary on page 3 of the report. The first conclusion was that the project had helped to enhance understanding of IP and public domain issues and tools. The third conclusion was that it had provided effective opportunities for the exchange of national and regional experiences. With respect to the development of new tools and guidelines to access public domain materials discussed under the second conclusion, the Delegation noted that although 60 per cent of the respondents appeared to be dissatisfied with the quality of outputs relating to this element, the Delegation believed that the report itself provided a needed perspective. The report stated on page 12, "the scoping and survey work needed to be done first, discussed and understood before any work on development of tools could commence. Expecting to start work on tools and guidelines at the same time as basic analysis of public domain issues was erroneous". Moreover, the report made clear that over 70 per cent of the respondents agreed that the project was successful in identifying existing

tools for identifying public domain matter. With respect to the fourth element, momentum and increased interest in IP and public domain issues, the Delegation believed that the growing need for further work in this area was already being addressed by the Committee's consideration of recommendations from the scoping study on copyright. On process, the Delegation indicated its general agreement with the study's recommendation that for projects of two years or less there should only be one end of project self-evaluation. Once the Committee had reviewed the self-evaluation, a decision can then be made on whether an independent external evaluation was needed. Such a model for external review showed great promise, at least for many projects. It would help avoid the situation that existed in the present case where because some of the components of the project had not been completed, a full assessment was not possible.

362. The Delegation of Egypt, speaking on behalf of the African Group, thanked Mr. Musungu for the excellent report. The Group was satisfied with the quality of the evaluation. It had met the Group's expectations and had provided a number of good outputs and recommendations. The report stated that tools or guidelines were not developed to increase access to subject matter that had fallen into the public domain. As such, the Group believed that a key objective of the project had not been achieved. Therefore, further work was required on this matter. It requested the evaluator to suggest recommendations on further substantive work to follow up on the evaluation and to provide a clear timeline for the follow up. The Group emphasized that it encouraged the practice of conducting external evaluations. It also affirmed the need for a rich and accessible public domain that did not infringe on the cultural heritage of Member States.

363. The Delegation of South Africa expressed support for the statement made by the Delegation of Egypt on behalf of the African Group. The Delegation thanked Mr. Musungu for the evaluation report. It noted that the evaluation was conducted while the project was still ongoing. The evaluator had just informed the Committee of that and this was also indicated in the report. However, the evaluation did provide an insight into the components of the project that had already been implemented. While noting that the report did not make any recommendations with respect to future work, the Delegation had identified the findings of the report that it could fully endorse. These included the need to factor in a reasonable time period for project implementation. This could be applied across the board because the Committee had considered a number of other evaluations where limited time had been provided for the full implementation of projects and their evaluation. There was also a finding that the studies should be more action oriented to enable Member States to make concrete decisions. The Delegation believed that the project had fulfilled this requirement. So far, the studies had been rather useful in providing options for the future work of the Committee. For instance, the scoping study on copyright and related rights and the public domain prepared by Professor Dusollier contained recommendations that could be translated into potential future projects that the Committee could pursue. It was also found that there was a growing need for further work on IP and public domain issues both at WIPO and within Member States, particularly in developing countries and LDCs. Further, as this was the first project of this kind, the different components of the project may be addressed separately going forward. The Delegation supported this. However, the most compelling finding was that a key objective of the project was not achieved. It concerned the development of new tools and guidelines that could be used to increase access to subject matter that had fallen into the public domain or to preserve knowledge that had fallen into the public domain. It was important to continue work in this area to fulfill this objective. The Delegation noted that the evaluator did not provide recommendations on future work and had stated that it was up to the Member States to decide on this. However, the Delegation would like the evaluator to inform the Committee of what it could do to fulfill that outstanding objective. The Delegation's overall impression was that the Committee must continue working towards the full implementation of Recommendations 16 and 20 of the Development Agenda. The Delegation noted that a recommendation was made on

the evaluation process. It believed that the current system should continue. It should also take into account what was highlighted in the evaluation, in terms of the reasonable time period that should be accorded to the implementation of the project. An external evaluation should be a mandatory requirement. It should not be optional. The Delegation supported the current practice and what was recommended could be factored in so as to enable the project to be properly implemented and for the evaluation to be carried out, as appropriate.

364. The Delegation of Brazil welcomed the external evaluation report and the presentation by Mr. Musungu. The Delegation agreed with the points expressed by the Delegation of Egypt on behalf of the African Group and the Delegation of South Africa. This project related to recommendations 16 and 20 of the Development Agenda. The project was described in document CDIP/4/3/Rev1. It covered copyright and related rights, trademarks and patents. Document CDIP/9/INF/5 covered the trademark component and would be presented in this session of the Committee. The external evaluator had divided the conclusions into two categories, project design and project results. With regard to project design, the report affirmed that the implementation period for the project needed to be longer. With regard to project results, the external evaluation concluded that the project did not result in the development of new tools or guidelines that could be used to increase access to content that had fallen into the public domain or to preserve such content. The Delegation had also taken note of the evaluator's remark that more work was needed in relation to enhancing understanding of IP and public domain issues and tools. Only one conference was held on copyright documentation and infrastructure. A high level of satisfaction was recorded. Other events should also be organized for trademarks and patents. It was also necessary to include the development of the said tools or guidelines, one of the key objectives of the project, in the second phase. The Delegation would like to know how the Secretariat intended to pursue the remaining objectives of the project. Finally, with regard to the evaluation framework, the Delegation was of the view that all active projects should undergo external evaluations. These offered insights which helped Member States to monitor the effectiveness of a project and to decide on future initiatives.

365. The Delegation of Germany advised the Committee to be cautious when deciding on the different forms of evaluations that were required. Delegations had referred to the need for external evaluations. However, this should depend on the situation and criteria. It could begin with a self-assessment by the project manager. The first point of control was the validation report of the IAOD. This was an internal instrument for examining self-assessments. Some feedback had been provided in recent years on the quality of the self-assessments. The Delegation expected the project managers as well as the IAOD to learn from the evaluation experience whenever an external evaluation was conducted. From the Delegation's point of view, external evaluations should be an exception. Strategically, it could be used as a form of pilot evaluation, for instance, in a country evaluation that was undertaken for the first time, like the one on Kenya. In that instance, it could make sense for an external evaluator to assess whether the IAOD had followed the right model. If it was approved, the IAOD could continue and there would not be a need for an external evaluation unless a further need was identified. The practice should not be to automatically ask for an external evaluation. The Committee should depend on internal mechanisms. If the internal structure was working well, it would be easier for the external evaluator to carry out work later. The Secretariat had to learn from the external evaluations in order to improve. Hence, from the Delegation's perspective, external evaluations should be an exception.

366. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, thanked the evaluator for his report. The evaluation was extremely important and the Group had a number of things to say about it. First, on project results, the Group noted that reference was made to the need for a better definition of public domain. As such, further work was required on a more specific definition for the term "public domain" in order to identify matters that were within the public domain and with the tools to do so. This was very important. The

Secretariat would agree that this should be defined in a way that would not be prejudicial to the protection of traditional knowledge. The Group was aware that certain matters fell within traditional knowledge, and others, within the public domain. The Group was concerned that one of the expected results of the project was not achieved. It encouraged the Secretariat to fully take into account the recommendation that was made and do its utmost to ensure that new tools and guidelines were developed and made available to Member States. This would enhance their understanding of the public domain and assist in addressing the issues. The Group was very concerned that the project had not been able to develop those tools and guidelines. With regard to the option of including an external evaluation, the Group was in favor of continuing with the current process. In other words, an external independent evaluation should be a mandatory requirement. It should not be optional.

367. The Representative of the Institute for Intellectual Property and Social Justice (IIPJSJ) congratulated the Chair on his election. The IIPJSJ applauded WIPO for its work in the general area of IP and the public domain, and the work of the consultant, Mr. Musungu, for the project evaluation report in document CDIP/9/7. The public domain and its importance was a very difficult area to study and evaluate. The IIPJSJ agreed that the evaluation demonstrated that much more work needed to be done on the value of the public domain, especially with respect to the inclusion and empowerment of marginalized and developing communities. The IIPJSJ believed that the inclusion and empowerment aspects of social justice can be advanced by encouraging the development of intellectual property protection within those communities, provided that the shape of the law and the scope of protection took into account the social justice aspects of the IP regime, including in particular, the impact of the public domain. Although the report made clear that the importance of the public domain was very hard to be quantify and evaluate, and to come up with tools to evaluate, protecting the public domain could certainly assist in the development of marginalized communities by protecting one of the main sources from which they can draw upon to create and exploit new works. As they developed, the marginalized communities would contribute more fully to the advancement of culture and the material wellbeing of their respective countries as a whole. In concluding, the Representative thanked the Chair, the Committee and WIPO for the opportunity to participate. The IIPJSJ commended WIPO and the Committee, on its work to-date in seeking to advance balance, inclusion, and empowerment in IP law and administrative regimes worldwide.

368. The Chair noted that the Member States had generally supported the key findings and conclusions that were made. He invited Mr. Musungu to respond to the questions and comments from the delegations.

369. Mr. Musungu thanked the Delegations their comments and feedback on the report. With respect to the project not having met its second objective and what could be done, as mentioned in the report, the sequencing of activities was wrong in the sense that it had required the understanding of the issue and the development of tools at the same time. The sequencing was not right. Now that some work had been done to understand the issue through studies and surveys on what was happening in countries, it could soon be time to look at what tools could be developed. As indicated in the report, Professor Dusollier's study was very well received by the Committee. It included certain recommendations on ways in which further work could be undertaken. Those would be the areas which the Committee could examine to see which of those could be taken forward and to support the development of tools. Part of the reason why he had not made specific recommendations on future work was because some of the studies were still being completed. As described in the summary of the evaluation matrix, data was not available to evaluate, for example, the studies themselves and there was insufficient feedback to determine whether those studies were being disseminated. Studies could be produced but if they were not being disseminated then it could not be said that these had enhanced understanding of the subject. On the issue of whether external evaluations should be mandatory or optional, the suggestion was not necessarily to eliminate external evaluations.

From a process and substantive perspective, the experience had indicated that it would have been better if the external evaluation was discussed at a time when all the work under the project had been completed. He had requested the Secretariat for an end of project report but this was not available because work was not completed. Thus, it was suggested that when the Secretariat had prepared an end of project report summarizing what had been done and a project self-evaluation had been conducted, the external evaluator could take over and much more value would be added. That was the suggestion. The suggestion was not to eliminate external evaluations. With respect to the comment from the Delegation of Germany, that could be taken up by the Secretariat. He could not comment on what should happen internally but that suggestion should be looked into.

370. The Delegation of South Africa noted that the Secretariat had not replied to the question raised by the Delegation of Brazil on the way forward for the project and the objective which had not been realized.

371. The Secretariat acknowledged that it had not been possible to develop any specific tools or guidelines under the project. That objective was not achieved. The Secretariat shared the opinion of the external evaluator on the sequencing of activities. It was not possible to study the issue and to develop specific tools and guidelines at the same time. One of the key lessons learned in the management of the project was not to include several components dealing with different issues in one project. The outputs under the copyright, patent and trademark components were all different. One of the reasons why it had not been possible to prepare an end of project report was because the trademark component was only approved at the second session of the Committee in 2010. The components on copyright and patents were approved at the end of its second session in 2009. The inclusion of various components on very different issues under one project had made the management and implementation of the project very difficult. That was why the Secretariat fully agreed with the recommendation of the external evaluator that it would be better to have separate projects for each component in future. This would allow for a clear focus on the scope of each component and ensure that all the outputs would be achieved within a particular time frame. This was directly related to the question put forward by the Delegation of Brazil on the Secretariat's thoughts on future work. Sometimes everything happened at the same time. For example, with regard to the patent component, during the fifth session of the Committee in April 2010 and following a suggestion made by the Delegation of Bolivia, it was decided that the Secretariat would prepare a project proposal to *inter alia* address three other elements that were not covered in the patent component of the project. The Committee later approved an additional project on patents and the public domain with regard to those elements. This included, for example, a micro-level study on patents and the public domain because the first study was at a macro level, and the consideration of patents and the public domain in the context of norm-setting. Future work should be structured under the different components. Within each component, the Member States would decide on which recommendations should be followed up. For example, during the current session, the Committee would be discussing three recommendations made by Professor Dusollier as well as a document prepared by the Secretariat for this purpose. The Committee would decide on future work in relation to those three recommendations. Should Member States decide to proceed with further work, the Secretariat was of the opinion that this should take place under specific projects. The components should not be integrated into one overall project.

372. The Delegation of Brazil thanked the Secretariat for its explanation. The Delegation had a follow up question. It was stated in the table provided in Annex 2 of the Director General's report, that the project on IP and the public domain had been completed. In this context, the Delegation would like to know if this was indeed the case or whether additional actions could be taken within the existing project.

373. The Delegation of Egypt thanked the Secretariat for its explanation. It would be useful to conduct follow up work on the development of guidelines and tools in order to reap the benefits of the studies and surveys that were carried out. The Delegation would also like the evaluator to state his views on the practical implementation of those studies and surveys. The Delegation understood that this could be done as part of the follow up to the project.

374. The Secretariat referred to the question from the Delegation of Brazil and confirmed that all the components of the project had been completed. The last activity was the study on the misappropriation of signs and this would be presented during the current session of the Committee. Thus, in terms of its components, the project had been completed. The trademark component was the last to be completed because it was only approved during the second session of the Committee in 2010 whereas the copyright and patents components had been approved the year before. As such, there had only been one year to implement the trademark component. The external evaluator could not assess the last component because it had not been presented to the Committee.

375. Mr. Musungu referred to the question raised by the Delegation of Egypt. He had already mentioned what could be done with respect to the development of tools. Further work on the specific recommendations of each study could also be undertaken. However, those recommendations had been made by the authors of the studies. They had also provided the reasons for their recommendations. Thus, it may not make sense for someone like him who had not been involved in the preparation of the studies to suggest which of the recommendations should be pursued. From an evaluation perspective, what was required was an assessment of the usefulness of the studies to the Member States, in terms of enhancing understanding of the public domain and providing direction to the stakeholders on what should be done. As mentioned earlier, that aspect was not assessed because some of the studies had not been completed and there was a lack of data. Hence, it was suggested that if the evaluation had been done a little later, that information could have been provided.

376. The Delegation of South Africa thanked the Secretariat for the clarification. The Delegation stressed that an objective had not been achieved. This was regardless of whether the sequencing was right or wrong. It would be prudent to keep this in view. The Committee had still to assess another study. Taking into consideration that the sequencing was wrong, perhaps the Committee should return to the tools only after it had evaluated all the studies. The Delegation agreed that the scoping study on copyright and related rights by Professor Dusollier was very good and the Committee was going to assess some of the identified recommendations. The development of the said tools and guidelines should be kept in mind, taking into account that the project was evaluated before it was actually completed. The Committee could return to the issue later and instruct the Secretariat on how to take it forward. It should not lose sight of it just because there had not been enough time to complete the project.

377. The Secretariat clarified that although the components of the project had been completed, the outputs were still being examined and discussed by the Member States. Thus, work was still going on. This included, for example, the study on the misappropriation of signs under the trademark component, the way forward with regard to three of the recommendations of the scoping study on copyright and related rights and the public domain, and the additional work on patents and the public domain. Thus, although project components had been completed, the outputs were still being discussed and work on those issues was underway.

378. The Chair thanked the Secretariat for the clarifications and concluded the discussions on this item.

Consideration of Document CDIP/9/8 - External Independent Evaluation Report of the Project on Intellectual Property and the Competition Policy

379. The Chair opened discussions on the external independent evaluation of the project on intellectual property and competition policy. He invited the external evaluator, Mr. Musungu to introduce the evaluation.

380. Mr. Musungu explained that both evaluations had been done in parallel and involved different people and respondents to the questionnaires. He thanked the Secretariat and the project manager for their support in making the documents and information available in a timely manner for the evaluation. The methodology for the evaluation was very similar to the other evaluation. The report was also approached in a similar manner. As in the case of the previous project and other projects, the project had a built-in evaluation framework. This included outcome and performance indicators. These provided the basis for the evaluation with certain modifications in some cases. The project had four broad objectives. As such, the external evaluation assessed the extent to which the project had enhanced understanding of the interface between IP and competition policy among policy makers, particularly in developing countries and LDCs; increased pro competitive IP licensing practices; provided opportunities for exchange of national and regional experiences on IP and competition; and created momentum and increased interest for continued work on IP and competition issues at WIPO and in Member States. With respect to enhancing the understanding of policymakers, there were three broad performance or outcome indicators. These included the level of discussion as this was in many ways a new topic for the Organization; the participation of policymakers in project events; and the satisfaction of the participants in the project events that were undertaken. With respect to the level of discussion, there had been a marked increase in the level of debate on IP and competition in the CDIP and other WIPO committees, including the SCP and the SCCR. Although this was not a direct result, the project had contributed to increasing awareness of the interface between IP and competition policy in those discussions. With respect to participation in project events, several events were undertaken during the project. This included the Global Conference on Emerging Licensing Modalities. The conference was held at WIPO headquarters. 350 participants and 40 high level speakers had taken part. Thus, almost 400 people had participated in that conference, including representatives from the public sector, industry, civil society, academia, and others. The conference attracted significant attention from the international media. In addition to the conference, several other events were also organized, including the various symposia that were held in Geneva as well as regional meetings and round tables held in Brazil, Kyrgyzstan, Singapore and South Africa. In total, more than 300 policy-makers and experts had participated in the regional meetings and roundtables. As such, it was assessed that the project had reached quite a large number of people. 75 per cent of the respondents were satisfied with the events that were undertaken. With respect to the objective to increase pro-competitive IP licensing, data was not available to assess it. The performance indicators were the number of countries that had adopted appropriate legal provisions in national / regional laws and the number of guidelines or recommendations developed at the national / regional level. In addition to it being a new area, it was also quite difficult to correlate a single project with industry trends. Thus, even if such licensing had increased in industry, it would be difficult to attribute it to the project. Although this was a laudable objective, it was questionable whether this was a realistic objective for a two year project and whether it was indeed possible to correlate the activities of the project with such outcomes in industry practices. With respect to providing effective opportunities for the exchange of national and regional experiences, based on the feedback from respondents, this was probably the biggest achievement of the project. As mentioned, a significant number of policy-makers had participated in the different events. Although the response to the surveys was low, that may be an indication of the level of understanding and the lack of coordination at the national level between the responsible entities. Finally, on whether there was momentum or increased interest for continued work on IP and competition issues, the evaluation examined a

number of issues. The first was not included in the evaluation matrix. However, it was evident that the project had helped to mainstream IP and competition into WIPO's Program and Budget for 2012/13 and a Division had been created to spearhead that work. This was an important outcome of the project. There was also an increase in requests for technical assistance in relation to advice or information on this subject. 71.4 per cent of the respondents felt that there was a growing need for more work in this area. This had already been recognized by the Member States through their approval of the Program and Budget. The evaluation was not able to assess the level of use of the studies as some were still under completion. An important outcome of the project was the signing of Memorandums of Understanding between the IP offices and competition authorities in a number of countries. There was not even informal contact between these agencies at the beginning of the project. This was a concrete outcome that would assist those Member States in enhancing understanding and coordination on the interface between intellectual property and competition policy. With respect to project design and management, the overall finding was that it was well-designed and the project document was quite well conceived, as a result of the collaboration between the Member States and the Secretariat. The initial document was drawn up by the Secretariat but the final project document was a collective work. However, one criticism from respondents was that there was limited external coordination that would have ensured closer partnerships with other relevant international organizations, including the United Nations Conference on Trade and Development (UNCTAD), the World Trade Organization (WTO) and the Organization for Economic Cooperation and Development (OECD). It would appear, however, that the design of the project and the nature of its activities, such as the surveys of the laws of Member States, constrained the scope of coordination with those external agencies. However, efforts were underway in the new IP and Competition Division to enhance cooperation with other relevant agencies. Thus, the level of collaboration or opportunities for collaboration with other agencies may have been limited. However, with the establishment of the IP and Competition Division, work was being done to enhance collaboration. Finally, in terms of activity planning and execution, the project was quite well managed and the resources were well utilized taking into account the resources which were made available and what was achieved.

381. The Delegation of Chile thanked the Secretariat for the preparation of the documents. The Delegation also thanked Mr. Musungu for his work. The Delegation was following the positive results of the initiative with great interest. The Delegation noted that there had been a low response to the questionnaires. The Delegation was very pleased that the project had achieved good results but this was based on feedback from a low number of respondents. The Delegation agreed that specific initiatives had been developed by WIPO in 2011 on IP and competition. It was pleased to learn more about those activities. The Delegation also learned that an activity would soon be organized in Brazil. Activities that were undertaken in this area would have repercussions at the national level. The Delegation informed the Committee that a symposium on intellectual property and competition would be held in Chile in the second quarter of 2012. This would be carried out within the framework of cooperation between Chile and WIPO.

382. The Delegation of the United States of America thanked Mr. Musungu for his external evaluation of the project on intellectual property and competition policy. It may be recalled that the Delegation had taken the floor at the last session of the Committee to offer a number of comments on the project. The Delegation would not repeat those here. The Delegation had also responded to the questionnaires circulated by Mr. Musungu for the project. Its views were therefore reflected in the final report. Their participation in the project would not have been possible without the extraordinary dedication of a number of officials at the two competition agencies in the United States of America, in particular Frances Marshall and Richard Larm of the US Department of Justice and Dina Kallay at the Federal Trade Commission. They and others within their agencies had played a central role at every stage of the project. The Delegation thanked them publicly for their contributions. The Delegation made three concluding

comments. First, it would appreciate an update on the status of some of the project activities that had not been completed, such as the new edition of the WIPO publication on successful technology licensing and the final publication containing the studies and reports on the meetings conducted under the project. Second, the Delegation reiterated its support for the recommendation of the independent evaluator that for projects of less than two years duration, the Committee should be given the option of commissioning an external review. Third, it looked forward to the initiatives of the new WIPO Division on IP and competition policy and stood ready to work constructively with its Director and staff.

383. The Delegation of Brazil thanked the Secretariat for the documents and the external consultant for his report and presentation. The Delegation had followed with interest the information provided with regard to the project on intellectual property and competition policy that was set out in document CDIP/4/4 Rev. The external consultant had described the efforts of the new IP and Competition Division to enhance cooperation with other relevant agencies through an informal IP and competition interest group. The Delegation suggested that the Division should report to the next session of the CDIP on its activities to allow the Member States to have a full picture of its work, which seemed to be very relevant and important.

384. The Delegation of Egypt thanked the Secretariat and the evaluator for the report. The Delegation requested for certain clarifications. It would like to know more about the approach that was taken for evaluating the outcomes or results of the project. The expected outcomes included introducing IP and competition issues in WIPO's training programs on technology licensing, several studies on IP and competition, regional or sub-regional meetings on IP and competition, a global meeting on emerging licensing modalities, Geneva-based symposia on IP and competition policy; elaboration of a survey, development of a guide on franchising and so on. The Delegation would like to know if these outputs had been examined by the evaluator, and if so, it would like to know the details of the assessment.

385. The Delegation of South Africa thanked Mr. Musungu for the evaluation report. Some of the findings were similar to his previous report, especially on the inclusion of external evaluations as an option. The Delegation still preferred this to be mandatory. However, it agreed that such projects should be given a longer period for implementation. As in the case of the previous project, one of the objectives of the project was not achieved. This concerned an increase in pro-competitive IP licensing practices. There was a need to follow up on this. If something had not been achieved it should be follow up and improvements should be made. That was why evaluations were carried out.

386. The Representative of the TWN thanked Mr. Musungu for the evaluation report. The Representative requested for certain clarifications on the evaluation report. It was mentioned in page 12 of the report, that 75 per cent of the respondents were either very satisfied or satisfied with the symposia or other events that were organized. The Delegation would like to know whether the evaluation had examined whether the various events that were organized had included the right topics and whether the speakers were balanced and reflected the diversity of perspectives on the issues, or if it was just based on responses to questionnaires that were probably completed by the participants. The report also mentioned that 25 per cent of the respondents were dissatisfied with the events that were organized. In this context, the Representative would like to know if there was any information on why they were dissatisfied with the events. The Representative would also like to know whether the evaluation framework required an assessment of the extent to which the project and its activities fulfilled the recommendations of the Development Agenda. For instance, Recommendation 23 was on how to better promote pro-competitive intellectual property licensing practices, particularly with a view to fostering creativity, innovation and the transfer and dissemination of technology to interested countries, in particular developing countries and LDCs. Hence, the Representative would like to know to what extent the project and the activities fulfilled the recommendations of

the Development Agenda and whether this was a requirement of the evaluation that had been carried out.

387. The Chair invited Mr. Musungu to respond to the questions and comments from the delegations.

388. Mr. Musungu explained that he would only respond to certain issues. The Secretariat would tackle the rest. He referred to the comment made by the Delegation of Chile on the rate of response to the questionnaire. The rate was less than 50 per cent. The response to the questionnaire for the public domain project was higher. Major efforts had been made to secure responses but this was the best that could be achieved within the available time frame. However, as mentioned in the report, the level of response did not significantly affect the assessment as self-evaluations had been undertaken and there had also been significant discussions within the Committee on the outputs of the project. On the methodology, two approaches were used to obtain information and data. These included sampling in the form of the questionnaire and reviewing detailed documentation. The evaluation report contained a list of documents that were reviewed, including CDIP reports as well as internal WIPO reports on the meetings and symposia. Thus, although the response was low, there was enough information to make an objective and informed assessment of the project. He referred to the issue raised by the Delegation of Egypt on the outputs of the project. It was true that many activities had been undertaken under the project. Some were being completed during the evaluation. It was clearly indicated in the report that the purpose of the evaluation was not to evaluate each and every activity. It was intended to broadly assess whether the objectives of the project had been met. The outputs were covered in the self-evaluations. The external evaluation assessed the broad outcomes of the project. As such, it did not look into each individual activity. More attention was paid to the views of Member States in the CDIP as well as the responses to the questionnaires, as opposed to his personal assessment of a particular document. With regard to the question from the Delegation of South Africa, it was true that an objective of the project was not met. However, unlike the case of the public domain project, there was already an avenue for work to continue in this respect. The Member States had already decided to mainstream the issue of IP and competition policy into the Program and Budget. Further work on this objective could be taken into account in the work of the new Division on IP and competition. With regard to the questions raised by the Representative of the TWN, the evaluation did not assess, for example, the balance of speakers for a particular event. His interest had been to understand the views and responses of the participants, as the issue was whether they had increased their understanding of the interface between IP and competition policy. As far as he was aware, different individuals representing various stakeholders had participated in the events. However, this aspect was not specifically assessed in the evaluation. With regard to whether the specific activities fulfilled the recommendations of the Development Agenda, the Member States had made it clear, on numerous occasions, that a single project would not fulfill those recommendations. It was recognized that the project was part of the efforts to fulfill the recommendations. That was also why the Member States had decided that work should continue within the framework of the Program and Budget. Thus, the evaluation was limited to assessing whether the objectives that were set by the Member States for the project had been met. The extent to which these had been met contributed towards the eventual fulfillment of the recommendations. However, it could not be said that the recommendations had been exhausted and work was completed. With regard to the respondents who were not satisfied, for example, with the events that were organized, it was indicated in the report that some respondents were concerned that the project was too narrow and only focused on licensing. Thus, one of the reasons for the dissatisfaction concerned the scope or focus of the project.

389. The Secretariat (Mr. Nuno Pires De Carvalho) thanked the evaluator for his good work and the delegations for their very relevant questions with regard to the project. The Secretariat

referred to the question raised by the Delegation of Chile and confirmed that a meeting would be held in Rio de Janeiro in July. The meeting would be jointly organized by CADE, the Brazilian competition authority, INPI and WIPO. Representatives from the competition agencies and IP offices of various countries in the region would be invited to participate in the meeting. The Secretariat also confirmed that a joint meeting with the Chilean competition authority and national IP agency would be held in Santiago from October 16-18, 2012. With regard to the questions and comments from the Delegation of the United States of America, the Secretariat could not single out their officials as it had also received support from a number of other countries. However, the Secretariat confirmed that the support of the said individuals from the FTC and the US Department of Justice had been extraordinary. With regard to an update of the results of the project components, in particular, the activity concerning licensing, the Secretariat's response was also applicable to the comments made by the Delegation of South Africa and the Representative of the TWN. The project had eight components, two of which were carried out jointly with other sectors of the Organization. In those cases, the project manager had taken on the role of a project coordinator. The work on licensing consisted of two elements. These included updating the brochure on successful technology licensing. Although it provided some very practical recommendations on negotiations involving licensing agreements, the brochure lacked a section on the antitrust aspects of licensing negotiations. That work was undertaken jointly with the Patents Division. A text had been prepared and finalized. It was currently with that Division and its Director would be in a position to inform the Committee of the status of the publication of the revised brochure. Materials had also been prepared to integrate the antitrust components of licensing agreements into the training courses. The Patents Division had integrated these aspects into some of its courses and the IP and Competition Division had volunteered to test their use in practice. The first draft of the project document had put a lot of emphasis on licensing. This was perceived as an imbalance in the scope of work and efforts were made to address other areas of the interface between intellectual property and competition. However, as mentioned by the evaluator, it was not possible for the Secretariat to replace private companies in licensing negotiations. It was not possible for the Secretariat to draft licensing clauses for them and to tell them what was in their best interest. However, what it could do, and had done, was to talk to governments, policymakers and law makers on ways to strengthen their frameworks for good IP licensing practices. As such, the elaboration of resource kits on the interface between technology transfer and antitrust was included in the mainstreamed activities. The kits were being developed with the cooperation of a number of Member States that had a lot of experience in this area. These would result in a practical hands-on document with examples that Member States with less experience can use in order to strengthen their framework on IP and licensing. This would be preferable to the provision of guidelines or recommendations by the Secretariat. With regard to the questions put forward by the Delegation of Brazil, the Secretariat confirmed that an informal interest group had been established with other relevant agencies, namely the OECD, WTO and UNCTAD. The interest group would hold regular informal meetings in the different headquarters of the four organizations to exchange views and discuss improved cooperation between these organizations. The International Competition Network (ICN) would also be invited to attend each meeting. The ICN was an informal network of national competition authorities. WIPO had already informed the current chair of the ICN steering committee that it would be invited to attend. The Secretariat would also be more than happy to continue reporting to the Committee on the activities of the IP and Competition Division. When the activities on IP and competition were mainstreamed into the Program and Budget, the Director General had stressed that the three recommendations should continue to guide the Division's work. As those recommendations would continue to preside over its work, it would make sense for the Division to continue reporting to the Committee. However, this was to be decided by the Member States. With regard to the final publication of the outputs of the project, this was the eighth component the project. As the publication would contain selected outputs from the project, the selection would only be possible when all the project outputs were approved. The publication would be used as material for seminars, meetings, conferences and

so on. The Committee would be reviewing a document prepared by a Brazilian institution for the project tomorrow. After that, the Secretariat would be able to fully embark on the preparation of the publication and work had already begun.

390. The Delegation of Egypt noted that the external evaluation had assessed the extent to which the three objectives of the project had been achieved. These included increasing understanding of the interface between IP and competition policy among policy makers; promoting pro-competitive IP licensing practices; and providing opportunities for exchange of national and regional experiences. The results and conclusions of the evaluation report contained many elements on increased understanding, increased debates, increased cooperation between IP and competition authorities, and so on. However, it did not address the second objective on the promotion of pro-competitive IP licensing practices. The Delegation would like to know more about the evaluator's approach to this objective. The Delegation would also like to know whether two specific outcomes of the project had been achieved, and if so, whether these had been evaluated. These included the elaboration of a survey and the development of a guide on franchising and the elaboration of a survey and analysis on the use of compulsory licenses to repress anticompetitive practices.

391. Mr. Musungu referred to the two specific documents. These were produced, discussed and finalized. However, as mentioned earlier, the evaluation did not examine those documents separately. In terms of the second objective of the project, it was mentioned in the report that this was not met. The evaluation could not establish whether the project had had any impact on industry licensing practices. As was explained, pro-competitive licensing concerned industry activities and how companies related to each other with respect to technology licensing. One of the issues was that even if there had been a global increase in licenses that were favorable, for example, to technology transfer, it would not have been possible to link this to the project. It was very difficult to connect the two because industry behavior was affected by many other factors. In addition, assessing whether there had been an increase in pro-competitive IP licensing was a huge task that was beyond the scope of the evaluation. For these reasons, the evaluation was unable to assess that particular outcome. As work continued, Member States may be in a better position to calibrate their frameworks and to understand what was happening in terms of licensing in their own jurisdictions.

392. The Chair thanked Mr. Musungu for his response and concluded the discussions on the external independent evaluation of the project on intellectual property and competition policy.

Information provided by the Secretariat on the Implementation of Project on Intellectual Property (IP) and Informal Economy - Document CDIP/8/3 Rev.

393. The Chair invited the Committee to consider information concerning the project on intellectual property and the informal economy. The information would be provided by the Secretariat.

394. The Secretariat (Sacha Wunsch-Vincent) recalled that the Member States had requested the Office of the Chief Economist to study the link between intellectual property and the informal economy in a project that was related to the implementation of Recommendation 34 of the Development Agenda. The project was intended to enhance the understanding of the Member States on how innovation occurred in the informal economy and the potential or existing role of IP in that regard. It was agreed, at the last session of the Committee, that the project would consist of one conceptual study and three country case-studies. The Secretariat had stated that it would report to the Ninth session of the Committee on the country case-studies that were under consideration. In the intercession, the Secretariat had engaged in extensive consultations with relevant economic experts as well as the experts on innovation in the informal economy in order to select three case-studies that would best address the requirements of the

Member States. At present, three African sector studies were under consideration. These included the metal and manufacturing sector in Kenya, the herbal medicine sector in Ghana, and the chemical sector in South Africa. The selection criteria for these were both academic and demand driven. What was very important was the availability of local experts and existing studies on the informal economy in relation to those sectors. The budget for the project was limited and this would allow the Secretariat to build on those studies. An extra dimension would be added in terms of innovation and the role of intellectual property within those sectors. Another important consideration was their relevance to other countries. The selection was also demand driven. The project was initiated at the request of all Member States and in particular, the African Member States. The selected sectors were mentioned by the Member States in the two previous sessions of the Committee. For example, the herbal sector was mentioned by many delegations. The experts had confirmed that the sector was very relevant to the project. The Secretariat had begun consultations with the respective countries. It would wait for their support before implementing the project in those countries. When the process was formalized or had the support of those three countries, the Secretariat would make available a project implementation proposal or document to the Committee in the next two to three weeks. This would allow the delegations to be fully briefed on the implementation of the project and the experts that would be involved.

395. The Chair thanked the Secretariat for the information that was provided. As none of the delegations had requested for the floor, he encouraged the Secretariat to continue with its work. The Committee looked forward to further reports on the implementation of the project.

Agenda Item 8: Consideration of work program for implementation of adopted recommendations Contd.)

Consideration of Document CDIP/9/11 - Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8, and Documents CDIP/7/3 – Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II

396. The Chair opened discussions on the Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8 and Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II. He invited the Secretariat to introduce the documents.

397. The Secretariat referred to document CDIP/9/11 on the Work Program on Flexibilities in the Intellectual Property System - New Elements Proposed at CDIP/8. At the Eighth session of the Committee, the members had considered and approved document CDIP/8/5 on a Future Work Program on Flexibilities in the Intellectual Property System. During the discussions on that document, a number of delegations had suggested various new activities related to the field of flexibilities and the Secretariat was requested to compile those activities in a document. These were compiled in document CDIP/9/11 for the Committee's consideration. The Secretariat turned to document CDIP/7/3 Add on Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II. The Secretariat provided the background to that document. The Development Agenda contained some key recommendations that focused on the understanding and use of flexibilities in the intellectual property system. Following the request of the Committee, two documents were prepared in relation to patents. Documents CDIP/5/4/Rev. and CDIP/7/3 were available on the WIPO web site and provided information on the implementation of ten patent related flexibilities. Each of those documents contained an executive summary; a list of five patent related flexibilities together with a conceptual description of each, including the international legal framework and the implementation at the national level of each of those flexibilities; and extensive annexes on the flexibilities and the relevant provisions of national laws around the

world. Those two documents were not intended to be exhaustive, in terms of the existing patent related flexibilities. They merely represented a selection of flexibilities. During the discussions on Recommendation 14 of the Development Agenda in the sixth session of the Committee in November 2010, Member States had requested the Secretariat to extend document CDIP/5/4 to five other flexibilities. These were contained in document CDIP/7/3 on Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II. That document was submitted and introduced at the seventh session of the Committee. However, as the session was suspended, the document was considered when it resumed in November 2011. In that session, the Committee had decided that February 6, 2012, would be the deadline for the submission of comments by the Member States. The Committee also agreed that the document would continue to be considered at the current session, together with the comments received from the Member States. Following that decision, the comments received by the Secretariat from the Delegations of Brazil, the Netherlands and the United States of America were contained in the annex to document CDIP/7/3/Add. As such, the document was submitted together with the original document to the Committee for its consideration.

398. The Delegation of Argentina referred to paragraph 2(c) of document CDIP/9/11 on the work program on flexibilities in the intellectual property system. That paragraph was on the preparation of additional studies to extend the Secretariat's current work on patent-related flexibilities. This referred to work that was carried out in the preparation of document CDIP/7/3 on patent related flexibilities in the multilateral legal framework and their legislative implementation at the national and regional levels. That document had just been introduced by the Secretariat. The Delegation thanked the Secretariat for the preparation of document CDIP/7/3. This was related to the implementation of Recommendation 14 of the Development Agenda which required WIPO to assist in the understanding and use of flexibilities contained in the TRIPS Agreement. The use of the patent related flexibilities of the TRIPS Agreement was vital for developing countries. Enhancing the knowledge of developing countries with regard to those flexibilities would assist in strengthening their capacities for enacting laws and policies which took into account their interests and national priorities. Although most developing countries had adhered to the TRIPS Agreement, several had experienced limitations and serious obstacles in making effective use of the available flexibilities with regard to patents. This included the absence of a clear cut guide on implementation. Its national authorities, in particular, those responsible for the protection of industrial property, had carefully studied document CDIP/7/3 and expressed their satisfaction with the document. The Delegation supported the work on patent related flexibilities in view of its importance for development. Document CDIP/7/3 was a good start in addressing this issue. The Delegation had noted with great interest the specific comments made by the Delegations of Brazil, the Netherlands and the United States of America. The Delegation agreed with the Delegations of Brazil and the United States of America that the topics covered in document CDIP/7/3 could be consolidated. These could be further explored to enhance the understanding of developing countries on the use of flexibilities contained in the TRIPS Agreement. It would be an extension of what had been done to date. A similar format could be adopted and it would not be qualitatively different. In connection with the preparation of additional studies to extend the Secretariat's current work on patent-related flexibilities mentioned in paragraph 2(c) of document CDIP/9/11, an area which required further work was the analysis of flexibilities contained in Article 27 of the TRIPS Agreement. Article 27 was a fundamental provision of the TRIPS Agreement and its flexibilities were particularly important for developing countries. As such, the Secretariat's analysis of Article 27 could be more detailed. As the Secretariat had mentioned, the two said documents were not exhaustive in terms of the existing patent related flexibilities and merely represented a selection. The suggested work would be a natural extension of the analysis that had been carried out and would not be qualitatively different. For example, this could include further analysis of the flexibilities related to novelty, industrial application and other elements which were either briefly or not at all analyzed in the document. These included the flexibility to

exclude from patentability, inventions, the prevention of the exploitation of which was necessary to protect public order or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment; plants and animals and essentially biological processes for the production of plants or animals. The Delegation would like the analysis to examine the scope of these flexibilities. This would assist Member States to determine the patentability of a product or process. In other words, the analysis should be more detailed and include technical aspects so as to assist intellectual or industrial property offices in their work. Further work on those flexibilities were required in view of their impact on agriculture, health and access to medicines, biochemistry, pharmaceutical industries, food industries, food security and the environment. For these reasons, the Delegation requested the Secretariat to carry out a further study on all flexibilities that had not been analyzed, including those in Article 27 of the TRIPS Agreement on patentable subject matter. This would be undertaken within the context of the preparation of additional studies to extend the Secretariat's current work on patent-related flexibilities, as mentioned in paragraph 2(c) of document CDIP/9/11. The study could serve as one of the first outcomes under this item and could be presented to the Eleventh Session of the Committee. The Delegation also had an editorial comment with regard to page 7 of Annex 1 to document CDIP/7/3, on the relevant provisions of its national legislation on the patentability of substances existing in nature. In this context, the Delegation would like the Secretariat to include in Annex 1, page 7 a reference to article 4(a) of its Law 24.481 on Patents and Utility Models, where a definition of invention is made.

399. The Delegation of Colombia supported the documents that were submitted by the Secretariat. The documents were of high quality and were relevant to developing countries. The Delegation would like the Committee to focus on those documents and in particular, the comments submitted on document CDIP/7/3. The Delegation agreed with the new elements proposed for the work program on flexibilities in document CDIP/9/11, in particular, the proposal in paragraph 2(d) to extend the Secretariat's work on flexibilities to other areas besides patents. Case studies should also be developed on successful national experiences in using flexibilities to achieve broader public policy objectives in developing countries. The studies should also identify legal, institutional and administrative constraints in the implementation of flexibilities. Studies could also be carried out on intellectual property and climate change, including on the role of research and industrial development in the implementation of environmental policies. The seminars on TRIPS flexibilities were intended to promote better understanding of the full and effective use of flexibilities to support development objectives. The participants in such seminars should also include environmental officials and other representatives from agencies that dealt with environmental policies as there was a lot of ongoing research concerning biodiversity which could be of use in areas such as industry, health and so on. The Delegation requested WIPO to continue providing legislative and technical assistance to assist in the implementation of flexibilities in Member States.

400. The Delegation of Denmark, speaking on behalf of the EU and its Member States, welcomed the proposed new elements on flexibilities in the intellectual property system in document CDIP/9/11. The proposals may serve as important inputs in terms of the legal and technical assistance provided by WIPO within the intellectual property system. The proposals contained a number of specialized activities for enhancing knowledge on the implementation of flexibilities in national IP systems and their incorporation in national practices. When developing new activities in this area, it was important to keep in mind the role of WIPO with regard to legal and technical assistance. New activities should fall within that scope and the duplication of existing work should be avoided. With regard to the technical and legislative assistance toolkit, this may assist many countries to implement flexibilities. However, the advantages would depend on the substantive details that were provided in respect of the technical and legal elements of the toolkit. Depending on the level of detail, the views of the Member States with regard to the implementation of the individual flexibilities could differ. As such, before agreeing to the development of a toolkit, it would be necessary for the technical and legal elements to be

clarified. The Delegation welcomed the creation of a web page to host information on court decisions, examples of best practices, WIPO Academy training materials and other available resources. With regard to the development of case-studies, this could be seen as a specific project based activity. The EU and its Member States would be open to discuss such a project. On the organization of further national and regional seminars, including national seminars on TRIPS flexibilities, information activities concerning flexibilities generally fell within the existing activities of WIPO in relation to the provision of legal and technical assistance to developing countries. However, the EU and its Member States were open to further consideration, in particular, under a special project. Further discussions were needed before preparing additional studies on patent related flexibilities or extending the work on flexibilities to other areas of IP so as to avoid duplication of previous and future activities within WIPO and in other organizations.

401. The Delegation of Paraguay, speaking on behalf of GRULAC, thanked the Secretariat for its presentation of document CDIP/9/11 on the Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8. The Member States had made many detailed suggestions with regard to activities that could be carried out within this framework. These included guides, examples of how flexibilities had been successfully implemented in developed countries, studies on patent related flexibilities and other IP flexibilities, case-studies on successful national experiences in using flexibilities, the provision of technical assistance on flexibilities, organization of national and regional seminars, and the preparation of reports. The Group strongly supported these initiatives. It hoped that these would be implemented in the WIPO work program on flexibilities, taking into account work that was being carried out in other bodies. The Group hoped that these would be included in a work program that could be submitted to the members of the Committee. The Group thanked the Secretariat for document CDIP/7/3 Add on Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II. This was in accordance with Recommendation 14 of the Development Agenda. The use of patent related flexibilities was very important in the creation and implementation of development policies. The Group supported work on these flexibilities as it was important for development and document CDIP/7/3 was a good basis. Some aspects of that document could be further examined, particularly within the work program on flexibilities in the intellectual property system which included document CDIP/9/11. As explained by the Delegation of Argentina, this was required to assist developing countries in their understanding of the patent related flexibilities in the TRIPS Agreement. As such, the Group supported a more detailed analysis of the said flexibilities in view of the comments and observations made by delegations in the current session.

402. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for its valuable work program on flexibilities in the IP system. The Group found all the new elements proposed for the work program to be positive and feasible. As such, these should be implemented. Their inclusion would assist in addressing the practical challenges faced by many developing countries in implementing flexibilities. However, the Group understood that the consideration of those new elements by the CDIP would not restrict the right of Member States to pursue these important issues in other relevant WIPO committees.

403. The Delegation of Chile thanked the Secretariat for the documents. In general, the work program outlined in document CDIP/9/11 was appropriate. Work on flexibilities in the IP system should be as extensive and effective as possible. This was important to ensure a balanced and effective IP system. Studies, particularly those that referred to how flexibilities had been implemented in developed countries would be useful. With regard to the information activities, the Delegation informed the Committee that Chile had participated in certain initiatives including the recent seminar organized by WIPO and the Colombian authorities on the use of patent related flexibilities. Within the Asia-Pacific Economic Cooperation (APEC) framework, in March 2012, Chile had also organized an international seminar on exceptions and limitations

concerning copyright and related rights. Representatives from the APEC member countries and WIPO had participated in that event.

404. The Delegation of the United States of America began by addressing document CDIP/9/11. The Delegation thanked the Secretariat for preparing the document which contained a compilation of possible new elements to be included in the work program on flexibilities based on discussions at the last session of the Committee in November. The Delegation favored some of the new elements, had questions about others and continued to have reservations about the remainder. The Delegation referred to the first category, the elements which it could support. It supported proposal (f) on the creation of a web page that would include a facility similar to the IP Advantage database. The Delegation had supported this proposal at the last session. It believed other delegations had also done so. It was not clear as to why it was still being proposed as a new element. Perhaps the Secretariat could shed some light on that matter. The second category, proposals that the Delegation supported in principle but for which it would like additional information or perhaps certain modifications, included proposals (b), (c), (d), (g), and (h). The Delegation made a few remarks on each of those. Proposal (b) required the Secretariat to provide examples of how flexibilities had been implemented in developed countries. The Delegation noted that the Secretariat had already produced two studies on patent related flexibilities which involved examples of implementation. The database proposal that it had just mentioned, would allow Member States to share practical experiences. In general, additional time should be given to Member States to populate the database. A WIPO study providing examples of how flexibilities had been implemented in developed countries, including best practices and court cases, might involve the Secretariat making judgments about which flexibilities were best for a particular country at a given level of development, particularly, in the discussion of best practices. In its view, Member States alone should make those determinations. Therefore, at that stage, the Delegation preferred to support proposal (f) on the database before considering a further study by the Secretariat. The Delegation remained open to considering further studies on other patent related flexibilities under proposal (c) but such topics should be chosen carefully so as to avoid overlap with the work of other committees. The Delegation would also need to consult with its capital-based experts if proposals were made at this session, as they appeared to be. With respect to proposal (d), it would oppose any additional work on copyright flexibilities in light of the extensive work program on exceptions and limitations in the SCCR. It was unclear what flexibilities might be studied in the area of trademark law or enforcement but it was open to considering suggestions from Member States in these areas. On proposal (g), the Delegation could support the preparation of a presentation to promote better understanding of IP flexibilities and to include the inputs of civil society. However, it would appreciate more information on this proposal. It would also like to know if WIPO had in any of its technical assistance activities prepared a presentation on IP flexibilities. Any presentation on flexibility should also include some discussion of rights and obligations, in keeping with Recommendation 14 of the Development Agenda. The Delegation would also appreciate more information on proposal (h) which suggested the need for more national and regional seminars on the topic of flexibilities. At the last meeting, the Secretariat had released document CDIP/8/5. It contained an annex listing all the WIPO activities related to the issue of flexibilities carried out since 2009. The annex listed many seminars. The document noted that national and regional level seminars had been organized and were planned in future activities with a view to exchange practical experiences on the implementation of flexibilities. Before agreeing to more seminars, the Delegation would appreciate additional information on what seminars had already been conducted or were being planned for the future. With respect to the proposal for a dedicated web page with information on seminars pertaining to flexibilities including video recordings, materials, presentations and the like, the Delegation would again appreciate more information, for example, the cost of such an undertaking and whether there were similar web pages for other types of WIPO seminars. The Delegation could support the preparation of a report on the discussions at national and regional seminars where the issue of flexibilities was discussed.

The third category was on proposals that the Delegation opposed in the present form. The first was proposal (a) that called for a legislative assistant toolkit. As it had said in the past, the Secretariat should be neutral and objective. It should not offer generic advice on when a country should use a particular flexibility. Each Member State was sovereign and should make its own policy decisions, which might include the adoption of TRIPS plus flexibilities to attract foreign direct investment. The Delegation could support a compilation of flexibilities in national laws but only if it merely categorized or updated existing information in an objective and neutral manner. The Delegation turned to proposal (e) which suggested the collection of case-studies. In its view, the current proposed element was too broad. It would cover legal constraints to the implementation of flexibilities and this might include other international agreements such as the WIPO Internet treaties. It also proposed to discuss the controversial topic of insufficient patent disclosure as a constraint. The Delegation therefore opposed further work under proposal (e). The Delegation believed that at this stage of the work program, the database proposal under element (f) was the best way for Member States to begin sharing their experiences in implementing flexibilities. The Delegation then turned to document CDIP/7/3/Add. on patent related flexibilities. The Delegation thanked the Secretariat for the preparation of that document. It had several comments on the revisions to the study proposed by the Delegation of Brazil, mainly in the area of disclosure of the origin of biological materials. The issue of the disclosure of the origin of biological material in patent applications was currently under discussion in the IGC and the WTO's TRIPS Council. No consensus had been reached on this issue. The position of the United States of America on the issue was clear. There should be no mandatory disclosure requirement. To extend the discussion of this issue in the study would be prejudicial, duplicative and a waste of WIPO resources. There was already a forum for these discussions in the IGC. The Delegation therefore opposed the revisions to the study proposed by the Delegation of Brazil.

405. The Delegation of Japan thanked the Secretariat for the preparation of the documents. The Delegation had consistently maintained that WIPO should provide objective, practical and fact based advice on the understanding and use of flexibilities. This should be fully taken into account in the future work program on flexibilities. It would assist developing countries and LDCs to implement flexibilities in appropriate cases. In this context, should the Committee decide to adopt items for future work, it should ensure that the respective activities under the work program were monitored to see whether or not they went beyond the scope of the TRIPS Agreement, through any built-in process in which the Member States can participate.

406. The Delegation of South Africa supported the statement made by the Delegation of Egypt on behalf of the African Group and in particular, the caveat that the work of the Committee should not prejudice the work carried out on flexibilities in other WIPO committees.

407. The Delegation of Brazil thanked the Secretariat for document CDIP/9/11. The Delegation aligned itself with the statement made by GRULAC and shared the views expressed by the Delegation of Argentina. The Delegation supported the suggestion to further study the flexibilities which were embodied in Article 27 of the TRIPS Agreement. It also welcomed the inclusion of the new elements described in document CDIP/9/11 on the work program on flexibilities in the IP system. The Delegation thanked the Secretariat for the preparation of document CDIP/7/3 Add. The delegations were invited to submit comments on the contents of document CDIP/7/3. The Delegation had merely expressed its long standing positions on the subject. The information provided was not new as it was merely a restatement of its views. An appropriate opportunity had been provided for delegations to make comments on the subject.

408. The Delegation of Norway stated that it was generally important that countries were able to implement flexibilities within the framework of international legal obligations. The Delegation aligned itself with the statement made by the Delegation of Denmark on behalf of the EU and its

Member States on the proposals in document CDIP/9/11 and the need to avoid duplication of work in this area.

409. The Delegation of Canada understood that the Delegation of Brazil had merely made a comment. However, it fully supported the position of the Delegation of the United States of America. Disclosure of the origin of genetic resources was under discussion in the IGC and the Delegation had already indicated that it was against the said proposal.

410. The Chair invited the Secretariat to respond to the comments and questions put forward by the delegations.

411. The Secretariat (Mrs. Lucinda Longcroft) thanked the members of the Committee for the clear and helpful guidance in the area of flexibilities in the intellectual property system. It had taken note of the comments of the various delegations and there seemed to be general agreement on the importance of the work being undertaken in the field of flexibilities and the need for the Secretariat to undertake this work efficiently and without duplication among its various committees and activities. Among the various proposals put forward in document CDIP/9/11, the Secretariat observed that there was a consensus on proposal (f) to develop an IP Advantage style database. In this respect and in response to the remark by the Delegation of the United States of America, it was noted that in fact there was general support given to this proposal in previous sessions of the Committee. However, the Secretariat took note that since this proposal had linkages and potential overlaps with other new elements proposed in the current document, it was considered necessary to seek the Committee's clarification on all new proposals before undertaking the work. Nonetheless, the Secretariat had undertaken preliminary and preparatory measures in terms of going forward on work on the IP Advantage style database and was in a position to follow up on this work activity promptly. The Secretariat (Mr. Philippe Baechtold) then referred on the proposal concerning a possible new document on patent related flexibilities. The Secretariat had noted the request from a number of delegations that they wanted to further discuss patent related flexibilities, in particular, those contained in Article 27 of the TRIPS Agreement. The Secretariat had also noted that some other delegations, while not necessarily opposing that proposal, had called for caution and discussion as well as the need to consult their authorities. As such, the Secretariat proposed that it could put together a possible list and hold informal discussions with the Member States to see whether a compromise could be found to continue that work.

412. The Delegation of Argentina agreed with the analysis of the Secretariat that although some delegations had supported its proposal, there were others that had to consult with their capitals. The Delegation agreed with the proposal made by the Secretariat. It was ready to participate in the informal consultations that would be held by the Secretariat to find a way forward with regard to the Delegation's proposal.

413. The Delegation of Egypt thanked the Secretariat and the delegations for their statements. The Delegation understood that certain delegations had requested for some issues to be clarified or perhaps rephrased in order to move forward on those issues. If this was done, perhaps the Committee could agree on further elements to be carried forward in the current session. The remaining few elements that were identified could be discussed in the informal consultations. The Delegation believed that with the provision of additional information or some rewording, the majority of the proposed elements could be carried forward.

414. The Secretariat thanked Delegation of Egypt for its statement. There were certainly a number of additional proposals in addition to proposal (f) that could be supported if further clarification or information were given. For example, in respect of subparagraph (c), according to the comments made, additional studies on patent related flexibilities would require a careful choice of topics to avoid overlap. This could be the subject of informal consultations in order to

progress the Secretariat's work in that field. Those consultations could take place in the course of the next day or in the intervening period before the next session if necessary. In addition, in relation to the proposal in subparagraph (d), it was clear that there was no consensus on undertaking further studies in the field of copyright but the field of trademarks and enforcement of intellectual property might remain open for further studies. In this respect, the members of the Committee were invited to put forward suggestions to the Secretariat as to where further studies or work might take place in the field of trademarks or enforcement. It should be noted that the database of intellectual property provisions for implementing flexibilities at the national level was currently set up to contain patent related flexibilities, as included in the first document on patent related flexibilities. However, this was an expandable database that could contain further information on the implementation of other flexibilities in different fields of intellectual property. In this respect, the Secretariat awaited further clarification and guidance from Committee members, either during the session, in informal consultations following the session or in the intervening period. In relation to the suggestion in subparagraph (g) on the preparation of a presentation to promote better understanding of IP flexibilities, the Secretariat understood that more information was required as to the content of that presentation. Given the time, it would be necessary for informal consultations to be held following the session, with a view to presenting an outline of the possible presentation to the next session of the Committee. In relation to the national and regional seminars that may be further organized, it was noted that the annex to document CDIP/8/5 had listed a number of such seminars and that further information would be required as to the relevant seminars that had already been held and which were planned. An update to that annex can be provided to members in the intervening period for reflection and for planning future seminars. Finally, it was also noted that in relation to the suggestion in subparagraph (h) for a web page containing information, including video recordings, presentations and seminar reports, some costing was required on this aspect of the proposal. The Secretariat would need to undertake some discussion and research to provide such a costing. There were web pages that were hosted on the WIPO web site which did provide in-depth information on seminars, including materials. The webcasting of certain events held in the Secretariat was also a common occurrence. However, in order to respond to that particular enquiry, the Secretariat would need to do some research with the IT and conference services divisions in order to provide accurate information. The Secretariat (Philippe Baechtold) turned to the informal consultations on patent related flexibilities and suggested that this could be held tomorrow, at a time to be decided by the members of the Committee. The Secretariat would provide a list of flexibilities that could be the subject of a future document.

415. The Delegation of Bolivia supported the work on flexibilities and the proposals submitted by the Delegation of Argentina. The Delegation stressed that it would be useful to review the national experiences of other countries. The delegations had not expressed their positions on this aspect of the work. As such, the Delegation suggested that this should be included in the informal consultations. It was vital for the developing countries to understand how flexibilities had been successfully used in other countries.

416. The Chair announced that the informal consultations would be held at 2 p.m. tomorrow. The Secretariat would have the document ready in the morning. The discussions were concluded and the meeting was adjourned.

Consideration of Document CDIP/9/INF/2 - Scenarios and Possible Options Concerning Recommendations 1c, 1f and 2a of the Scoping Study on Copyright and Related Rights and the Public Domain

417. The Chair opened discussions on document CDIP/9/INF/2 on clarifying the scope and possible implications of the implementation of recommendations 1(c), 1(f) and 2(a) of the Study on Copyright and Related Rights and the Public Domain. He invited the Secretariat to introduce the document.

418. The Secretariat (Mr. Victor Vazquez Lopez) stated that at the eighth session of the CDIP, the Member States agreed that the Secretariat would prepare an information document with two main objectives. First, to clarify the scope and possible implications of the implementation of recommendations 1(c), 1(f) and 2(a) of the Study on Copyright and Related Rights and the Public Domain. Second, describe possible steps and options for the implementation of those recommendations. The Secretariat was encouraged by the fact that the copyright component of the project on IP and the public domain was well received by Member States. This was reflected in the results of the external evaluation, particularly, in relation to the study on copyright and the public domain. Document CDIP/9/INF/2 sought to meet the standards set by the other elements of the project. Synergies between the different elements of the copyright component of the project were identified to provide a comprehensive response to the issues. The document provided an analysis of the issues, including the main trends and challenges identified in the international debate. It also included some suggestions on how to deal with the recommendations. The Secretariat tried, as much as possible, to base its suggestions on initiatives that had either been discussed or were being undertaken by Member States. The Secretariat had also examined possibilities for these to be scaled up. It was important to keep in mind that countries used different approaches to address the issues raised by the recommendations. For instance, the approach to public registration varied in countries that maintained such systems. There were also countries that did not use these systems. The same could be said for copyright relinquishment. These factors should be taken into account when reading the document. It was suggested in Recommendation 1(c) that, "The voluntary relinquishment of copyright in works and dedication to the public domain should be recognized as a legitimate exercise of authorship and copyright exclusivity, to the extent permitted by national laws (possibly excluding any abandonment of moral rights) and upon the condition of a formally expressed, informed and free consent of the author. Further research could certainly be carried out on that point". Several scholars, associations and institutions had proposed the creation of a legal framework for copyright relinquishment. For example, the Creative Commons had created a CC0 license ("no rights reserved") through which the author dedicated a work to the public domain by waiving all his/her copyright and neighboring rights. It was used by the British Library to release 3 million records from the British National Bibliography. The Communia Project had also made some proposals. That project provided a network for high-level policy discussions on all issues related to the public domain in the digital environment. These proposals were part of a large body of international, interdisciplinary literature on the "commons". There was also a doctrine that focused on common pool resource management and the advantages of the commons paradigm, i.e. resources that can be shared freely by a group of right owners or people in general. However, there were several questions and issues surrounding copyright relinquishment. These included the nature of copyright. If copyright was considered as a fundamental right, it must be determined whether it would be legal to abandon such a right. However, if it was merely deemed to be a property right, the matter would be less complicated as it was possible in most jurisdictions to renounce property. There were also some rights in the copyright system which could not be waived or were deemed to be inalienable. An example of a right that cannot be waived can be found in the European Union's Rental Directive. It provided that when a performer transferred his/her rental right to the producer, he/she retained a right of remuneration for the rental of the performance. That right cannot be waived. In addition, the inalienability of moral rights can also be an issue. Moral rights were deemed to be inalienable in many countries. This may be contradictory to the relinquishment of copyright. Another important issue was the irrevocable nature of relinquishment, in other words, the inability to reverse a decision to relinquish rights. A basis for further discussion could be identified through analyzing the legislation of countries such as the Republic of Korea where the possibility for such renunciation was included in their definition of the public domain. The possibility to establish a precise regime of formal requirements should also be explored, with a view to avoid abuse of the often weak position of the creator. It was important to ensure that the rights of the creator were not abandoned as a result of the

difference in position between him/her and the person undertaking the distribution of rights such as a producer or publisher. From a public policy point of view, it was also important to consider whether it would be appropriate, and under what conditions, to promote a legal regime for copyright relinquishment. As a possible scenario, the information document suggested that a study should be commissioned on copyright relinquishment. The study should focus on the interest of the public in accessing creative material, and the interest of authors, especially in creating awareness of the implications of relinquishing copyright. Issues such as the need for formalities for relinquishing copyright and the possibility for the author to change his/her mind should also be addressed. The study could consist of a comparative analysis of a number of national jurisdictions through a geographically balanced approach. The study would also outline trends and common features as well as identify possible future activities to be undertaken by WIPO and its Member States. It was stated in Recommendation 1(f) that “international endeavours 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 is concerned. Such tools can be data collections on works, databases of public domain works, or public domain calculators. International cross-operation and cross-referencing of such tools is of particular importance”. The focus of this recommendation was on infrastructure, i.e. technical or information tools to delimit the public domain. These were often multi purpose tools. The same tool helped to delimit the public domain as well as what was protected. For instance, the public domain calculator would estimate whether a particular work was protected. At the same time, it would also make an assessment of whether the work was in the public domain. A registry of works can facilitate information on whether a work was protected or in the public domain. As such, these were valuable tools for creators as well as users in light of the public domain considerations. As copyright was granted without any formalities, in conformity with the requirement of Article 5.2 of the Berne Convention, there was generally no central agency or registry where all data on works was collected. Various countries had developed different registration systems which were either public or private. This resulted in a disparity in data. According to the survey on voluntary registration which was carried out by WIPO, the majority of copyright registration bodies were not connected to other copyright data systems provided either by public or private entities. The data that was held by the different bodies was often not standardized and was not interoperable. This made automation operations difficult. There should be a focus on the availability of information on both copyright content and the public domain. Cultural institutions as well as other public and private institutions such as copyright registries, collecting societies, publishers and producers, held precious information on creativity. These included rich repositories of works and databases with important information such as the name of the author, publication details, etc. Rights management information, such as in content identifiers like the International Standard Book Number (ISBN) and others, played a key role in providing key information on works and creators. These tools must take into account the public domain nature of part of their collections or repertoires. The Development Agenda project had played an important role in surveying and showcasing those tools. It had also highlighted the valuable synergies among the different initiatives. With the cooperation of the Member States, the Secretariat conducted a survey on public registration systems. A two-part survey on private copyright documentation was also prepared. The former focused on private registration and the latter on collective management. The former can be considered, in the words of its author, as a “companion paper” to the study by Professor Dusollier. It emphasized the links between the different components of the project on IP and the public domain. The survey described the different technical tools that were available in private copyright documentation systems such as on-line private registries, public domain calculators for evaluating the copyright status of a particular work in a given jurisdiction, and rights management information that provided important information for the prospective users of creative content. These helped to delimit the public domain and were strategic resources for addressing the issue of orphan works. There was an increasing need for these to be linked and connected. WIPO, in the context of the project on IP and the public domain, had taken one step towards connecting the public registries by listing contact details in the survey of public registries. All the different private platforms were

also listed in the WIPO survey on copyright documentation and practices. However, further steps could be taken. On this basis, the information document suggested various scenarios for moving forward with Recommendation 1(f) at the national, regional and international levels. It was important for the initiatives at the national and regional levels to focus on the modernization of public registries. For example, the Latin American countries had recently recommended that the modernization and automation of administrative infrastructure and support systems for copyright offices, voluntary registries and collective management societies should be given priority within WIPO's copyright technical assistance and cooperation strategies. WIPO provided tools to enhance infrastructure for facilitating the identification of the public domain. For instance, WIPO facilitated the automation of voluntary registration systems with software (GDA) that was developed specifically for this purpose. Efforts could also be made to connect public registries with civil registries that held information on the death of authors. This would allow the public registries to provide information on when copyright would expire. The importance of on-line search facilities at the national level was emphasized. 84% of the Member States that had responded to the survey on public registration did not have on-line public search facilities. The Secretariat encouraged the development of such facilities in the information document. The document also indicated the importance of including appropriate disclaimers of liability in the use of those facilities as it was often not possible for the searches to be fully comprehensive. Information was sometimes incomplete, particularly in relation to voluntary registries. It was also important to foster closer cooperation between the copyright offices in each region. For example, the Latin-American copyright offices recently agreed to work together to prepare a compilation of applicable laws in the region on the duration of copyright. The interconnection of private registries among themselves and with public registries should also be examined. With regard to the interconnection of private registries, a number of initiatives had been undertaken by WIPO. Some of them were done under the framework of the Development Agenda. The project for the development of a West African regional database for repertoires was an example. There was also WIPOCOS, a software application that was developed and supported by WIPO. It was freely made available to collective management organizations in developing countries and was extensively used in Africa and Asia. WIPOCOS can assist to standardize the repertoire databases in different developing countries. Member States could also promote the development of public domain calculators. These were multi purpose tools that could be used to delimit the public domain as well as to determine whether a work was protected. As they were not completely reliable and authoritative, the use of appropriate disclaimers should be taken into consideration. The information document included several suggestions for activities at the international level. It was important to improve the availability of information on public domain materials by networking national and regional information. There were several initiatives which could be scaled up and generalized. It was also important to consider the development of international platforms that provided search tools in various registries. The platforms can serve as a point of connection between the different databases. Together with the networking of national and regional information, these initiatives can play an important role in the context of orphan works by facilitating diligent searches. Recommendation 2(a) stated that "the availability of the public domain should be enhanced, notably through cooperation with cultural heritage institutions and UNESCO (through its work on the preservation of intangible cultural heritage)". The public domain was important for the public interest. It was also central to the cultural heritage of humanity. This was demonstrated in the intensive work that was carried out by UNESCO on the notion of safeguarding the public domain which was deemed to be part of the common heritage of mankind. The information document included a number of suggestions to improve the visibility of collections that were safeguarded by cultural heritage institutions. The WIPO Guide on Managing Intellectual Property for Museums was being updated. The guide identified a number of appropriate management practices and opportunities to promote and improve the visibility of the assets of cultural heritage institutions, including in relation to digitization. In the area of traditional knowledge, WIPO's Creative Heritage Project was developing practical tools for managing IP options when documenting, recording and digitizing cultural heritage. It was also important for

cultural heritage institutions to cooperate fully with international organizations such as UNESCO, and in particular, in the context of the UNESCO Convention for the Safeguarding of Intangible Cultural Heritage. Such cooperation was provided in the context of the Intergovernmental Committee of that Convention. It was also important to look into the digitization of cultural heritage. Member States could consider collaboration with private and public entities to help digitize cultural heritage. A number of initiatives were listed in the information document. There were clear advantages to these partnerships in terms of technology and financial resources. However, it was also important to take into account the need to avoid creating private monopolies in the public domain, as emphasized by several commentators. Legislative options to enhance the preservation and accessibility of the public domain should also be examined. This included the "*domaine public payant*" or paying public domain system which required a user of materials in the public domain to pay a compulsory license for the use of the work. In some countries like Algeria, the remuneration was dedicated to the preservation of the public domain. Legislative options in relation to moral rights could also be considered. These were discussed in the information document. It was also important to raise the awareness of Member States on the importance of the availability of the public domain. WIPO was cooperating closely with UNESCO in efforts to raise such awareness. For instance, in conjunction with the UNESCO International Conference on Memory of the World in the Digital Age: Digitization and Preservation which would take place in September 2012 in Vancouver, WIPO had been commissioned to prepare, in collaboration with IFLA, the NGO representing libraries, a workshop on intellectual property challenges for digitization and preservation.

419. The Delegation of Paraguay, speaking on behalf of GRULAC, thanked the Secretariat for introducing the document. It was important for Member States to be assisted in creating awareness of the increasingly important role of the public domain, particularly in the area of copyright and related rights. The discussions at the WIPO Sub-Regional Meeting on Copyright and Related Rights for Latin American Countries in December 2011 recognized the importance of this issue. As such, the Group agreed that the copyright offices in each region should cooperate more closely in order to share information that was available to them. The Group also recognized the work done by WIPO in this area, including the provision of necessary tools to strengthen copyright infrastructure. The assistance provided by WIPO for the automation of voluntary registries was an example. This was a particularly important issue for the Group and it hoped that the discussions on the public domain would bear that in mind.

420. The Delegation of Colombia thanked the Secretariat for the preparation and presentation of the document. The Delegation shared the views expressed by the Delegation of Paraguay on behalf of GRULAC. The Delegation referred to Recommendation 1(c). The studies should not encourage legislation to support the relinquishment of rights by authors. Voluntary registration was extremely useful in the area of copyright. An obligatory register would be inconsistent with Article 5.2 of the Berne Convention, where it was provided that the rights should not be subject to any formality. As such, the majority of countries provided for voluntary registration. If the protection of works was subject to registration, this would violate international conventions and the laws of many countries which provided for voluntary registration. Even if unregistered works were not to be protected, there would still be a moral duty to protect such works. There was also the question of a patrimonial register which would allow the intentions of the authors to be made known.

421. The Delegation of Egypt, speaking on behalf of the African Group, thanked Professor Dusollier for the scoping study on copyright and related rights. The Group affirmed the need for a rich and accessible public domain that did not infringe on the cultural heritage of Member States. With regard to document CDIP/9/INF/2, the Group agreed with Recommendation 1(c) on the voluntary relinquishment of copyright in works. It also supported Recommendation 1(f) which suggested that international endeavors should be devoted to developing technical or

informational tools to identify the contents of the public domain. However, with regard to Recommendation 2(a) which suggested that the availability of the public domain should be enhanced, notably through cooperation with cultural heritage institutions and UNESCO, this sort of issue was also discussed in the IGC. As such, it could not agree with that Recommendation. The Group and other developing countries had mentioned in several fora, especially the IGC, that traditional knowledge and traditional cultural expressions were essential and inherent elements of the national cultural heritage. As such, there should not be any kind of direct or indirect linkage with the public domain. It also did not want to prejudice the discussions that were underway in the IGC. This position was expressed by the majority of developing countries and clearly emphasized in page 12 of the study by Professor Dusollier. The Group supported the need for a rich and accessible public domain with borders that were clearly defined and agreed upon by the Member States in order to prevent it from spilling over into the cultural heritage of any nation.

422. The Delegation of Denmark, speaking on behalf of the EU and its Member States, thanked the Secretariat for document CDIP/9/INF/2 on clarifying the scope and possible implications of the implementation of recommendations 1(c), 1(f) and 2(a). The EU and its Member States had read the analysis of the three recommendations in that document with interest. The analysis and suggestions for the implementation of the recommendations had been a great help in promoting a better understanding of the purpose of those recommendations. With regard to the analysis on Recommendation 1(c) concerning the voluntary relinquishment of copyright under item A, more information was required on the need for such an analysis, particularly on existing legislation and best practices in Member States. Furthermore, the EU and its Member States could not, at this stage, support a study that might lead to suggestions for outlining concrete proposals on the relinquishment of copyright. On the analysis and suggestions for Recommendation 1(f) on technical or information tools under item B, the EU and its Member States still had concerns on the added value of such tools. They were still not convinced of the benefits of creating national and international platforms with the aim of facilitating searches in national and regional registers and for compiling information on copyright content and public domain materials. Certain purely technical aspects could be examined. The analysis on Recommendation 2(a) under item C contained a number of suggestions which could assist Member States in their efforts to maintain the cultural heritage of humanity. Those considerations should be taken into further account by the individual Member States.

423. The Delegation of Italy referred to Recommendation 1(f) and provided some details of its national public register. The Italian authorities kept a general public register of copyrighted works under its copyright law. A database was also created to collect all data concerning works registered in the general public register from 1971 to 2011. Registration in the national public register was done for information purposes only. Its purpose was solely to establish a presumption of the publication of a work and its authorship and allowed for proof to the contrary. According to Italian copyright law, only published works were entered in the register and a deposit was required for every work. This should be made by the author or the person diffusing the work. Indeed, under Italian law and in compliance with the Berne Convention, no formality was required for copyright protection. The creation of the work was a necessary and sufficient condition for acquiring the rights of the author. These rights belonged to the person who created the work. As established by Article 5 of the Berne Convention, copyright was an absolute right that stemmed from the creation of a work. In accordance with Article 42 of the Royal Decree on rules for the enforcement of Italian copyright law, the Minister for Cultural Heritage and Activities published a periodical bulletin on the works and deeds of assignment of registered rights. Data from 1976 to 2010 was available on-line. The Ministry for Cultural Heritage published regular bulletins and data on copyrighted works was also available on-line. This allowed citizens, universities, research institutions, public administration authorities such as law enforcement agencies for piracy and counterfeiting activities, to easily access data and

information concerning the works. In light of the above, the Delegation was in favor of a technical system for interconnecting voluntary copyright registers that already existed in some Member States. It could provide an opportunity for countries that kept similar registers to share data related to the works. The system could support and enhance the quality of services that were offered to users, citizens, and in particular, authors. It would provide an opportunity to develop and improve the search for specific elements of the works in response to questions put forward by citizens and users. The Delegation was interested in the views of other Member States on this issue.

424. The Delegation of Venezuela supported the statement made by the Delegation of Paraguay on behalf of GRULAC. The WIPO Sub-Regional Meeting on Copyright and Related Rights for Latin American Countries was held in Lima on December 12-13, 2011. It was agreed that the level of communication between the copyright offices in the region should be enhanced. The inalienable nature of moral rights was a human rights issue. The question of its abandonment was a very complex issue because it was both a human right and a private right. This was something that the heads of the copyright offices should clarify. It was also a very important issue to be dealt with by WIPO.

425. The Delegation of Spain referred to the suggestion on page 7 of document CDIP/9/INF/2 on linking public / private registries at the national level to improve the availability of information on public domain material. The Italian authorities had contacted the Ministry of Culture to seek its views on linking the Spanish register with those of other countries such as Italy. The Italian authorities had also contacted the authorities in Mexico, India, Kenya and others. The initial response was positive. The Spanish authorities were receptive to the idea. It would be good to exchange data contained in the intellectual property register maintained by the Ministry of Culture. However, it was felt that this should be done within the framework of an organization in which Spain was a member, i.e. the European Union or WIPO. This view was expressed by the Under-Directorate General of Intellectual Property, the body responsible for managing copyright. The intellectual property register contained data concerning authors and other holders of intellectual property rights. It was similar to the one in Italy and was designed to protect authors and other holders of intellectual property rights. It was a voluntary register that did not grant rights. Registration was prima facie evidence of creation and authorship. In practice, the courts accepted the registration of a right in the register as being legally valid. The author or right holder was required to deposit three copies of a published work. This included books, audiovisual works, music, posters, photographs, etc. These must be deposited in the public libraries. There were more than 50 of them across the country and information was held by the national library. The Spanish ISBN office and the ISBN code also provided data on published books. As such, and without prejudice to any decision which may later be made by the European Union, the Delegation was, in principle, supportive of the proposal to exchange information on copyright protected works that were contained in an intellectual property register, without reference to any other registers that may contain such works.

426. The Delegation of the United States of America thanked the Secretariat for the thoughtful work that went into the preparation of the document on scenarios and possible options for three of the recommendations in the copyright scoping study. The proposed study on voluntary relinquishment under Recommendation 1(c) appeared to be a focused and practical area for follow on research. The Delegation understood that the study would present a comparative analysis of the laws of a number of national jurisdictions, using a geographically balanced approach that would outline trends and common features identified. It would also address questions such as the need to secure the content of the author, the need for formalities for relinquishment, the possibility for authors to change their minds, and the problem of unwaivable economic and moral rights, among others. With regard to the scope of the proposed study, the Delegation wanted to know if the focus would be on authors understanding the impacts, both positive and negative, of possible relinquishment or whether the calculus of the study would be

directed towards the interest of the public and authors in access or possibly both. The language of the proposed study was slightly ambiguous on that point. In its view, any study of this topic should examine the interests of both authors and the public at large. The Delegation may be able to support the proposed study if the terms of reference were clarified. On Recommendation 1(f), the Delegation could support the idea of undertaking a project on copyright registries. The paper noted that Italy had made a proposal on this topic. It was interested in learning more about it. The Delegation of Italy had just spoken a little more about its proposal. The Delegation was interested in speaking further with the Delegation of Italy about it. Such a project could begin by convening a working group of registration experts from countries that did have registration systems to consider the topics that should be addressed in the feasibility study. The study could examine the exchange of information at the national, regional and international levels for a number of purposes, including for facilitating creativity and innovation as well as the possible use of such information in the area of enforcement. The suggestion in the document to link public registries to civil registries could be incorporated into this initial feasibility study. The other suggestions under this recommendation would require either more information or would not be feasible. With respect to the suggestion for WIPO to give priority within its copyright technical assistance to infrastructure modernization, the Delegation understood that WIPO was already working on this issue under other CDIP projects. It would be important to first ascertain WIPO's commitment on this issue before it could be justified. The development of public domain calculators was best left to the private sector, in light of the high risk of inaccuracy that resulted from the complexity of determining the copyright status of works domestically and internationally. Under Recommendation 2(a), the Delegation encouraged WIPO to participate in the September 2012 UNESCO conference and to report back to the Committee. The Delegation also suggested that further information be circulated to members regarding the anticipated scope and messaging of WIPO's participation at the conference, if the Committee decided to approve this initiative. The Delegation could also support requesting the author of WIPO's Guide on Managing Intellectual Property for Museums to provide more information on how such institutions could engage in commercial opportunities to give more visibility to public domain materials. Finally, with regard to the discussions of legislative options, the Delegation pointed out that Member States were always free to consider legislative changes to protect the public domain in conformity with their international obligations. However, it was unclear what role WIPO could play in this area, apart from providing legislative advice when requested.

427. The Delegation of Chile agreed with the statement made by the Delegation of Paraguay on behalf of GRULAC. The Delegation reiterated the statements it had made at an earlier meeting on the importance given by its country to the issue of copyright and related rights and the public domain. It would be following the discussions on this issue with great interest. The Delegation thanked the Secretariat for the preparation of the document and for the detailed information on recommendations 1(c), 1(f) and 2(a) of the scoping study. It was a very useful way to move forward on this matter. The Delegation referred to Recommendation 1(f). The development of technical tools was important for Chile. As such, the proposals under this heading on databases, public domain calculators etc. were extremely useful. As mentioned by GRULAC and some of its members, this was something which can be undertaken by the copyright offices and it would be very useful if there was greater cooperation between those offices. Technological tools were needed in order to move forward more rapidly at the national and regional level and to ensure cooperation between offices. The Chilean copyright office was working with WIPO to modernize its technical infrastructure. There would soon be 204,000 computerized entries on its register dating from 1925 to the present. This would make the processing of copyright much easier as it facilitated access to information that was required. The Delegation hoped the Committee would continue to move forward on this issue which was of great interest to its country.

428. The Delegation of Norway thanked the Secretariat for the preparation and presentation of the document. The Delegation referred to Recommendation 1(c). It was important to have a robust public domain. In order to better understand the effects of the voluntary relinquishment of copyright in works and dedication to the public domain, it would be interesting for Recommendation 1(c) to be further considered. This should be done through the commissioning of a study, as suggested by the Secretariat. However, the Delegation emphasized that the recommendation affected present authors through their creative works. A thorough analysis was necessary. It was essential to avoid abuse of the weak position of the author. Any possible regime must ensure that an author's free will was maintained. Further analysis must address those issues. The Delegation supported the approach outlined in the Secretariat's document in this regard. In relation to Recommendation 1(f), the Delegation supported the comment made by the Delegation of Denmark on behalf of the EU and its Member States. It was not convinced of the benefits of such tools, as described in the document. The Delegation supported the EU statement on Recommendation 2(a). That recommendation should be taken into further consideration by individual Member States.

429. The Delegation of Brazil thanked the Secretariat for the preparation and presentation of document CDIP/9/INF/2. It was an interesting input for the discussion on copyright and the public domain. The Delegation had studied with interest the recommendations that were included in the Scoping Study on Copyright and Related Rights and the Public Domain prepared by Prof Severine Dusollier. The Delegation hoped that the Committee would further consider all those recommendations. In this context, the next session of the CDIP should analyze the scenarios and possible options concerning the other recommendations of the study. The Delegation recalled that Recommendation 20 of the Development Agenda called for the promotion of norm-setting activities related to IP that support a robust public domain in Member States, including the possibility of preparing guidelines which could assist interested Member States in identifying subject matter that had fallen into the public domain within their respective jurisdictions. In line with the discussions on support for a robust and accessible public domain, the Delegation informed the Committee that the Brazilian Ministry of Culture was currently analyzing ways to enhance access to works that had fallen into the public domain. The creation of a national database that was associated with the copyright registry system and connected with other national and international systems was under consideration. Its authorities were pleased with the level of cooperation with WIPO on this activity. In relation to document CDIP/9/INF/2, the Delegation noted and shared the concerns expressed by the Delegation of Egypt on behalf of the African Group on traditional knowledge (TK) and traditional cultural expressions (TCEs) in the analysis of Recommendation 2(a) of the scoping study. Document CDIP/9/INF/2 should be revised to exclude those references that were not in line with the terms of reference of the project or the conclusions of the scoping study. The Delegation recalled that Member States had agreed that it would be prudent to exclude the component on TK and TCEs in the project described in document CDIP/4/3/Rev. in view of the sensitivity of the issue and as the matter was currently under negotiation in the IGC. Finally, in view of the information provided yesterday by the Secretariat, the Delegation looked forward to discussing and evaluating progress on the outputs of the project on IP and the public domain in the next session of the CDIP. If the project did not meet the objective to develop guidelines and other tools to facilitate identification in access to content in the public domain, the Delegation would like the Secretariat to draft a document for a second phase.

430. The Delegation of Algeria, speaking in its national capacity, thanked the Secretariat for the document. The Secretariat's interpretation of some of the recommendations may differ with the interpretation of some Member States. On Recommendation 1(c), the Delegation had some reservations on the formulation of the Recommendation which seemed to prejudge any activity that may be undertaken by WIPO under this framework. It was clearly stated that the voluntary relinquishment of copyright should be recognized as a legitimate exercise of authorship. This would provide a focus for any study that may be undertaken. At some point, Member States

would be asked to recognize this right as being part of a regime that in some countries may not even exist. The Secretariat's document highlighted the fact that the inalienable nature of moral rights may give rise to difficulties. In Algeria, moral rights were perpetual rights. Therefore, it was possible that there would be a contradiction between its national legislation and the approach that may be taken. Any study to be undertaken by the Secretariat along the lines indicated by the recommendation could end up causing problems. The Delegation reminded the Secretariat that it should be objective when undertaking activities. The Secretariat should not decide on a path at such an early stage. The Delegation endorsed what was said by the Delegation of the United States of America that for any study, a proposal should first be submitted to the Member States with a detailed indication of what would be examined in order for them to understand the scope of the study. On Recommendation 1(f), the Delegation understood that the Secretariat had not provided any specific proposals and had simply included some elements for the consideration of Member States. The Delegation had some questions with regard to those. It wanted to know the difference between public and private registers. It would also like to know how a private register could substitute a state organized register that was in the public domain. There was also the issue of the interconnection between a public and private registry. The Delegation wanted to know what this meant, the kind of interconnection that was required, and how such a study would be of benefit to the Member States. With regard to the public domain calculators, the Delegation would like to know how these could be approached, how they would operate, the benefits at the national and international levels, and the activities that could be undertaken by WIPO in the development of such calculators. The Delegation also stressed that it was premature to consider any kind of action or cooperation in which WIPO would be involved in working towards an international protocol on this topic. It was not ready to give WIPO a mandate to be involved in that kind of discussion. After all, some Member States either did not have or were just beginning to establish such registries. On Recommendation 2(a), speaking on behalf of the Development Agenda Group, it endorsed what had been said by the African Group on this Recommendation. The Group would like the Secretariat to revise the interpretation that was given to the recommendation. Traditional knowledge and traditional cultural expressions did not fall within the public domain. Any reference to the contrary was erroneous and should be removed from the document. It was wrong and should not be reflected in the document and the recommendation. The Group also requested the Secretariat to be very careful with its contributions to the UNESCO conference in Vancouver. It should be cautious and prudent in what was said at that conference. There should not be any suggestion that traditional knowledge or folklore were part of the public domain. Anything that was said by WIPO at that conference should be purely technical in nature. There should be no political interpretation given to it by Member States. The Secretariat should be extremely vigilant and prudent about what it said at that conference.

431. The Delegation of South Africa associated itself with the statements made by the Delegations of Egypt and Algeria on behalf of the African Group and the Development Agenda Group respectively. Most of the issues that the Delegation wanted to touch upon had been mentioned by the Delegation of Algeria. On Recommendation 1(c), it was important for the modalities of the study to be clear. It understood that the Secretariat had taken into account a number of issues which could impact on the study itself. Paragraphs 4 and 5 on page 2 of the document contained elements that could be considered in the study. The study would be conducted by an external expert. It was an exploratory study and not something that would provide guidance on whether the Committee would be undertaking norm-setting activities in this area. In the evaluation of the project on IP and the public domain, it was noted that one objective remained outstanding, i.e. the development of new tools or guidelines for identifying subject matter that had fallen into the public domain. The proposed study would assist in ensuring that the Committee did achieve that particular objective because the voluntary relinquishment of copyright was one of the tools that could serve as an option for Member States at the national level. For example, in the Republic of Korea, authors can donate their

rights to the Minister of Culture. However, the Delegation stressed that the study was merely exploratory. It should identify and analyze the legislation of countries which provided for the relinquishment of copyright. That should be its essence. As mentioned in the document, the study should also outline trends and common features that were identified. It could also ascertain from a public policy point of view, whether it would be appropriate, and under which circumstances, to promote a legal regime for relinquishment. This was optional. The Delegation would not like the study to outline possible future activities to be undertaken by WIPO. That would be jumping the gun. The study should provide a background and more information on this tool which could be used by interested Member States, without stating that the Committee or any other WIPO committee that dealt with norm-setting would be undertaking work in this area. With regard to Recommendation 1(f), the Delegation could support that recommendation. However, it was mainly referring to the suggestions for the national and regional levels. Those were very important and could be implemented. For instance, the Delegation could support public registries. However, as pointed out by the Delegation of Algeria, clarification was required on the difference between a private registry and a public registry as well as the implications of interconnecting these registries. An interesting issue that was linked to the Latin American project was on interoperability and the proposal to develop information management systems that operated on neutral technological platforms. The Delegation would like to know what led to the proposal as it was quite interesting but it did not have any background. This was mentioned in paragraph (c) on page 6 of the document. The Delegation also liked the idea of public domain calculators. However, it would like to know what role WIPO could play in assisting Member States that were interested in such calculators. The Delegation was not ready to pursue this at the international level as proposed in section 2 on page 7 of the document. It was premature to talk about international protocols, although the Delegation was aware that this emanated from the proposal by the Delegation of Italy. The Delegation was not ready to consider such an initiative. Page 7 of the document also included an underlined paragraph that referred to orphan works. The Delegation would like the Secretariat to elaborate on that paragraph so as to understand how it was linked to the proposed activity at the international level. In terms of Recommendation 2(a), the Delegation emphasized that, as mentioned by the Delegation of Egypt of behalf of the African Group, it was important for the Committee to be mindful of what was happening in other WIPO committees. It was not against Recommendation 2(a). However, TK and TCEs should not be linked with the public domain. The Group had emphasized many times, including in the Committee that TK and TCEs did not fall in the public domain. This was prejudicial to the work that was going on in the IGC. Thus, it was important that this section of the document be revised, as proposed by the Delegation of Brazil. The Secretariat should take into consideration that there were references which certain delegations were not really comfortable with and did not at all support. With regard to the UNESCO conference in Canada, the Committee had been informed that WIPO would be participating in that conference. In this context, the Delegation stressed that WIPO should not say anything at the conference to imply that TK and TCEs belonged in the public domain. It should mention what was happening in the IGC in that conference.

432. The Delegation of Switzerland expressed its support for the statement made by the Delegation of Denmark on behalf of the EU and its Member States and the statement made by the Delegation of Colombia. Those statements covered its concerns on document CDIP/9/INF/2. The Delegation highlighted the need to keep in mind the principles of the Berne Convention. An obligatory register would be inconsistent with Article 5.2 of the Berne Convention which provided that copyright protection should not be subject to any formality. This principle should be respected in any kind of international copyright protection system. The Delegation was also not convinced of the benefits to be derived from promoting such a system of registration. There were still many questions that had to be answered. There were many unresolved questions, especially with regard to the ownership of rights, term of protection and other relevant issues, including the establishment of the registries and databases. Issues related to the transfer of rights created further difficulties. Such difficulties were identified in the

Secretariat's document. It included, for instance, the calculation of the term of protection. The delegation also highlighted the basic principle of contractual freedom which made it possible for authors to relinquish their economic rights. It was very important for this freedom to be maintained. Therefore, the Delegation did not see the value of undertaking activities to study the link between those databases and how it would relate to the transfer of rights.

433. The Representative of Communia congratulated the Chair on his election. The Representative thanked the Secretariat for the preparation of the document. It was extremely interesting. Communia was an international association on the public domain. It began as a network funded by the European Commission. Communia had developed a set of policy recommendations to enrich and sustain the public domain. Several were in line with the recommendations proposed by Professor Séverine Dusollier and one was explicitly mentioned in the document prepared by the Secretariat. It concerned the proposal to establish some formalities to prevent unnecessary and unwanted protection of works of authorship. Full copyright protection should be granted to works that had been registered by their authors. Non-registered works should only be granted moral rights protection. Registration served several purposes. It helped, in particular, to identify and locate public domain works, identify right holders and avoid orphan works. Recommendation 1(f) called for the development of information and technical tools to identify content that was in the public domain. A good way to enhance the interoperability of private registries, public domain calculators and public databases would be to recommend or even mandate the use of open standards. WIPO could play a role by continuing to coordinate initiatives and maybe, at least partially, host or list some of those systems in a more prominent location. The technical and information tools for identifying content in the public domain should be coordinated with existing rights management structures such as collective management organizations. The creation of public registries at the national level that listed works for which right holders had waived their rights or could not be found or identified, would help to improve legal certainty for users. The ability of right holders not to fully exercise their rights should be taken into account in the legal framework, particularly in the agreements between collecting societies and their members. This should be part of the common information technology infrastructure that was likely to be proposed by the European Commission in its upcoming Framework Directive on Collective Rights Management. It was also suggested that the Committee should reconsider Recommendation 1(e) on orphan works, encourage legal deposits and examine the role of libraries as these were complementary to Recommendation 1(f) to better identify content which was in the public domain. With regard to recommendation 1(c) on the voluntary relinquishment of copyright as a legitimate exercise of authorship, Communia supported the recommendation of the Secretariat to commission a study to clarify the enforceability of tools such as CC0 dedication to the public domain in different jurisdictions. The Representative highlighted that the public domain was the rule and copyright was the exception. The moral rights regime should not be seen as a difficulty that should be circumvented. On the contrary, dedicating work to the public domain should be considered as a way to exercise moral rights. Dedication to the public domain was a more positive expression compared to the voluntary relinquishment of rights. It reflected the value of contributing to a common pool of reusable work. Communia also welcomed Recommendation 2(a) on enhancing the availability of public domain works, notably through cooperation between UNESCO and cultural heritage institutions. A good way to promote such cooperation would be to propose more guidelines to museums. However, a better way to protect the public domain would be to reinforce its statutory recognition. This could be achieved by implementing recommendations 3(a), (b) and (c) of the scoping study. Legal means should be found to prevent the recapture of exclusivity in works that had fallen into the public domain. The public domain was under threat and deserved a positive legal definition to prevent the privatization of public domain works. For example, the digital reproduction of works that were in the public domain must also belong to the public domain. The use of works in the public domain should not be limited through legal or technical means. Any false or misleading attempt to misappropriate public domain material must be declared unlawful. Misleading attempts to claim

exclusivity over public domain material must be sanctioned. The use of a public domain mark such as the tool developed by the Creative Commons or a stronger equivalent with meta data carrying the stamp of a national library, Ministry of Culture, public or private registries, etc. would be extremely useful to identify public domain works and prevent their misappropriation through an additional layer of rights. In response to the concerns expressed by many delegations, the Representative stressed that the public domain was related to copyright and not traditional knowledge. The promotion of the public domain and the protection of traditional knowledge should not be opposed. They were very different matters. Thus, Communia's definition of the public domain did not target traditional knowledge. The collective rights of communities could and should be respected in the same way as the moral rights of authors of copyrightable works. Traditional knowledge should not be in the public domain just because it was not protected under copyright. Digitization projects that received public funding should at a minimum ensure that all digitized content would be publicly available on-line. Digitization projects that were financed through private funding could also benefit from a legal framework to prevent re-establishing exclusivity through contractual agreements. These private efforts were not only made by a certain search engine. These can also reflect public interest. Public / private partnership with experts from Wikipedia had produced extremely good results. Several institutions had partnered with Wikipedia. These included the Chateau de Versailles, the British Museum, the library of the Chilean National Congress, a museum in Mexico City and the Smithsonian Archives. Another example was the publication on Wikimedia Commons of a repository of public domain images hosted by Wikipedia. This included works from former Dutch colonies which were curated by a museum in Amsterdam. It provided Indonesians with a means to access this aspect of their culture heritage. These experiences can be replicated and adapted to the local context at very low cost. This included, for instance, the opening of the collection to voluntary photographers, collaboration with curators, uploading of public domain material to databases so they can be freely accessed and reused, and the translation of notices by students through instant messaging tools. Public participation in preservation was a powerful way to provide more visibility to collections with respect to local communities. This could be done at very low cost. However, there was one condition. This would only be possible if works were available through open access licenses or under public domain conditions. Communia was pleased to be accredited and to participate in this session of the CDIP where the public domain was at the heart of its agenda.

434. The Representative of the Creative Commons congratulated the Chair on his election. In his keynote speech at the recent global INET conference in Geneva, Dr. Francis Gurry had described intellectual property as a balancing mechanism for the often competing rights and equities that occurred in and around the creation of innovation. The Creative Commons strongly believed in the balance of rights and strived to offer technical and legal tools to make that balance possible. An integral part of the balance was the protection and promotion of the public domain. The public domain enriched the global cultural and intellectual environment. It allowed for the reproduction and reuse of countless classics that were often modernized and reintroduced to new audiences and new generations. One could almost say that they were remixed. With this in mind, it welcomed the Secretariat's document on the scenarios and possible options concerning recommendations 1(c), 1(f) and 2(a) of the Scoping Study on Copyright and Related Rights and the Public Domain, and commended Professor Séverine Dusollier on the scoping study. The Creative Commons encouraged the adoption of all three recommendations. The Representative complemented the information contained in the document on recommendations 1(c) and 1(f). With regard to Recommendation 1(c), as document CDIP/9/INF/2 accurately described, the Creative Commons offered the CC0 license, a universal tool that allowed a right holder to voluntarily relinquish all copyright and related rights to the maximum extent allowed by law. CC0 was a tool that was conceived and created out of both necessity and demand. Dedicating works to the public domain was difficult, if not impossible, for those wanting to contribute voluntarily and of their own free will, works for public use before the expiry of the applicable copyright or database protection terms. Few

jurisdictions, if any, had a process for doing so easily and reliably. Laws varied from jurisdiction to jurisdiction as to what rights were automatically granted and how and when they expired or may be voluntarily relinquished. The Creative Commons understood the inherent difficulties of dealing with this issue in a comprehensive manner, given the different approaches to copyright in common and civil legal traditions. Moreover, their discussions with copyright holders over the last ten years had revealed that some right holders wished to clearly and unequivocally indicate that a work may be used without reference to the restrictions that the right holder no longer wished to retain for whatever reason. This demand, coupled with the complex and lack of harmonized copyright frameworks, resulted in the creation of CC0. CC0 had been leveraged by many important right holders, including the Dutch government, the British Library and the Personal Genome Project. It was part of the legal framework for important projects such as Europeana. For these reasons, it supported the Secretariat's suggestion to conduct a study on copyright relinquishment. It also encouraged the Committee to continue on this important avenue. With regard to Recommendation 1(f), it welcomed the Secretariat's specific mention of the practices and tools which were available through the Creative Commons. The possibility of marking copyright works with licensed metadata can inform search engines of what was available for reuse and the conditions that were attached. It applauded the national and regional practices cited in the Secretariat's document and agreed that those efforts must continue. The Creative Commons encouraged the Member States and regional bodies to continue with efforts to make the data in public registries more widely available. It would like WIPO to play a proactive role in the international arena. For instance, WIPO could host some tools to facilitate the sharing of public registry information on its web site, such as aggregating the databases of existing registries. The Creative Commons thoroughly supported efforts to enhance the ability of right holders to voluntarily relinquish copyright. This would enrich the public domain and allow the public to access and use the public domain as intended by copyright law.

435. The Delegation of Zimbabwe congratulated the Chair on his election. It had followed the interesting discussions. The Delegation had strong reservations on the reference to TK and TCEs in the context of the public domain. The linkage brought back some bad memories of the IGC on that subject. It was rather unfortunate that it had been brought up in the Committee. It was supposed to be discussing intellectual property and development. This was basis for the debate in the IGC, i.e. TK and TCEs supported the development of developing countries including Zimbabwe. As such, the Delegation was concerned by the linkage. Perhaps it was an unintended error. The Delegation hoped that it could be rectified because it compromised the work in the IGC and did not send a right signal in terms of how Secretariat sometimes perceived certain deliberations in some committees. The linkage seemed to suggest the opposite of the discussions in the IGC. The Delegation hoped that its concerns could be taken onboard in future considerations. This highly sensitive issue was very important for some delegations.

436. The Delegation of the United States of America responded to the intervention by the Delegation of Brazil, which it understood to be a request for an options paper on the remaining recommendations in the Dusollier study. The Delegation opposed that request. The Delegation also thought that there was a request for a second phase of the thematic project on IP and the public domain. It also opposed that request. That possibility might be considered in the future, after a full discussion of the options paper that was currently under discussion but a new project document was premature.

437. The Delegation of India reiterated the concerns expressed by the Delegations of Egypt, South Africa and Zimbabwe that there was a need to carefully examine the link between cultural heritage and the public domain, without any prejudice to the ongoing negotiations in the IGC on TK and TCEs. TK and TCEs did not fall within the public domain as these were the collective rights of communities. There was an ongoing discussion in the IGC on the protection of TK and TCEs. The Delegation did not support Recommendation 2(a).

438. The Chair noted that there was partial support for the recommendations provided by the Secretariat. Many clarifications were sought and suggestions were made by some of the Member States. The Chair invited the Secretariat to respond to these and to identify those elements which it thought had the support of the Member States for further action.

439. The Secretariat referred to Recommendation 2(a). The Secretariat had merely intended to highlight the activities of WIPO in the area of cultural heritage. These were mainly undertaken by the Traditional Knowledge Division. However, some delegations were concerned that traditional knowledge was being linked to the public domain. This was not the intention. As such, the Secretariat suggested that those references be removed from the document. Nothing would be lost in the analysis by doing so. With regard to Recommendation 1(c) on the relinquishment of rights, the Secretariat reassured the delegations that it was looking at a balanced approach, i.e. one that catered to both the interests of authors and the public at large. This was highlighted in the document but the Secretariat would try to emphasize it further in the terms of reference if the proposal was accepted. The Secretariat stressed that the document merely presented options. It was made very clear that there was no mandatory provision in terms of international standards. They were just different options for the consideration of Member States. Exploring those options would reflect the interest shown in the debate. The Secretariat hoped that the delegations that had expressed concerns with regard to the study would be reassured by the fact that it would just be examining the various options under different jurisdictions through a balanced approach. With regard to Recommendation 1(f) on copyright infrastructure, as pointed by the Delegation of Algeria, the Secretariat did not include any concrete proposals for this recommendation. It had merely made some suggestions in a number of areas which the Member States could look at collectively. Recommendation 1(f) was a very important recommendation. Ms. Marybeth Peters, the former head of the copyright office in the United States of America, used to say that the identification of rights was the main challenge for copyright in the digital environment. Perhaps this recommendation could be approached through a gradation of possible activities in terms of geographical scope, from the national and regional levels to the international level. There could also be a gradual increase in the intensity of the measures. Numerous measures had been proposed and some were perhaps more acceptable to the delegations. This included the proposal by the Delegation of the United States of America for countries that had voluntary public registration systems to meet and consider possible actions that could be taken to increase the exchange of information. The convening of such a meeting could be a first tentative step towards increasing communication. On the difference between a public registry and a private registry, the former was administered by a public authority, usually the copyright office. These were voluntary copyright registration systems. The latter was maintained by a private entity. There were a number of private entities that collected information on creativity. A collective management organization that maintained a database containing information on the repertoire that it managed was an example. Although there was a clear difference, in certain cases the distinction was blurred. For instance, in some countries, collective management was undertaken by the government. However, in principle, a public registry was a voluntary registration system that was managed by a public authority, and a private registry was, for instance, the repertoire database of a collective management organization. The information document had emphasized the interconnection and communication between similar registries. For example, it was easier for public registration systems to increase the exchange of information and communication between themselves and only engage at a later stage in communication with private registries. There were, in principle, no obstacles in examining these issues and to envisage a situation in future where there would be communication between private and public registries. These registries held useful information for the public at large as well as the right holders of copyright content. Not all information would be shared. For example, some of the information held in the private registries was confidential, such as details concerning licensing. However, there was other information which was more general in nature, such as the year that a certain work was created, the place

where it was created and the identity of the author. It was possible to envisage a future in which such information could also be connected to the public registries. This was probably the main reason for the decision at the regional meeting of the heads of copyright offices in Latin America. The Secretariat referred to the question raised by the Delegation of South Africa on interoperability, as referred to in the third paragraph on page 7 of the information document. There must be communication and interoperability among datasets in order to support the interconnection and communication among organizations. The registries would not be able to communicate effectively if they were unable to communicate data. There was a need to develop compatible formats and datasets. There was much work to be done in the development of standards and formats that were compatible. The standardization of formats and standards would be a natural consequence if there was communication between public registries. In relation to orphan works, the connection between orphan works and registries was very important. The issue of orphan works was in a grey area between protection and the public domain. The key issue concerned finding or determining the author of a work. Once the author was identified, the right holder had to be located. Registries that could provide the necessary information to identify the right holder can facilitate a diligence search. This was usually necessary in order to establish whether a particular work was an orphan work. In this context, the infrastructure of the registration systems could be of utmost relevance.

440. The Chair thanked the Secretariat for responding to some of the important questions that were raised, and for proposing some elements in the recommendations that could be supported by the Committee. As the delegations had not reacted to the Secretariat's response, the Chair concluded that the Committee had agreed to the proposed course of action to be taken.

Consideration of Document CDIP/7/INF/2 - Scoping Study on Copyright and Related Rights and the Public Domain

441. The Chair opened discussions on the Scoping Study on Copyright and Related Rights and the Public Domain and invited the Secretariat to introduce the document.

442. The Secretariat recalled that document CDIP/7/INF/2 on the Scoping Study on Copyright and Related Rights and the Public Domain was considered by the Committee in its previous session. The document contained the recommendations that were just discussed. The Committee decided that discussions on the remainder of the document, i.e. its recommendations, would continue at the next session. As such, the document was once again presented to the Committee for its consideration. The Secretariat informed the Committee that the recommendations in document CDIP/7/INF/2 were found on page 70 of the document. The recommendations were divided into three clusters. The first cluster was related to the identification of the public domain. The Committee had already considered two of those recommendations in its analysis of the information document prepared by the Secretariat. Those were Recommendation 1(c) on voluntary relinquishment and Recommendation 1(f) on infrastructure. The second cluster was on the availability and sustainability of the public domain. It contained five recommendations. The Committee had considered Recommendation 2(a) on enhancing the availability of the public domain. The third cluster contained three recommendations that were related to the non-exclusivity and non-rivalry of the public domain.

443. The Delegation of the United States of America stated that it did not support further work on any of the remaining recommendations.

444. The Delegation of Denmark, speaking on behalf of the EU and its Member States, reiterated the position it had expressed in previous meetings that the Committee should not continue discussions on those recommendations.

445. The Delegation of South Africa did not believe that the Committee had exhausted its work on the recommendations. There were a number of recommendations which could be considered. The Secretariat could undertake the same exercise as it had done in the case of the three recommendations that were identified. Exploratory work was always important. It should not be understood that the outcome would be adopted as norm-setting. Exploratory or further work would provide more information on the recommendations. For example, on the issue of voluntary relinquishment, all delegations had agreed that work should be undertaken. Following the Secretariat's analysis, it was realized that this could infringe on the legislation of some countries. As such, the Committee should not end its discussion on this very important document. For instance, the Secretariat could undertake similar exploratory work and analysis on Recommendation 2(b), "Legal deposit should be encouraged at national level, which might involve some financial and logistical help for developing countries. At international level, catalogues and cross-referencing of deposited works should be set up." This was not something that was controversial and the Secretariat could analyze it. The Secretariat could also examine Recommendation 2(d), "Research should be carried out to identify means to promote the divulgation and exploitation of public domain material in terms of funding and incentives. The research could include the tool of the *domaine public payant*, as means to make commercial users of public domain works contribute, through a minimal sum, to the collecting and maintaining of public domain material carried out by public institutions." This was not controversial. Some delegations had supported Recommendation 2(a). As that recommendation included a section on the *domaine public payant*, it would be strange for those delegations not to support Recommendation 2(d). There was also merit in examining Recommendation 2(e), in terms of a study to explore the effects of extending the scope or duration of copyright and related rights on the sustainability of the public domain. The Secretariat could look at these recommendations going forward.

446. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, stated that it would be a shame for the Secretariat to stop its work on the recommendations at this stage. A lot of work had gone into the study and to say that it had resulted in only three recommendations would be a pity. It would also be a great loss for the Committee. For those reasons, it could not accept the idea that the Committee's work on the remaining recommendations would be stopped at this juncture. It was willing to discuss the recommendations with other delegations, in particular, those recommendations which were worthy of detailed consideration. With that in mind, the Group endorsed the suggestions made by the Delegation of South Africa on a number of recommendations and highlighted the fact that they were merely requesting the Secretariat to prepare a document on the various options. It would indicate what might be done by the Member States in relation to certain recommendations. It would be similar to the document that was prepared by the Secretariat earlier. That was all. The Delegation emphasized that the Group was not asking for something that would lead to obligations for Member States. It would simply allow delegations to understand the issues in a transparent manner. It would also make it possible to later identify work that should or should not be done by WIPO. The Committee would be able to clearly see what was involved and it could then decide on what should or should not be done. The Group requested for a document on Recommendation 1(e) on the issue of orphan works. Any information on this recommendation would be extremely valuable for all delegations at this stage. The Delegation had noted everything that was said by the Delegation of South Africa and was not going to go through the same in detail. However, in addition to 1(e), the Group had also identified recommendations 2(b), 2(d), 2(e), 3(a) and 3(c).

447. The Delegation of Egypt, speaking on behalf of the African Group, endorsed the statements made by the Delegation of South Africa and the Delegation of Algeria on behalf of the Development Agenda Group. There was a need to request the Secretariat to provide the Committee with more options with regard to the implementation of those recommendations.

448. The Delegation of Brazil associated itself with the statement made by the Delegation of Algeria on behalf of the Development Agenda Group. The Delegation also shared the views expressed by the Delegation of Egypt on behalf of the African Group and the Delegation of South Africa. There were a number of interesting recommendations that the Committee should continue working on. The Delegation was flexible in discussing what could be done first. Many of the studies and work programs pursued by the CDIP resulted in a lot of follow-up questions on interesting issues that were either suggested by the consultants or found in the reports. It would be good for the Committee to make full use of the efforts made in the preparation of the reports and studies by continuing discussions on matters which were of interest to the Member States.

449. The Delegation of Chile reiterated that this matter was very important for its country. The Delegation supported the proposal for the Committee to continue work on the recommendations. The Delegation agreed that the preparation of studies or exploratory work should not give rise to problems. It was perfectly reasonable to continue working in this manner on these issues.

450. The Delegation of Switzerland associated itself with the statements made by the Delegation of the United States of America and the Delegation of Denmark on behalf of the EU and its Member States. The Delegation responded to some of the comments and suggestions put forward by other delegations. The Committee had discussed and identified recommendations that could be taken forward. It had requested the Secretariat to produce papers with various options on the three identified recommendations. The Secretariat had submitted an information document in response to that request and it had resulted in a great deal of discussion. The Committee was constantly proposing studies and documents for the Secretariat to prepare. It was overloading the Secretariat with its frequent requests for the preparation of papers. Those that were underway should be concluded before starting on other studies. For these reasons, the Delegation was against further work on other recommendations at present.

451. The Representative of the Creative Commons reiterated a statement that it had made during the last session of the CDIP. The Creative Commons was particularly interested in Recommendation 1(e). The Creative Commons operated in more than 70 countries and was used by many institutions such as museums, libraries and archives. Orphan works were particularly important for those institutions. This should be an important part of the Committee's work. There were many different international practices with regard to orphan works. Any study that sought to bring these together was welcomed.

452. The Delegation of Venezuela supported those delegations that wanted the Committee to continue examining the recommendations. Following this morning's debate, it seemed absurd for the Committee to stop working on the recommendations. The Delegation of Algeria had proposed that the Secretariat should continue to analyze certain recommendations. It was absolutely critical for all members, including developed countries, to know more about the issues. As such, the Committee should continue its work on examining the recommendations.

453. The Delegation of South Africa referred to the three recommendations that were identified at the eighth session of the CDIP. The Delegation noted that it had not been agreed that that would be end of the Committee's deliberations on the scoping study. In that session, the Delegation of the United States of America had identified those three recommendations and it was agreed that they could be taken up. However, there was no agreement to conclude discussions on the scoping study. The Delegation wanted to make that clear. It had also taken note that the Secretariat was busy. However, there was a need to take into consideration that a lot of money had been invested in studies and it was not for the sake of producing stacks of documents. The scoping study was a 72 page document. The delegations had read and

understood the document. However, there was also a need to follow up on its recommendations and it was very important to do so. The Delegation had endorsed the three recommendations proposed by the Delegation of the United States of America in the Eighth session of the Committee and would like work to continue on the scoping study as this was a document that had been requested and the Committee had not fully implemented the recommendations of the Development Agenda. The Delegation urged other members to be constructive in their engagement on this matter.

454. The Representative of KEI echoed and strongly supported the interventions made by the Delegations of South Africa, Chile, Algeria and Venezuela for further exploratory discussions to be conducted on some of the recommendations made in Professor Dusollier's study.

455. The Representative of Communia echoed the words of encouragement from the Representative of KEI and supported the statements made by the Delegations of Algeria, South Africa, Chile and Venezuela. The Representative endorsed the arguments that were put forward. Work should continue. It would be a shame to lose what had been achieved up to now. A lot of work had been done and it would be a pity not to press on further.

456. The Delegation of Norway associated itself with the statements made by the Delegation of the United States of America, the Delegation of Denmark on behalf of the EU and its Member States and the Delegation of Switzerland. The Delegation was opposed to further work on the document and was also concerned that the Secretariat would be overloaded with work.

457. The Delegation of Pakistan supported and aligned itself with the argument that the Committee should continue with its discussion on the recommendations. These recommendations emanated from a study of 14 different national laws. The study was an excellent effort. It had referred to the recommendations as ideas that might be pursued at the international level. Hence, these were ideas and not concrete suggestions to be implemented tomorrow. It would be a pity if the Committee decided not to allow the ideas to be discussed. As such, the Delegation requested for concrete discussions to be allowed on the recommendations.

458. The Chair thanked the delegations for their contributions. He noted that views diverged on how to proceed and what the Committee should do, in terms of the Secretariat's work on the recommendations. One view was that work should stop now. The other saw this as a great pity. That view emphasized the fact that any further work would be exploratory in nature and would not constrain any state. The view that called for work to be stopped appeared to be based on an understanding of the workload of the Secretariat and that it should not be overloaded. The Chair invited the Secretariat to respond to this issue.

459. The Secretariat stated that it was in the hands of the Member States. These were complex issues that needed to be examined in detail. It was up to the Member States to decide what the Secretariat should do and it would do so accordingly.

460. The Delegation of Switzerland thanked the Secretariat for always being so ready to respond to the wishes and requests of delegations. It was something that was very much appreciated. As indicated in its earlier comments, the Delegation had the impression that there were requests for the Secretariat to produce more and more papers on the study because delegations were not entirely clear as to what they wanted to do. This seemed to be irresponsible, given the limited resources that were available to the Organization. Perhaps the Committee needed to think about where it wanted to go before starting on anything new. There were studies that had been done and others that still had to be considered in detail. There were also other projects that were underway. It was irresponsible for the Committee to request for more and more papers just to see whether it could come up with some idea in future as to what

it was going to do. Perhaps this was not a diplomatic way of putting it but it was how the Delegation felt. The Committee needed to think about its priorities and what it wanted to take forward. It had to think about what exactly it was trying to achieve and where it was trying to go. The Committee kept introducing work in all sorts of areas without achieving a great deal of results and that was a pity, in terms of the way it was using WIPO's resources.

461. The Delegation of Venezuela thought the Chair had perfectly summed up what was happening on this issue. There were concerns about the possible implications for the Secretariat. However, as the Secretariat was willing to comply with the wishes of the Committee, that objection should be eliminated. The Delegation referred to the statement made by the Delegation of Switzerland. This matter should clearly not be dropped. However, it was also clear that obstacles were always in the way when it came to the consideration of this matter which was of great importance to the developing world.

462. The Delegation of Djibouti associated itself with the statements made by the Delegations of Egypt and Algeria on behalf of the African Group and the Development Agenda Group respectively. The Delegation of Switzerland had stated that requests were made to the Secretariat for clarifications when the members were not sure of what they wanted. Indeed, these were issues in which certain members were not sure of what they wanted and clarification was needed from the Secretariat. That was why the Secretariat's help was required.

463. The Delegation of Algeria referred to the notion of responsibility. It was not very responsible to use words that seemed to call into question the responsibility of other delegations. Responsibility should be understood in terms of the responsibility to take into consideration the fact that all the studies that had been done should not be lost. It was precisely because of that responsibility that it was asking for the other recommendations to be also taken into account.

464. The Delegation of South Africa recalled that the issue of WIPO's governance was under discussion in the Organization. The issue was discussed by developing countries in 2009 and it gained momentum last year. Some delegations thought that it was a new issue as they did not know that it had been discussed in the past. There was a paper in 2001 which contained details on what needed to be done in terms of reforming WIPO. This example indicated that if a matter was not concluded it would be brought up again for discussion. The Member States would not be discussing it again if that issue had been concluded. Thus, the Committee should try to conclude and finalize outstanding issues with regard to the study. However, this was not possible as some delegations were saying that the Secretariat was too busy to undertake the work. The Secretariat had indicated that it was up to the Member States to decide on what was required and it would be ready to comply. It was very important for the issues to be clarified. The issues should be finalized in order for the work of the Committee to progress. As mentioned by the Delegation of Algeria, all delegations had priorities. The Delegation would like the issues to be finalized. The recommendations should not be put aside because somewhere down the line these would be raised again and some ground could be lost. Thus, the Committee should go with the flow and finalize all the issues.

465. The Delegation of Germany noted that there were two key words in the discussion, i.e. workload and resources. The Secretariat had responded to the former. With regard to resources, the Delegation would like to know if different activities were competing for resources. If so, priorities should be identified. There was a budget for 2012/13. The Secretariat must have an idea of what it wanted to achieve with that budget. The Delegation enquired as to how many such studies the Secretariat was capable of carrying out under the current budget. Workload was an issue but these studies could also be outsourced to consultants if there were resources to do so. More clarity was required in this regard.

466. The Delegation of Egypt, speaking behalf of the African Group, noted that there were two issues. The first concerned the three recommendations. It was apparent that there was a divergence of views even on those three recommendations, i.e. 1(c), 1(f) and 2(a), particularly on Recommendation 2(a). A number of delegations would like that recommendation to be amended. There were also delegations that had requested for further work and clarification on the other recommendations in Professor Dusollier's study. As the Secretariat had no objections to this, and as WIPO was a member driven organization, the Member States should be the ones to decide on whether the Secretariat should take up such work.

467. The Delegation of Denmark, speaking on behalf of the EU and its Member States, noted that a number of countries have been looking for clarity. The debate was finalized in the previous session of the Committee. Three recommendations were identified and these had just been discussed. The discussion on the other recommendations should now be closed. The Delegation agreed that there may be things that could be done among those recommendations. However, the Committee had to concentrate on what was necessary and feasible. It must also take into consideration that there had to be agreement among its members. The EU and its Member States saw no merit in continuing the discussion on these recommendations. The discussion had been exhausted. Therefore, it should now be closed.

468. The Delegation of Barbados noted that it was mentioned in the earlier discussion that TK and TCEs was being discussed in the IGC and that these overlapped quite a bit with Recommendation 2(a). More clarity was needed on how Recommendation 2(a) should be framed. This may be clarified in light of the ongoing work on TK and TCEs. As such, the Committee could delay taking a position and when the discussions on TK and TCEs were further advanced it would perhaps shed more light on that particular matter. Since this was not the only Recommendation that needed to be reflected upon further, the Committee could resume discussions on all three recommendations at the same time.

469. The Delegation of the United States of America aligned itself with the views expressed by the Delegation of Egypt which stressed that WIPO was a Member State driven organization. In light of the fact that there was no consensus on the way forward for the document, the Delegation suggested that the Committee should turn to the remaining documents for the meeting that afternoon.

470. The Delegation of Algeria suggested that as some delegations did not want to follow through with the recommendations and others were determined to go ahead, perhaps in the intercession, the delegations could identify recommendations which they felt were necessary. The recommendations that were identified by the regional groups could be discussed. Thus, there would be a list of recommendations which could be discussed at the next session of the Committee. It was obvious that this would not be possible in the current session.

471. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Delegation of Algeria for its constructive proposal for moving ahead on this item. The Group endorsed the proposal.

472. The Delegation of Denmark, speaking on behalf of the EU and its Member States, stated that the proposed intercessional consultations would be a continuation of the discussions. As such, the EU and its Member States were opposed to the idea.

473. The Chair concluded the discussions, noting that there was no consensus on this item.

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

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

475. The Secretariat informed the Committee that the Study on Misappropriation of Signs was contained in document CDIP/9/INF/5. The consultant who was mandated to direct the preparation of the study, together with the group of regional consultants, was present and would be invited to introduce the document. The Secretariat recalled that the study was part of the project on intellectual property and the public domain under Recommendations 16 and 20 of the Development Agenda. The project document was contained in document CDIP/4/3 Rev. The project contained three components, i.e. copyright and related rights, patents, and trademarks. The study that was contained in document CDIP/9/INF/5 constituted the component on trademarks. The study was prepared by Mr. Martin Senftleben, Professor, VU University Amsterdam, The Netherlands, in collaboration with a group of 14 international experts who prepared country and region reports. Their names are listed on the first page of the study. The study explored the notion of “public domain” in relation to trademark law and included a fact based analysis of the trademark laws in different regions and countries. Professor Senftleben was invited to introduce the study.

476. Professor Senftleben provided an overview of the key features of the study. The question that the study sought to address was how to prevent the misappropriation of signs within existing legal frameworks for the protection of trademarks. Four strategies can be applied for this purpose. First, there were countries that provided for certain signs to be excluded from registration and protection as trademarks. Second, signs incapable of satisfying the basic protection requirement of distinctiveness remained free of trademark rights. This meant that registration was denied on the grounds that a certain sign was simply not distinctive and cannot function as a source identifier. Third, trademark protection did not give the trademark owner general control over the use of the protected sign. Trademark rights were not comparable to copyright or patent rights, in terms of the scope of protection. Fourth, limited exceptions to trademark rights may be adopted at the national level to exempt certain forms of use that were deemed particularly important to satisfy social, cultural or economic needs. Some examples were provided with regard to each strategy. The first strategy concerned the general bar to registration and protection as a trademark. For instance, deceptive signs can be excluded from protection *ex officio*. This was applied quite efficiently in several regions, for example, with regard to the signs of an indigenous community if a connection did not exist with that community. Signs that were contrary to morality or public order can also be excluded from protection *ex officio*. This could be invoked as a ground for refusal, for example, with regard to religious signs. The position on religious signs differed from region to region. There were certain regions that employed a more liberal approach and allowed, for example, the registration of religious signs and the names of saints with regard to certain types of products. In other regions, religious signs were excluded altogether on the grounds that these would be against morality and public order. Signs can also be excluded if they were signs of international intergovernmental organization or states. This was based on Article 6ter of the Paris Convention. In several countries, the exclusion of official symbols was extended to signs and symbols relating to reigning houses, lower public entities such as police forces, cities and lower governmental organizations. In some countries, signs which were identical or confusingly similar to the objects of world cultural and natural heritage which were recognized by UNESCO were not eligible for protection. Technical and aesthetically functional signs were also excluded from protection. For example, Lego bricks were excluded from trademark protection in many countries on the grounds that the functionality of the Lego brick had enjoyed patent protection and such protection should not be prolonged through trademark rights. This helped to promote competition in that area. The second strategy was on the exclusion of signs that lacked distinctiveness. This strategy was traditionally applied to signs that had a generic character, for

example, the registration of apples for the sale of apples would be denied; descriptive signs, including signs that were geographically descriptive; new kinds of signs such as packaging or the shape of a product; and cultural signs. There were court decisions for example, where it was said that cultural heritage of a universal nature such as the Mona Lisa could not be registered as a trademark because it was not distinctive. It would not be understood by consumers as a reference to a particular commercial undertaking. The second strategy was less absolute than the first, in terms of its effect. This was because in most of the national systems examined in the study, it was clear that if a sign did not have a descriptive character or generic character, a distinctive character can still be acquired through use of the sign in the course of trade. These were the two strategies that applied to exclude signs from trademark protection altogether. The second set of strategies related to the scope of protection once trademark protection was acquired. The study showed quite clearly that in all the regions that were examined, the scope of trademark rights was limited in the sense that trademark rights only related to the goods and services for which the trademark was registered. It was also limited in the sense that in most regions, the notion of trademark use was applied and not all forms of use were relevant under trademark law. For example, use in a non-commercial, educational, cultural or political context, may be held by the courts not to constitute relevant trademark use or to amount to trademark infringement. The reports also indicated that there were countries that provided for much stronger protection of well-known trademarks. In such cases, the protection of trademark rights became more absolute and further balancing tools may be required. The study also covered those tools. There was an internationally recognized possibility for countries to introduce limited exceptions. This was found under Article 17 of the TRIPS Agreement. Member States were free to introduce limitations to trademark rights though limited exceptions that took into account the legitimate interests of the trademark owner and third parties. That provision of the TRIPS Agreement referred to the fair use of descriptive terms as an example. The study identified further examples in the countries and regions that were covered. For example, use of a trademark sign when it was a personal name, address, geographic name or place of business. Thus, if a person was Scottish and his name was McDonald, then he may still be in a position to use that name for doing business, even though it was a well-known trademark. Descriptive signs also fell under an exception in many countries. For instance, even though a geographical indication may be protected under the trademark laws in a given country, this did not mean that other businesses in that area could not use the indication for providing information on the geographical origin of goods or services from the area concerned. The functional features of a container, shape, configuration, color or pattern could also be included under an exception. This was particularly applicable to spare parts and allowed for freedom of competition in that area. Other exceptions included prior rights that had been acquired in good faith, use in comparative advertising, and use for the resale of goods after the trademark rights had been exhausted. The study did not contain any recommendations because this was not part of the mandate given to the group. However, it contained an impact assessment which provided some guidelines on the application of the strategies. These included guidelines on whether signs should be excluded altogether from registration and protection as trademarks or to rely on the general protection requirement of distinctiveness. In this regard, the importance of ensuring that a sign was not subject to trademark rights should be balanced with the potential risk of causing confusion among consumers. For example, the Lego brick was excluded from trademark protection in many countries. However, in the minds of consumers, the Lego brick was linked to the company. Thus, exclusion from protection must be balanced with potential consumer confusion. Further considerations concerned matters such as whether to rely on the inherent limits of trademark rights, for example, the notion of trademark use, or to adopt explicit exceptions. This would depend on the legal certainty in a given country. If the inherent limits of trademark rights were widely known, then there may not be a need to adopt specific exceptions to indicate that certain uses did not amount to trademark infringement. If the inherent limits were not well-known, then it might be a good idea to adopt an exception for that purpose. For instance, if trademark parody was to be allowed as free use in a given country, then it might be a good idea for it to

adopt an exception for that purpose if the public was not aware of the fact that use in a cultural sphere that was non-commercial and which made a critical comment on the trademark or the policies of the trademark owner did not fall under trademark protection. The consultant hoped that the study would be of use to the Committee in its deliberations on this issue.

477. The Chair thanked Professor Senftleben for his introduction to the study. The Chair informed the Committee that he had held informal consultations with some delegations. The consultations indicated that there was support for the Committee to take note of the Study on Misappropriation of Signs and the Study on Using Copyright to Promote Access to Information and Creative Content. The Committee could study them in the next session if this suggestion was acceptable to the members.

478. The Delegation of Brazil would like the Chair to confirm that the Committee would return to document CDIP/9/INF/5 in its next session.

479. The Chair affirmed that that was his understanding. He thanked the Secretariat and the consultant for the work on the study and concluded the discussions on that item.

Consideration of Document CDIP/9/10 - A Pilot Project for the Establishment of "Start-Up" National IP Academies – Phase II (Contd.)

480. The Chair reopened discussions on Phase II of the Pilot Project for the Establishment of "Start-Up" National IP Academies. He invited the Secretariat to introduce the revised document.

481. The Secretariat informed the Committee that the annex to document CDIP/9/10 Rev. 1 had been revised to incorporate the changes that were agreed in the informal consultations. In the summary on page 1, the first paragraph on the brief description of the project had been amended as follows (changes in italics), "The overall objective of the "Start-Up" National IP Academies project is to strengthen national and regional institutional and human resource capacity *through further development of infrastructure and other facilities with a view to making national institutions more efficient and promote a fair balance between IP protection and the public interest as well as to meet national development priorities and goals* and to meet the increasing local demand from IP specialists, professionals, government officials and other stakeholders". As agreed, points 1 and 2 in that section had also been amended. These were as follows (changes in italics), "(1) Assisted Colombia, Dominican Republic, Egypt, Ethiopia, Peru and Tunisia to establish self sustainable IP training centers able to deliver at least two regular training programs on emerging issues in IP *as agreed upon with beneficiary countries.* (2) Built critical human resources able to develop and deliver IP training programs taking into consideration *national development challenges, priorities and local needs and a fair balance between IP rights and public interest.*" Similar changes were introduced in the section on the objectives of Phase II in page 5 of the annex. The second paragraph on page 7 had been amended as follows (changes in italics), "Meanwhile, an ad hoc consultant will be identified to assist in the implementation of the project with the requesting Member State. The consultant should have professional and academic background on IP and extensive knowledge of the national situation on IP education. Although it is not mandatory, the consultant should preferably be from the same *country or region* as the beneficiary Member State. *The project also should make use of local expertise to the maximum possible extent to implement the project.*" The last paragraph on page 7 had also been amended as follows (changes in italics), "Implementation of Training of Trainers Programs, which would result in a core group of committed experts with developed teaching skills able to create and deliver training programs on emerging issues of IP *as agreed upon with beneficiary countries.*" The section on project objectives in page 14 of the annex had been amended as follows (changes in italics), "Strengthened national and regional institutional and human resource capacity *through further*

development of infrastructure and other facilities with a view to making national institutions more efficient and promote a fair balance between IP protection and the public interest as well as to meet national development priorities and goals and to meet the increasing local demand from IP specialists, professionals, government officials and other stakeholders.” The following was added to the indicators of success on the same page, *“Evaluation of curricula and training programs with a view toward the promotion of a fair balance between IP protection and public interest as well as to meet national development priorities and goals.”* Changes (in italics) were also introduced in the following indicator, “Number of Start-Up Academies which are delivering at least two regular training programs on IP *as agreed upon with beneficiary countries.*”

482. The Delegation of Germany had a few questions on the project. The Delegation had not taken part in the informal consultations. However, it had examined the evaluation report for Phase I and enquired as to how the lessons learned had been incorporated in the new proposal. For example, it was mentioned on page 21 of the evaluation report that 420,000 Swiss francs had been allocated to the project for non-personnel costs and this figure could be lowered if the process was made more efficient. However, the amount was higher in the new project. In addition, it was mentioned in the section on review and evaluation in page 11 of the project document for Phase II, that monitoring reports, self-evaluation reports and the final independent evaluation report would be approved by the project manager. In this context, there was no point in having an independent evaluation, if the report had to be approved by the project manager. With regard to the outcome indicator for the per centage of trained trainers, a baseline for assessing the per centage had not been included. A method for measuring was provided but the per centage necessary to achieve success was not indicated. Lastly, the budget for the second year of the project was lower, even though the planned activities for 2013 were double compared to 2012. The Delegation enquired as to why this was so.

483. The Delegation of Nepal, speaking on behalf of the LDCs, recalled that the Delegation of Bangladesh had described the state of IP in LDCs and how such academies would help to establish IP regimes and assist LDCs to use IP as a tool for development. The general TRIPS flexibility for LDCs would expire next year. For these reasons, the Delegation stressed that LDCs should be given priority in the implementation of the project in future.

484. The Delegation of Djibouti strongly supported the statement made by the Delegation of Nepal on behalf of the LDCs. Priority should be given to the LDCs in the implementation of the project in future.

485. The Delegation of Bangladesh thanked the Member States for proposing modifications. The Delegation also thanked the Secretariat for revising the document. This project was very important for LDCs as many lacked established and updated IP policies as well as beneficial enforcement regimes. These academies would help to fill those gaps. As such, the LDCs should be accorded preferential treatment in the implementation of the project in future. The Delegation expected the project to be included as a regular activity in the work program of the WIPO Academy. It should be financed through WIPO’s regular budget.

486. The Delegation of Paraguay was pleased that Phase II of the project had been approved by the Committee. The Delegation supported the request made by the Delegation of Bangladesh for the project to be funded under WIPO’s regular budget with specific funds earmarked for its implementation.

487. The Chair invited the Secretariat to respond to the questions put forward by the delegations.

488. The Secretariat referred to the comments by the Delegation of Germany. With regard to the recommendations of the evaluation report on efficiency and costs, one of the measures to

be adopted in Phase II was to cut down the implementation stages of the project. There used to be four stages and these be shortened to two. It would include an incubation phase and an implementation phase. In addition, local consultants, instead of regional or foreign consultants, would be used to coordinate the national projects. The consultant would help to develop the work plan that would be implemented in the country. These measures should lead to savings, in terms of time and costs. It was one of the lessons learned in the implementation of Phase I. With regard to the final evaluation, the evaluation would be undertaken by an external independent evaluator and the report would be examined by the CDIP.

489. The Delegation of Germany acknowledged the points made by the Secretariat. However, it was mentioned in the project document that all evaluation reports would be approved by the project manager. As such, an external evaluation report would no longer be independent.

490. The Secretariat took note of the point made by the Delegation of Germany. The Secretariat returned to the issue concerning the utilization of funds. Less money would also be spent because the needs assessments of all the countries in Phase II had already been undertaken in the incubation period. In addition, the teaching tools and some of the materials that had already been developed would be used in Phase II. As mentioned, the use of local consultants and local expertise would also lead to cost savings. These measures would allow the project to be implemented with less funds. With regard to the comment made by the Delegation of Nepal, the countries that would take part in Phase II had already been selected. As such, the request of the LDCs would be a priority for the next phase of the project. However, it should be noted that an LDC country would be taking part in Phase II. The Secretariat reminded the Committee that the countries taking part in Phase II had been selected because they had expressed an interest to be included in the project. Lastly, in relation to the point raised by the Delegation of Germany on the per centage of trained trainers, this would be provided to the evaluator in order for him or her to provide an assessment of the per centage of trained trainers.

491. The Chair thanked the Secretariat for its response and declared that the Committee had approved the revised project document for the second phase of the project, as contained in document CDIP/9/10 Rev 1.

Consideration of Document CDIP/9/INF/4 - Revised Project Paper for the Project on Intellectual Property and Technology Transfer: Common Challenges - Building Solutions

492. The Chair opened discussions on the revised project paper for the Project on Intellectual Property and Technology Transfer: Common Challenges – Building Solutions. He invited the Secretariat to introduce the document.

493. The Secretariat informed the Committee that the revised project paper was contained in document CDIP/9/INF/4. The project was based on Recommendations 19, 25, 26 and 28 of the Development Agenda. It included 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. Document CDIP/9/INF/4 included an introductory section describing the background as well as a definition of technology transfer together with the ultimate project objectives; a thorough literature review of the existing work within WIPO and the work undertaken by other organizations in the area of technology transfer; description of the required studies and case-studies; and the project deliverables with a detailed description of the project stages with an updated timeline and redistributed budget. Transfer of technology was defined to broadly refer to a series of processes for enabling and facilitating the flow of skills, knowledge, ideas, know-how and technology among different stakeholders such as university and research institutions, international organizations, IGOs, NGOs, private sector entities and

individuals, as well as international technology transfer among countries. Transfer of technology was often considered to include the absorption of new technologies. It was also sometimes considered to involve the transfer of concrete knowledge for the manufacture of products, the application of a process or the rendering of a service to improve domestic as well as international competitiveness in the economic market. The project would use a step-by-step approach with accredited organizations and new partners involved in all aspects of technology transfer. It would explore intellectual property-related policies and new initiatives necessary to promote the transfer and dissemination of technology, particularly for the benefit of developing countries as well as the establishment of international IP collaboration. The project outcomes would be integrated into relevant WIPO activities after consideration by the CDIP and any possible recommendations by the Committee to the General Assembly. The project consisted of five progressive phases with the objective of adopting a list of suggestions, recommendations and possible measures for promoting technology transfer. The first phase included the organization of five regional technology transfer consultation meetings. The composition criteria and terms of reference were decided by Member States in the Eight Session of the Committee. Appendix I and II of document CDIP/9/INF/4 contained details of the terms of reference and composition criteria with respect to the regional consultation meetings as well as the experts tasked to develop the six technology transfer studies. The document also included model programs for the regional consultation meetings. Following the request of the Committee, the timelines were revised to reflect a more realistic status. Finally, in accordance with cost efficiency measures, budget reduction was achieved by enhancing the involvement of partners, ensuring geographical balance and dovetailing activities.

494. The Delegation of Egypt, speaking on behalf of the African Group, found the paper useful and urged the Secretariat to vigilantly implement the project deliverables. The Group looked forward to the proposed regional consultation meetings. However, it also emphasized that some of the deliverables were very similar to those concerning other studies. These did not have a major impact on development. Therefore, the Group requested the Secretariat to cooperate with Member States to examine and propose more concrete methods for achieving technology transfer within the IP system. Meetings, seminars and web portals were very useful. However, they had little impact on technology transfer in developing countries in its region.

495. The Delegation of Algeria thanked the Secretariat for revising the project paper based on the comments and direction given by the Member States. The Delegation informed the Committee that Algeria was a candidate for hosting the regional consultations in Africa. In this context, it hoped to receive support from Member States and the Secretariat to ensure the success of those consultations. The consultations would allow for an exchange of views between experts on current challenges in technology transfer. Technology transfer was a key priority for the Delegation and developing countries in general.

496. The Delegation of Colombia thanked the Secretariat for the preparation and presentation of the document. The Delegation encouraged countries to share their experiences on making the best use of the results of such studies for development. With regard to fiscal incentives for stimulating technology transfer in developed and developing countries, the Delegation suggested the inclusion of economic studies on international policies and practices to promote technology transfer between academic institutions and research groups in the private sector. It was not necessarily something that was done between countries at present. It tended to be only domestic. In relation to networks, the Delegation believed that a priority for encouraging transfer was to ensure that the necessary infrastructure was in place, particularly in terms of the necessary rights that can be allocated to researchers. In view of the above, necessary measures should be taken to ensure that such sustainable outcomes can be achieved.

497. The Delegation of Denmark, speaking on behalf of the EU and its Member States, thanked the Secretariat for document CDIP/9/INF/4 containing the revised project paper for the

project on intellectual property and technology transfer. The EU and its Member States reiterated the position expressed at the last Committee meeting with regard to the importance of technology transfer. They had taken note of the revised paper containing the redistributed budget and updated timeline. The EU and its Member States accepted the project.

498. The Chair noted that there was a call for the Secretariat to implement the project deliverables as well as general support for the suggested timeline and budget. He invited the Secretariat to respond to some of the comments.

499. The Secretariat thanked the delegations for their comments. The Secretariat referred to the comments from the Delegation of Egypt. The Secretariat was trying to deliver as fast as possible as the project would have an important impact in developing countries. Seminar and workshops had been undertaken in many countries. Technology transfer seminars and materials such as guides and manuals on technology transfer and intellectual property management were useful. The project would also try to put together a set of measures that countries can agree to in order to enhance and foster technology transfer between different countries. Turning to the comments from the Delegation of Algeria, the Secretariat confirmed that two regional consultation meetings would be held this year. One would take place in the Asian region in July and the other would be held in the African region in October. Algeria was the candidate host country for the regional consultation in Africa. With regard to the comment from the Delegation of Colombia, additional studies on technology transfer could be included. The proposed studies were non-exhaustive. The Secretariat also recalled that it was mentioned in previous discussions that the project was intended as a phase 1 type of project and there would be subsequent phases to promote technology transfer. These could potentially include the suggested studies by the Delegation of Colombia.

500. The Chair thanked the Secretariat for responding to the questions put forward by the delegations and concluded discussions on this item.

Consideration of Document CDIP/8/INF/5 Rev. - Interface between Exhaustion of Intellectual Property Rights and Competition Law and Document CDIP/9/INF/6 Study on the Anti-Competitive Enforcement of Intellectual Property (IP) Rights: Sham Litigation

501. The Chair opened discussions on the interface between exhaustion of intellectual property rights and competition law; and the Study on the Anti-Competitive Enforcement of Intellectual Property Rights: Sham Litigation. He invited the Secretariat to introduce the documents.

502. The Secretariat informed the Committee that it was considering two documents that were produced under the Project on Intellectual Property and Competition Policy. The study in document CDIP/8/INF/5 Rev. was prepared by the Secretariat. It was discussed in the last session of the Committee. The Secretariat had received comments from the Delegations of Brazil, Japan and the United States of America. Those comments were incorporated in the revised text and discussed with the three Member States. The study on sham litigation was prepared by the Institute for Applied Economic Research (IPEA), a reputable think tank on applied economics in Brazil. Despite its links to the government, IPEA was an independent entity. IPEA's study was on the extremely complex issue of the interface between the enforcement of intellectual property rights and its abuse. The document had already been presented to the Member States. The paper was presented by the coordinators of the study at the workshop that was held in WIPO last October. A number of delegations, non-governmental organizations and representatives of the IP community had participated in that workshop. The study was also presented to Member States in the course of the seventh session of the Advisory Committee on Enforcement on November 30 and December 1, 2011. Thus, the Member States were familiar with the study. The Secretariat stressed that it had not been involved in the preparation of the study. It was produced by an external source. It was

understandable that some of its conclusions of the study may relate to a reality in Brazil that would probably not be applicable to other countries. The Secretariat was not responsible for these and would bring any comments that the delegations may wish to submit, to the attention of the authors of the study. If they viewed these to be necessary and relevant, the authors would revise the document and it would be re-issued by the Secretariat for the next session of the Committee.

503. The Delegation of the United States of America had a few comments on both studies. The Delegation referred to the study on the exhaustion of intellectual property rights and competition law. The Delegation thanked the Secretariat for revising the study based on the inputs received from Member States, including the United States of America. The Delegation turned to the study on sham litigation and expressed its appreciation to the Secretariat for commissioning the study, and for having it discussed at a symposium on IP and competition policy in October, 2011, in Geneva. At the Fourth session of the Committee in 2009, when the Committee approved the thematic project on IP and competition policy, the Delegation had stated and Member States had agreed, that any WIPO activities related to the complex relationship between intellectual property law and competition policy should be guided by several principles. First, they must be non-normative, i.e. the activity should avoid norm-setting leading to binding international agreements and should not stray into areas that went beyond the limited scope of the agreed recommendations. Second, they should be policy neutral. In light of the fact that competition policies varied widely among countries and regions, studies should draw on different national and regional approaches to illustrate, rather than to prescribe, specific policy approaches. The sham litigation study deviated in part from these principles by advocating the adoption of sham litigation policies that were being developed in specific jurisdictions. The Delegation referred to paragraphs 15 and 16 of the executive summary, and similar language in the conclusion to the study, where it was stated that, "competition authorities and courts worldwide may be dismissing a significant number of cases", because of unduly stringent standards in the United States of America and the European Union. In doing so, the study's conclusions ran counter to the laws of nations that placed a high priority on the ability of citizens to petition the government for action and the creation of administrable tests to distinguish between real and sham litigation. It therefore requested the Secretariat to revise the study to delete paragraphs 15 and 16 of the executive summary and the corresponding paragraphs in the conclusion in order to comply with the principles previously agreed upon by Member States.

504. The Secretariat thanked the Delegation of the United States of America for its request. The Secretariat recalled the exchange of views in the fourth session of the CDIP where it had expressed its total agreement with the recommendation that any output from the project should be policy neutral. As mentioned earlier, the Secretariat was more than happy to bring the comments to the attention of the authors of the study. These would be taken into account in the revision of the study.

505. The Delegation of Chile thanked the authors of document CDIP/9/INF/6 for the very interesting study. As mentioned in yesterday's session, Chile was very interested in the relationship between intellectual property and competition policy. The Delegation had indicated that work was being undertaken in close collaboration between its IP and competition authorities. As such, the Delegation welcomed the preparation of the study on sham litigation. The study was very useful and had been distributed to its national economic authorities. The study offered an opportunity to further the discussions on anti-competitive enforcement of intellectual property rights and to assess the impact that this may have on innovation and technological transfer.

506. The Chair thanked the Secretariat for the presentation and concluded the discussion on documents CDIP 8/INF/5 Rev. and CDIP/9/INF/6.

Consideration of Document CDIP/9/11 - Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8, and Documents CDIP/7/3 – Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part II Contd.

507. The Chair resumed discussions on the work program on flexibilities and invited the Secretariat to present the results of the informal consultations on future work with regard to patent-related flexibilities.

508. The Secretariat (Mr. Philippe Baechtold) informed the Committee that a text had been agreed during the informal consultations with interested delegations on paragraph 2(c) of document CDIP/9/11. The text was as follows:

“In respect of paragraph 2(c) of document CDIP/9/11, the Committee decided to proceed as follows:

1. The Secretariat will prepare for the next session of the Committee, a document showing which of the four patent-related flexibilities listed in paragraph 2 have already been addressed in the Standing Committee on the Law of Patents and whether such work would be addressed from the same or a different perspective by the Committee. This document will also contain further explanation on the latter two bullet points in paragraph 2.
2. The Secretariat will invite Member States of the Committee to submit written comments on the list of the following four patent-related flexibilities by August 31, 2012:
 - the scope of the exclusion from patentability of plants [TRIPS Article 27]
 - flexibilities in respect of the patentability, or exclusion from patentability, of software related inventions [TRIPS Article 27]
 - the flexibility to apply or not criminal sanctions in patent enforcement [TRIPS Article 61]
 - measures related to security which might result in a limitation of patent rights [so-called security exception][TRIPS Article 73]

The Secretariat will compile the comments received by the above date in a document to be submitted to the next session of the Committee. The four above flexibilities and the comments received will form the basis for discussions at the next session of the Committee on patent-related flexibilities.

3. Additional flexibilities, including those in Article 27 of the TRIPS Agreement, may also be submitted and presented at the next session of the Committee and members may submit comments thereon intersessionally between the 10th and 11th sessions of the Committee, for discussion and decision at the 11th session of the Committee.”

509. The Delegation of Algeria thanked the Secretariat for introducing the text. The Delegation would like the phrase, “as reflected in paragraph 2(c) of document CDIP/9/11”, to be added at the end of the last sentence in paragraph 2 of the text. The Delegation would also like the word “which” in paragraph 1 to be substituted with the words “if any”.

510. The Delegation of Egypt endorsed the amendments suggested by the Delegation of Algeria. The Delegation did not think the four issues listed in the text had been discussed in the SCP. However, if they had been discussed, the CDIP would be identifying complementary and

additional work that can be undertaken in relation to those issues. It would allow for the work undertaken in the Committee and the SCP to be complementary.

511. The Delegation of Hungary would like the Delegation of Algeria to indicate the position in the text for the language it had suggested on paragraph 2(c) of document CDIP/9/11. It would also like to know the reason for the suggestion.

512. The Delegation of Algeria repeated its suggestion on paragraph 2(c) of document CDIP/9/11. This would indicate that it was related to the work program on flexibilities. Paragraph 2(c) of document CDIP/9/11 referred to the preparation of additional studies to extend the Secretariat's current work on patent-related flexibilities.

513. The Delegation of Hungary recalled that when this issue was discussed, it was mentioned that the outcome of future discussions should not be prejudged. Paragraph 2(c) called for the preparation of additional studies. The Delegation maintained that it did not want to prejudge the outcome of discussions at the next session.

514. The Delegation of Algeria acknowledged the point made by the Delegation of Hungary. The Delegation's proposal was not prejudging the outcome of the discussions in the Committee. It merely provided a reference to the work that was being undertaken by the Committee.

515. The Chair informed the Committee that informal consultations had just been held on amendments to the text. He invited the Secretariat to read out the revised text that was agreed.

516. The Secretariat informed the Committee that the title of document CDIP/9/11, "Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8", would be included in brackets after the phrase, "In respect of paragraph 2(c) of document CDIP/9/11" in the preamble to the text. That would provide a clear reference without including the additional text proposed by the Delegation of Algeria at the end of paragraph 2. The word, "which" in the first line of paragraph 1, would be replaced by the words, "if any". The sentence would then read as follows, "The Secretariat will prepare for the next session of the Committee, a document showing if any of the four patent-related flexibilities listed in paragraph 2 have already been addressed in the SCP".

517. The Delegation of South Africa found that paragraph 1 was pre-empting the outcome. It did not want to stop consensus and just wanted to go on record as saying that. The Delegation also wanted to know if any meaning was attached to the two commas in the second bullet point under paragraph 2.

518. The Secretariat confirmed that there was no intention to give any particular meaning to those commas or the text within the commas. These were intended to capture the different angles of the question, i.e. that there were flexibilities in terms of patentability as well as flexibilities in terms of how and to what extent, software related inventions can be excluded from patentability. That was all. There was nothing more than that.

519. The Chair thanked the Secretariat for the explanation. As there were no objections, it was taken that the outcome of the consultations, as read out by the Secretariat, accurately reflected the concerns of all delegations.

Agenda Item 9: Future Work

520. The Chair opened discussions on future work and invited the Secretariat to read out the main elements.

521. The Secretariat stated that it had, as usual, a fairly long list of documents that may be included in the work of the 10th session of the CDIP. The Secretariat read out the indicative list of documents which was not in any order of priority or importance:

- Progress report on the Development Agenda projects. A practice had been developed whereby the Committee received the Director General's report in the April or May session, and detailed progress reports in the November session.
- Progress report on 19 recommendations. The Secretariat had been reporting on these recommendations. This stemmed from the discussions in the first session of the Committee whereby some recommendations were identified as needing no additional financial or human resources for implementation. Most of these contained Development Agenda principles.
- Evaluation reports on six projects that would be completed or nearing completion by the next session. The Secretariat would be working on those reports from now until the November session of the Committee.
- Report on the contribution of the relevant WIPO bodies to the implementation of the Development Agenda recommendations. As was done last year, the Secretariat would be submitting a report to the General Assembly on the contribution of the relevant WIPO bodies to the implementation of the Development Agenda recommendations. It was assumed that the report would be forwarded to the Committee, as was the case last year.
- Revised report on WIPO's contribution to the MDGs. In the last session, the Committee had discussed a report on WIPO's contributions to the MDGs. That report was being revised by the external author.
- External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The Committee had considered three documents at its current session, i.e. CDIP/8/INF/1, CDIP/9/14 and CDIP/9/15. The Secretariat had also formally received a joint proposal from the African Group and the Development Agenda Group which was considered by the Committee as an informal document. The groups had requested the Secretariat to issue the proposal as an official document. It was up to the Committee to decide whether that document should be included for consideration under this agenda item.
- Work Program on Flexibilities in the Intellectual Property System. The Committee had considered document CDIP/9/11 in the current session. The Secretariat had received comments and a new document would be issued.
- Using Copyright to Promote Access to Information and Creative Content. The Committee had earlier postponed discussions on the study on copyright to promote access to information in document CDIP/9/INF 3. The study would be considered at the next session.
- Study on misappropriation of signs. The discussions on this study were also postponed. It would be considered in the next session.
- Conclusion of discussions on the conference on IP and development. The Chair would be holding consultations in the intercession and the outcome would be presented to the next session.
- Patent-related flexibilities in respect of paragraph 2(c) of document CDIP/9/11. The Secretariat would provide a document based on what had just been agreed.

- Proposal for a new item on IP and development in the Committee's agenda. The Committee had discussed document CDIP/6/12 Rev. on the proposed new item. Delegations may like to resume the consideration of that document at the next session.

522. The above were the Secretariat's initial thoughts on the work of the next session of the Committee. It was a fairly long list and the Secretariat looked to the Chair for his guidance. At some point, the Committee had to set priorities. Although documents could be carried forward from one session to another, it was not an ideal situation.

523. The Delegation of Egypt, speaking on behalf of the African Group, thanked the Secretariat for the proposals concerning future work. The report on the contribution of WIPO bodies to the implementation of the Development Agenda recommendations was an important issue for the Group. As mentioned, the quality and format of those documents should be improved so as to add value to the Committee's discussion and understanding. The Group called upon and urged all WIPO committees to participate in that exercise and to report on their contribution to the implementation of the Development Agenda recommendations. In relation to the issue of WIPO's contribution to the MDGs, the Group would also like WIPO's contribution to the post-2015 development goals to be included. With regard to the issue of the external review of WIPO technical assistance, the Group understood that its joint proposal with the Development Agenda Group would be the working document for discussions on this item at the next session. It attached great importance to the issue and would like intercessional work to be undertaken in order to advance the discussions at the next session. In relation to document CDIP/9/11, the Group would like the elements included under paragraphs 2(a)-(h) to be kept and the additional information requested by some Member States should be provided. The Group would like to revisit this matter in the next session. This included the issue of patent-related flexibilities and other elements under paragraphs 2(a)-(h) that were not discussed as there had not been enough time. In addition, it was also important to discuss Recommendations 29, 40, 43, 45 of the Development Agenda at the next session of the Committee. The Secretariat had identified those four recommendations as not having been discussed in the Committee. As such, the Group would like these to be discussed at the next session, perhaps as part of a new agenda item, and to consider how these would be implemented. The Group would also like the Secretariat to submit a report on the implementation of Recommendation 2, particularly on the financing of activities in Africa through budgetary and extra budgetary resources. The implementation of this recommendation was important for African countries. Informal consultations should be undertaken on the proposed agenda item on IP and development related issues. That issue had yet to be resolved. With regard to the conference on IP and development, the Delegation recalled that there was agreement to discuss issues related to venue, agenda, etc. However, there had not been time to do so. This could be done in the intercession to prepare for discussions in the next session of the Committee.

524. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, thanked the Secretariat for the presentation. The Delegation made some comments on the proposed elements. The issue of the external review of WIPO technical assistance had been thoroughly discussed and there was a need for the implementation of the different recommendations to begin. The discussions as well as the comments from the Secretariat had indicated that there were some recommendations for which work could begin. The Group would like the Secretariat to start working on those. The Delegation referred to the comments made by the Delegation of Egypt on behalf of the African Group on the Development Agenda Group / African Group proposal and would like the Secretariat to circulate the document to Member States for their comments in order to save time. The coordination mechanism was another important issue and this had already been made clear by the Group. The Committee was still discussing that issue. There was a need for a decision. Thus, it must be included in the agenda for the next session. The Group would also like discussions to continue on the proposed new item on IP and development in the Committee's agenda. There was a need for

informal consultations to be held by the Chair on IP and development-related issues, including the conference on IP and development which was mentioned by the Secretariat. Work was also required on the recommendations that had not yet been implemented. The recommendations were mentioned by the African Group. In general, those were the issues that the Group wanted to highlight. The Group would also like other issues that were mentioned by the Secretariat to be included in the future work of the Committee.

525. The Delegation of South Africa thanked the Secretariat for outlining some of the documents that the Committee had been working on. The Delegation noted that the Secretariat had not listed the scoping study on copyright and related rights. It would like that document to be retained. The Delegation referred to the Chair's summary of the last session of the Committee. In this context, it was clearly stated in paragraph 17 that three recommendations were identified and, "The Committee agreed that the remaining recommendations would remain open for further discussion at its next session". None of those were further discussed. They were just dismissed. There was a difference between discussing and dismissing an issue. The Delegation would like that important document to be retained for the next session. The Delegation was happy that the Secretariat had included the follow-up work on MDGs as it had noted in the Director General's report that WIPO was interfacing with other UN agencies. The revised document would allow the Committee to guide WIPO's work with other UN agencies. This was captured in paragraph 7 of the aforementioned summary. It was also stated in paragraph 12 of the summary that the Committee had requested the Secretariat to prepare a more substantive summary of the study on Patents and the Public Domain and it would be made available in all official UN languages. The Committee had not looked into this. Paragraph 13 of the summary referred to three studies on IP and competition law. It also stated that the Secretariat would provide the Member States with summaries for two of those studies. These would be made available in all official UN languages and submitted to the current session of the Committee. However, the Committee did not have time to also look into these. The Delegation agreed with the African Group and the Development Agenda Group that there was a need to focus on document CDIP/6/12 Rev. on the proposed new agenda item on IP and development. It was submitted by the Delegation of Brazil and should be retained in the work of the Committee.

526. The Delegation of Denmark noted that there was a long list of possible documents and issues for the next meeting of the Committee, as pointed out by the Secretariat. The EU and its Member States made some recommendations to improve the overall effectiveness of the Committee. While they appreciated the challenges in managing documentation, for delegations to make the most efficient use of the resources allocated to each session, the Secretariat should strive to ensure the timely availability and translation of documents in compliance with the rules of procedure. Furthermore, the EU and its Member States were of the opinion that the Committee should consider limiting the length and number of documents that were produced. With regard to the agenda for meetings, the EU and its Member States were of the view that the agenda should be better structured to provide clear guidance to the delegations, avoiding in particular, listing too many documents under a single item. Topics of discussion should appear more explicitly in the agenda and documents should be clustered accordingly. Delegations would also benefit from receiving, in writing, a draft work program suggested by the Chair in advance of the meeting. The EU and its Member States thanked the Chair for the measures taken during this session to improve the time efficiency of the Committee's work and looked forward to the full implementation of certain measures in its future work. The general statements at the beginning of the session should only be read by regional groups or groupings, with the possibility for individual delegations to submit national statements in writing. The Committee should continue to avoid having long and systematic coffee breaks. It should ensure that the sessions started and ended punctually. The EU and its Member States trusted the ability of the Chair to guide the Committee in managing its time efficiently in future sessions.

527. The Delegation of Pakistan stated that it could not agree more with the suggestions proposed by the Delegation of Denmark on behalf of the EU and its Member States. They were very pertinent and some were already being practiced. The Chair had given the delegations only one coffee break in this session. However, there was definitely a need for the timely availability of documents and to limit the time which was wasted outside the room. The Delegation fully supported the proposals made by the Delegations of Egypt and Algeria behalf of the African Group and the Development Agenda Group respectively as well as the suggestions made by the Delegation of South Africa on additions to the agenda. The agenda was very long. However, it was very important not to lose the work which was done in the earlier sessions and there was a need to build on this.

528. The Delegation of the United States of America noted that the Secretariat had read out a very long list of things that would go on the next agenda and a couple of delegations had raised new items for future work. The Delegation was a bit concerned that the agenda was going to be quite long. The Delegation referred to the suggestion by the Delegation of Egypt on reviewing Recommendations 29, 40, 43, 45 of the Development Agenda, Recommendation 2 of the Development Agenda on extra budgetary resources and an additional item on the coordination mechanism. It enquired as to how much time these would add and whether it was feasible to get through the next session with all those new items. It would like an observation from the Secretariat on that.

529. The Secretariat thanked the Delegation of the United States of America for its question. Unfortunately, it was unable to give a clear answer to the question because it depended on how long it would take the Committee to discuss each of those documents. However, the Secretariat could certainly determine how much time and manpower would be required to prepare those documents. As indicated earlier, there was already quite a bit of work for the Secretariat. From that point of view, it looked towards the Chair for guidance. The Chair may wish to consult with delegations on how to prioritize work. However, the Secretariat remained ready to do as much as it could humanly do.

530. The Chair thanked the Secretariat for the clarifications. As there were no objections, it was decided that the Chair would undertake consultations with all concerned and would work closely with the Secretariat to make the required assessment. He would then provide guidance to the Secretariat.

Agenda Item 10: Summary by the Chair

531. The Chair made a few introductory remarks on the draft summary. The draft was available to all delegations and reflected his understanding of the essence of the discussions that had taken place during the session. It may be that the positions of all Member States could not be taken into account in the summary. However, the positions expressed by all Member States would be reflected in the report.

532. The Secretariat informed the Committee that a few typographical errors in the draft summary had been identified. These were as follows:

- Paragraph 7: in the second line, the reference to CDIP/9/12 should be replaced with CDIP/9/2;

- Page 2: a new paragraph should begin after the sentence, "Suggestions were made to announce the information contain in future reports." The new paragraph would begin with the sentence, "Under Agenda Item 7, the Committee addressed a number of project evaluations";

- Page 3: the text that was agreed in the area of patent-related flexibilities should be inserted between paragraphs 9(c) and (d);
- Paragraph 9(f): in the seventh line, the reference to CDIP/8/INF/1 should be replaced with CDIP/9/14. In the last sentence, the phrase, “joint Development Agenda Group and African Group contribution”, should be replaced with the phrase, “joint proposal by the Development Agenda Group and African Group”;
- Paragraph 9(g): in the second line, the word “scoping” should be inserted before the word “study”; and
- Paragraph 9(m): the last sentence, “The Committee requested the Secretariat to undertake similar work in the following areas”, should be deleted, following the insertion of the agreed text between paragraphs 9(c) and (d) mentioned above.

533. The Chair drew the attention of the Member States to paragraph (k) on sham litigation. This should also be corrected so as to accurately reflect the conclusion on that item. The sentence, “The Secretariat agreed to convey the observations made by delegations to the author”, should be inserted in that paragraph. The Chair informed the Committee that a delegation had made a suggestion to improve the process for the adoption of the draft summary by the Chair. It was proposed that at the end of each day, the essential points to be incorporated in the draft summary should be agreed in order to avoid repeating the current situation. As there were no objections, it was agreed that work would proceed in that manner in future. With regard to the current draft, the Chair proposed and it was agreed, that the Committee would go through the summary, paragraph by paragraph. The Chair invited the delegations to comment on paragraph 1.

534. The Delegation of Paraguay noted that paragraph 1 of the Spanish text referred to 30 observers whereas the English version referred to 38 observers. The Delegation did not know which was correct but a change was required.

535. The Chair stated that the change would be made. As there were no objections, paragraphs 1,2,3,4,5 and 6 were adopted. The Chair turned to paragraph 7.

536. The Delegation of the United States of America suggested a minor modification under paragraph 7(e). The Delegation suggested that the words “possible new” should be inserted before the word “tools”. The sentence would then begin as follows, “The Committee agreed that there was a need to ensure that the project output relating to possible new tools and guidelines.....”

537. The Delegation of Egypt referred to the sentence, “The Committee recognized the solid achievements made thus far in the implementation of the Development Agenda”. The Delegation would like the words, “projects and highlighted the need for further improvements”, to be included after the word “Agenda” at the end of that sentence.

538. The Delegation of South Africa referred to the proposal by the Delegation of the United States of America. It concerned an output that was not delivered under the project on IP and the public domain. The proposal detracted from the language of the project document on that output. The Delegation would like the existing reference to “tools and guidelines” to remain or be replaced with the language used in the project document. If the word “possible” was used, there was a possibility that tools and guidelines would not be developed.

539. The Delegation of Spain referred to paragraph 6. The Delegation noted that the draft summary did not include a reference to a cross-cutting issue that was discussed. Several

Member States, including Spain, had criticized the Secretariat for not fully translating several important documents. Only summaries were provided. The Delegation would like this to be reflected in the text. However, as this issue affected several discussion items, the Delegation sought the guidance of the Chair on where this should be reflected in the summary.

540. The Chair thought that the issue concerning translation and availability of documents was adequately reflected in the summary. That particular point would be reflected in the report. As such, the Chair requested the Delegation of Spain not to insist on it.

541. The Delegation of Spain acknowledged that a reference was included in the summary. However, it was only in relation to a specific document. This issue had also affected several other documents. Thus, it was an important point. It was also supported by various other delegations. It was a fact that in many cases, the full document was not translated and only a summary had been provided.

542. The Chair noted the point and proposed that language could be developed for it to be adequately reflected.

543. The Delegation of Hungary referred to the proposal by the Delegation of Egypt. The Delegation sought clarification on the language that was proposed and its position in paragraph 7. The Delegation recalled that the Committee had recognized the achievements in the implementation of the Development Agenda. However, it was not sure if the Committee had highlighted the need for further improvements.

544. The Chair repeated the proposal by the Delegation of Egypt. He recalled that many delegations had acknowledged that the implementation of the Development Agenda was for the long term. As such, it would require the sustained commitment of all concerned to ensure that all its goals were fully implemented.

545. The Delegation of Hungary said this was okay.

546. The Delegation of the United States of America referred to its suggestion on paragraph 7(e). The Delegation recalled that the evaluation report on IP and the public domain concluded that the project had been satisfactory in identifying existing tools, but more work perhaps needed to be done in the area of new tools. Thus, the Delegation encouraged the inclusion of the word "new" before the word "tools", although it could do without the word "possible". The Delegation hoped that the Delegation of South Africa could accept the addition of the word "new" before the word "tools".

547. The Delegation of South Africa stated that this was acceptable as it reflected the language used in the project document. However, the word "guides" should be replaced with "guidelines" in paragraph 7(e).

548. The Delegation of Australia tended to agree with the Delegation of Hungary that it was a bit of a stretch to state that the Committee highlighted the need for further improvement. Thus, the Delegation suggested that the proposal could be amended as follows, "the Committee highlighted the need for further progress".

549. The Delegation of Switzerland supported the statement made by the Delegation of Australia.

550. The Delegation of Paraguay, speaking on behalf of GRULAC, referred to paragraph 7. The Group would like the word "solid" to be removed from the sentence, "The Committee

recognized the solid achievements made thus far in the implementation of the Development Agenda”.

551. The Chair suggested that paragraph 7 be adopted with the proposed amendments. Paragraph 7 was adopted. The Chair turned to paragraph 8.

552. The Delegation of the United States of America, speaking on behalf of Group B, pointed out that paragraph 8 applied more to the work that was being done in the CWS and not in the CDIP, for all perceived relevant bodies. Thus, the Group would like to delete everything after the word “an” in the second sentence of paragraph 8 and to replace these with, “understanding of the coordination mechanism, mainstreaming of the Development Agenda recommendations and expressions therein in the special rules of procedure of the Committee on WIPO Standards.” The sentence would then read as follows, “Delegations expressed their support for the initiative by the Chair of the WIPO Assembly to facilitate an understanding of the coordination mechanism, mainstreaming of the Development Agenda recommendations and expressions therein in the special rules of procedure of the Committee on WIPO Standards”. That decision was reached in the CWS for the Chair of the General Assembly to conduct informal consultations.

553. The Delegation of Egypt referred to the proposal from the Delegation of the United States of America. As the Delegation did not have the agreed text on hand, it would like the words “*inter alia*” to be included in case that decision covered other aspects. The Delegation would also like the phrase, “and identified the need to enhance the quality and format of reporting”, to be included in paragraph 8 after the reference to document CDIP/8/6 Rev.

554. The Delegation of Algeria could go along with the proposal by the Delegation of Egypt to include the words “*inter alia*”. The Delegation would like the sentence beginning, “Delegations expressed their support....” to be amended as follows, “Delegations expressed their support for the initiative by the Chair of the WIPO Assembly to facilitate an agreement on the implementation of the General Assembly decision on the coordination mechanism”. The proposal by the Delegation of the United States of America referred to the CWS and not to the CDIP. The proposed amendment by the Delegation also referred to the work of the Chair of the WIPO Assembly to facilitate an agreement on the implementation of the coordination mechanism. However, it did not include any reference to the procedural rules of the CWS.

555. The Delegation of South Africa referred to the proposal by the Delegation of the United States of America. It was strange to refer to the decision of the CWS, especially as it only met once a year and this issue would be concluded by the time it held its next meeting. As such, the Delegation fully supported the insertions suggested by the Delegations of Egypt and Algeria in terms of referring to the discussions on the coordination mechanism. However, the Delegation had reservations about referring to the exact decision. The Delegation supported the inclusion of a general reference such as, “Delegations expressed their support for the initiative by the Chair of the WIPO General Assembly to hold consultations on the implementation of the coordination mechanism”.

556. The Delegation of Switzerland referred to the proposal by the Delegation of Egypt to include the words “*inter alia*”. The Delegation did not see any reason for these words to be integrated as the reference concerned a decision that was taken within the framework of the CWS. The Delegation turned to the comments by the Delegations of Algeria and South Africa. Reference to the consultations of the Chair of the WIPO Assembly should be made in a specific manner or not at all. To simplify matters, the Delegation suggested that this sentence should be omitted because it did not really add anything to the decisions that were taken by the Committee. The Delegation referred to the comment by the Delegation of Egypt on improving the reporting system. This referred to the relevant committees and reflected the views of some

delegations. It was not a decision that was taken by the Committee. As such, the Delegation suggested that this should also not be included. If it was added, then the views of the Delegation and Group B as a whole should also be reflected. Thus, the Delegation suggested that paragraph 8 should be simplified. It should only include the first sentence. If not, the Delegation would insist that the views of other delegations on the coordination mechanism should also be added.

557. The Delegation of the United States of America, speaking on behalf of Group B, stated that the decision that was taken last week during the meeting of the CWS was very specific to that committee. The Chair of the General Assembly was very receptive to conducting the informal consultations but it was specific to the CWS. The Delegation could not agree to the use of the words "*inter alia*" or to exercise the language that it had suggested earlier with respect to the CWS. The Delegation agreed with the Delegation of Switzerland that it was probably best to strike out that last sentence altogether.

558. The Delegation of Hungary fully agreed with the Delegations of Switzerland and the United States of America. The intention was not to rewrite history but to capture what had taken place during the meeting. There was a need to be neutral and concise. Striking out the last sentence would resolve the matter. The positions of delegations should not be reflected as the decisions of the Committee throughout the report.

559. The Delegation of Brazil agreed with the suggestion by the Delegation of Egypt on the need to enhance the quality and format of reporting. The Delegation also agreed with the suggestion by the Delegation of South Africa.

560. The Delegation of Egypt made three points. First, it was disappointed that it was mentioned in some interventions that certain proposals made by other delegations were totally irrelevant and should not be captured. Delegations were there to work together based on respect. There should be respect for one another. Delegations can agree or disagree with the proposals made, but should not to say that these were totally irrelevant and should not be stated. Second, the Delegation's proposal did not refer to a decision by the Committee. The paragraph in which it was to be inserted merely referred to discussions in the Committee. The Delegation did not state that the Committee had agreed on that point. This was just to put things in perspective. Third, if the last sentence created concerns for some delegations, perhaps it could be replaced with the following, "Delegations expressed their support to implement the 2009 General Assembly decision regarding the coordination mechanism". There was a need to address the issue of the implementation of the General Assembly decision on the coordination mechanism and this had to be reflected. All delegations would agree that General Assembly decisions should be implemented.

561. The Delegation of South Africa acknowledged that the process was a little frustrating and encouraged the Committee to maintain the spirit of constructive engagement. The Delegation referred to the decision of the CWS that was mentioned by the Delegation of the United States of America. That decision was specific to the CWS. It was reached following informal consultations among certain ambassadors. The decision was within the context of the coordination mechanism because it was creating problems in each and every committee. The decision was twofold. It started with informal consultations on the coordination mechanism. This was followed by the mainstreaming of the Development Agenda recommendations and expressions therein in the special rules of procedure of the CWS. This was the deal which was struck. Of course, delegations could always debate these things and that was why it was important to examine how these came about. The informal consultations would be conducted by the Chair of the General Assembly and not the Chair of the CWS because the coordination mechanism was adopted by the General Assembly and it was all encompassing.

562. The Chair proposed that something could be included along the lines of the following, “The Committee expressed support for the initiative by the Chair of the WIPO Assembly as reflected in the decision....”

563. The Delegation of Algeria stated that the Chair’s proposal could be considered. However, as mentioned by the Delegation of Egypt, there was a need to be factual in reflecting what had taken place. This was one of the main issues addressed by many groups, including the Development Agenda Group and the African Group. The coordination mechanism was one of the issues that had been thoroughly discussed in the Committee. As such, it supported the proposal by the Delegation of Egypt. A sentence could be included as follows, “Delegations expressed the request to implement the General Assembly decision on the coordination mechanism”. The Delegation also saw the point made by the Delegation of South Africa. The Chair of the General Assembly was dealing with something that was applicable to all the committees as well as the Coordination Committee, despite the fact that it brought up in the CWS last week. The Delegation hoped that its proposal was factual and would be acceptable to other delegations.

564. The Delegation of the United States of America responded to the question raised by the Delegation of South Africa on why it was the Chair of the General Assembly that was convening the meeting of relevant bodies as originally written in the Chair’s summary. That was very easy to explain. It was explained a number of times last week during the CWS. The CWS was the first suspended session in 2010. It was over this issue in particular, and a few others. The Chair of the General Assembly helped to negotiate a solution to the problem in the CWS. It was thought that the issue was resolved. The issue on the coordination mechanism resurfaced in the CWS last week. Thus, the Chair of the General Assembly was asked to come in and provide clarity over what was discussed during the previous General Assembly. The Delegation felt very strongly that the language that was currently in paragraph 8, “the Chair of the WIPO General Assembly to facilitate an understanding...”, was specific to the CWS. It did not cover the other committees that some would deem relevant for the purpose of the coordination mechanism. The Delegation referred to the Delegation of Egypt and stated that it may be a possible way out, if the reference to the Chair of the WIPO General Assembly was eliminated and to say something to the effect that, “some delegations expressed interest in”. The Delegation could not remember the rest of the sentence but that did capture the fact that some delegations thought that it was important to address this issue. However, as it was written right now, and as some delegations had included other language, the Chair of the General Assembly and his informal consultations were supposed to just apply to the CWS. There was no “*inter alia*” or any other thing that should be included in that.

565. The Delegation of Pakistan stated that the delegations would go round and round this issue as the opinions diverged. The better option would be to keep it simple and clean. The Delegation proposed that after the first sentence, the second sentence would read as follows, “Delegations expressed their support for implementation of the GA decision on coordination mechanism.” The rest should be deleted.

566. The Delegation of the United States of America thought that the proposal by the Delegation of Pakistan was a fairly factual statement. However, the Delegation would like to include the word “some” before the word “delegations” as not all delegations had suggested that. Everything else regarding the Chair of the WIPO assembly was taken out.

567. The Chair noted that there were no objections to the proposal made by the Delegation of Pakistan and complemented by the Delegation of the United States of America. Paragraph 8 was adopted. The Chair turned to paragraph 9.

568. The Delegation of Burkina Faso had a slight amendment with regard to subparagraph 9(e) on the Burkina Faso project. The French text should be amended to make it consistent with the English text, "The Committee discussed the Project on Strengthening and Development of the Audiovisual Sector in Burkina Faso and Certain African Countries (CDIP/9/13) and approved the Project as proposed".

569. The Delegation of Egypt referred to the preamble to paragraph 9. The word "some" should be included before the word "adopted" as the work program concerned the implementation of some recommendations and not all. The Delegation suggested that the Committee could consider each sub-paragraph separately as paragraph 9 was quite long.

570. The Chair agreed with the suggested approach and stated that the sub-paragraphs under paragraph 9 would be examined separately. As there were no objections, the preamble was adopted with the amendment by the Delegation of Egypt. The Chair turned to sub-paragraph 9(a).

571. The Delegation of the United States of America, speaking on behalf of Group B, suggested a change to the last sentence under subparagraph (a). It was proposed that the words "in particular" and everything else that followed should be struck out and replaced with, "including with respect to the sustainability of the project". Thus, the sentence would read as follows, "The Secretariat took note of comments made by delegations, including with respect to the sustainability of the project". The Delegation thought this was a more accurate description of what had transpired.

572. The Chair noted that there were no objections to the proposal by the Delegation of the United States of America. As such, subparagraph (a) was adopted with the amendment. The Chair turned to subparagraph 9(b).

573. The Delegation of Paraguay, speaking on behalf of GRULAC, would like a sentence to be added at the end of subparagraph (b). It concerned something that the Group had mentioned in their statements. This was as follows, "Some delegations indicated that the initiative should form part of the regular program of the WIPO Academy and suggested a possible decision of the PBC which allows for the availability of permanent funds".

574. The Delegation of the United States of America proposed that the last sentence in subparagraph (b) should be amended as follows, "The Committee agreed that the next phase of the project should give priority to the needs of least developed countries and those countries already involved in phase 1 to the extent possible".

575. The Delegation of Pakistan sought clarification on the exact wording of the proposal by the Delegation of the United States of America as it needed to be sure that it reflected what had been agreed during the discussion on this project.

576. The Chair repeated the proposal by the Delegation of the United States of America. It was proposed that the phrase, "and those countries already involved in phase 1 to the extent possible", should be included at the end of the last sentence in subparagraph (b).

577. The Chair noted that there were no objections to the proposed amendments by the Delegations of Paraguay and the United States of America. As such, subparagraph 9(b) was adopted with the amendments. The Chair turned to subparagraph 9(c) and reminded the Committee that the Secretariat had stated that the agreed text on the area of patent-related flexibilities would be inserted at the end of the paragraph after the word "database".

578. The Delegation of the United States of America proposed some minor changes to subparagraph 9(c). The Delegation noted that there should only be one comma, and not two, after the reference to CDIP/9/11. After that comma, the rest of that sentence should read as follows, “and agreed to work in the field of flexibilities in the IP system efficiently and without duplication of the work taking place in other committees and/or forums”. This would make it cleaner and accurately reflected what was discussed.

579. The Delegation of Egypt suggested a slight amendment to the proposal by the Delegation of the United States of America. The phrase, “and without duplication of the work taking place in other Committees and/or forums”, should be removed from the sentence. The phrase, “and agreed to discuss the remaining elements in CDIP 10”, should also be included at the end of that paragraph, after the word “database”.

580. The Delegation of South Africa requested for the entire paragraph to be read together with the proposed amendments as it would also like to make some amendments.

581. The Secretariat read out the proposed amendments by the Delegations of the United States of America and Egypt.

582. The Delegation of the United States of America would like the phrase, “and without duplication of the work taking place in other committees and/or forums” to be retained in subparagraph 9(c). The Delegation of Egypt's other suggested change, “and agreed to discuss the remaining elements in CDIP 10”, was captured in the agreed-upon language that fell between subparagraphs (c) and (d).

583. The Delegation of South Africa supported the proposal by the Delegation of Egypt as the Committee did not agree that there would not be duplication of the work taking place on flexibilities in other committees or fora. That discussion did not take place. Thus, it was not a factual reflection of the discussions. However, in order to move forward and accommodate the Delegation of the United States of America, the Delegation proposed that the words, “and without duplication to” be replaced with the words, “in complementary with”. That part of the sentence would then read as follows, “and agreed to work in the field of flexibilities in the IP system efficiently in complementary with the work in other committees or fora”. This was also consistent with what was decided with regard to the elements that were proposed in document CDIP/9/11.

584. The Delegation of Algeria supported the proposal by the Delegation of South Africa as a way out.

585. The Delegation of Germany enquired as to why the Delegations of South Africa and Algeria wanted duplication.

586. The Delegation of South Africa stated that this matter was never discussed. The summary should provide a factual reflection of the discussions. The Delegation did not remember the Delegation of Germany taking the floor to request for non-duplication.

587. The Delegation of the United States of America agreed with the Delegation of Germany. Complementing something would pre-suppose that it was being done somewhere else. What the Delegation was trying to do was to remove duplication and just focus the work in one committee, not multiple committees.

588. The Delegation of South Africa stated that it had taken the floor to object to that paragraph precisely because it was prejudging that there would be duplication. Duplications had not been identified as yet. It was not possible to support something that was not known.

589. The Delegation of Brazil stated that the use of the word “efficiently” before the word “complementary” provided sufficient assurance that the efforts would be worthwhile and resources would not be wasted. “Complementary” was a good word.

590. The Delegation of Algeria noted that the Committee was reflecting on the discussions that had taken place on this issue. The Secretariat had mentioned that the SCP was doing some work on flexibilities but it was not the same work. Hence, the Committee was complementing, and not duplicating, the work that was being done in other fora. Thus, “complementary” was the right word. The Delegation was surprised that it was not accepted by some other delegations.

591. The Chair pointed out that the word “complementary” had not been rejected by other delegations.

592. The Delegation of Switzerland stated that the word “duplication” was mentioned when that point was concluded. Thus, it was fair for it to be recorded in the summary. It was said that the Committee should avoid duplication. It was also said that the Committee would work on 2(f). Those two elements were mentioned when this point was concluded. The Delegation was in favor of keeping the word, as mentioned by the Delegation of the United States of America.

593. The Delegation of the United States of America stated that the Delegation of Switzerland had just said what it had planned to say. The Committee should work on the flexibilities efficiently, and not duplicate work being done in other committees. The Delegation felt very strongly that the phrase, “without duplication of the work taking place in other committees and/or forums”, should stay in.

594. The Delegation of Pakistan noted that there were two points. It all started when the Delegation of United States of America proposed language to remove the words, “importance of WIPO’s work in the field of flexibilities”. The best way forward would be to state what was factual. Thus, the language could be as follows, “The Committee discussed the Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8 and agreed on the importance of WIPO’s work in the field of flexibilities in the IP system. Some delegations emphasized the need for the Committee to undertake this work efficiently and without duplication of the work taking place in other committees and forums”. As stated by the Delegation of Switzerland, the word “duplication” was mentioned. However, it was only mentioned by some delegations and not all. The Delegation of South Africa was correct. The Committee would be trying to prejudge if it was said that it had agreed on this. This was merely the view of some delegations.

595. The Delegation of Canada stated that if the proposal by the Delegation of Pakistan was agreeable, it would stop there. If not, the phrase, “efficiently, complementary to, and without duplication of the work” could provide a way forward as it included all three words.

596. The Delegation of Algeria supported the proposal by the Delegation of Pakistan. It was factual. Some delegations had referred to duplication but there was no agreement on this.

597. The Delegation of Switzerland stated that the best way to be factual would be to read the transcript of what was said. This was definitely mentioned in the conclusion and not just stated by delegations. However, the proposal by the Delegation of Canada addressed all the concerns as it included the words “complementary” and “avoid duplication”. It was the best way to move forward.

598. The Delegation of South Africa reiterated that it believed in recording factual accounts of discussions. The Delegation supported the proposal by the Delegation of Pakistan.

599. The Chair did not wish to intervene but it was also his view that there was no agreement on duplication. The strong view expressed by some delegations was a fact. However, there was definitely not an agreement on this. Thus, perhaps the Committee could agree to the proposal by the Delegation of Pakistan to move forward.

600. The Delegation of Switzerland thought the best way to recognize what had been said was through the proposal by the Delegation of Canada. It included the words "avoid duplication" and "complementary". The Delegation would like to go with the proposal by the Delegation of Canada because the word "duplication" was mentioned when the Committee concluded on this point. It was not just a point made by some delegations.

601. The Chair wanted to know who concluded on that point.

602. The Delegation of Switzerland stated that it was the Chair who had done so as he had endorsed what was said earlier by the Secretariat.

603. The Chair disagreed. There was clearly a divergence of views on this particular point.

604. The Delegation of South Africa noted that in the discussions on paragraph 8, the Delegation of the United States of America had emphasized that it was not all Member States that supported the coordination mechanism. For that reason, the word "some" was introduced. As such, the Delegation found it strange that the word "some" was not accepted with regard to subparagraph 9(c). There was nothing wrong as there had been no agreement on duplication. Both proposals could be reconciled. The word "complementary" was proposed by the Delegation in order to delete the reference to duplication. The Delegation retracted its proposal and supported the proposal by the Delegation of Pakistan as the way forward.

605. The Delegation of Switzerland had not been able to hear the statement by the Delegation of South Africa. The Delegation maintained that the proposal by the Delegation of Canada was the best way forward. Perhaps the Committee could refer to the transcript. The IGC had done this on several occasions to verify what had been said.

606. The Chair stated that the report was a separate matter. The Committee was trying to forge an agreement on the draft summary by the Chair. There was clearly a divergence of views on that particular point.

607. The Delegation of South Africa stated that it was not advisable for that route to be taken. The Delegation had attended throughout the week. It reiterated that it did not support that statement. The statement had to be qualified with the reference to "some delegations" in order to be factual. There was nothing wrong with that. However, it was wrong to state that it had been concluded. The Delegation was not part of that conclusion.

608. The Delegation of Hungary suggested that the Committee should continue with the other points and to keep this subparagraph open. There may be similar problems with other points. The Committee could return to such points and eventually reach a balanced outcome on these.

609. The Delegation of Egypt referred to the proposal by the Delegation of Hungary and added that it had only a few modifications to propose on other points. The Committee could run through the rest of the draft and then choose items that different groups had problems with. Consultations could be held within the groups to hammer out the right text. That way, the Committee could move ahead.

610. The Chair stated that work would proceed in accordance with the proposal by the Delegation of Hungary which was supported by the Delegation of Egypt. The Chair turned to subparagraph (d). As there were no observations, subparagraph (d) was adopted. The Chair turned to subparagraph 9(e) and recalled the proposed amendment by the Delegation of Burkina Faso on the French version of the text.

611. The Delegation of the United States of America stated that it had to assume that the suggestions made by the Delegation of Burkina Faso were appropriate as it was not a French speaker. The Delegation proposed a second sentence to subparagraph (e) to capture what was said by some delegations. The sentence was as follows, "Some delegations expressed that this project is a good example of using IP for development".

612. The Delegation of Burkina Faso supported the proposal by the Delegation of the United States of America.

613. The Chair enquired as to whether subparagraph 9(e) could be adopted with the proposed amendments by the Delegations of Burkina Faso and the United States of America. The subparagraph was adopted. The Chair turned to subparagraph 9(f).

614. The Delegation of the United States of America, speaking on behalf of Group B, stated that the Group would like to significantly reduce the size of subparagraph (f) to reflect more of a factual representation of what was discussed and decided. The Group suggested deleting, starting on line 9 of the English version from "The Secretariat" everything down to "at the next session" in line 16. It would then pick up with, "The Committee agreed that the Deere Report, Management Response, and Joint Proposal by the Development Agenda Group and African Group would be examined at the next session".

615. The Delegation of Egypt would like to keep everything in subparagraph (f) until the comma after the words, "Academy's work". The rest of the paragraph would read as follows, "a manual on delivery of technical assistance and the recently launched initiative of establishing country plans for more coherent and transparent delivery of technical assistance in consultation with Member States. The Committee underlined the importance of enhancing and improving the delivery of technical assistance to the realization of the Development Agenda recommendations. The Committee agreed that the joint Development Agenda Group and African Group contribution, CDIP 9/16, would be further discussed together with other related documents at its next session, with a view to decide on the implementation of external review recommendations."

616. The Delegation of Hungary stated that the language proposed by the Delegation of the United States of America on behalf of Group B to shorten subparagraph (f) was a good idea. If that paragraph was going to discuss what had been identified by the Secretariat, then the positions of the members should also be included. The account of what had taken place had to be balanced. The Secretariat had identified what it considered as important and implementable in response to a question from the Chair. However, that was not discussed. Thus, it would be fair to shorten the paragraph and to strike out those parts. There would be a report and all the members knew what was discussed. There was no need to rewrite history. The paragraph should be short and concise. It would also state that all these documents would be further discussed at the next session.

617. The Delegation of South Africa stated that subparagraph (f) could be separated into two if it was too long for some delegations. It provided a factual account of the discussions and merely presented facts. A lot of time was spent on discussing this particular issue. There was no harm in reflecting what the Secretariat had outlined. It did not state that the Secretariat was going to do anything. This was what the Secretariat had identified for record purposes. The

summary of the Chair was very important as it provided a guide to the discussions. That was why the Delegation insisted that those details should be maintained. The Delegation also suggested an amendment. The Delegation referred to the sentence in line 10, "The Secretariat identified the recommendations which, in its view, were important and implementable". The word "immediately" should be added before the word "implementable" because if it was left as it was, it would give the impression that the Secretariat was merely saying that the three were important and implementable. It was stated in the second last sentence of subparagraph (f) that "The Member States agreed to provide their contributions in writing for discussions at the next session". The Delegation requested for clarification on this point. It recalled that the Development Agenda Group and the African Group had made two proposals in terms of written contributions. The written contributions could either be on the joint proposal of the Development Agenda Group and African Group or on the recommendations so as to facilitate the Committee's work at its next session. Clarification was required with regard to the documents for which Member States had agreed to provide written contributions.

618. The Chair explained that the idea was to invite Member States to provide their own contributions to the discussions on all the documents.

619. The Delegation of South Africa noted the explanation by the Chair. However, the Delegation did not see how it was going to work.

620. The Chair explained that at the time when the invitation was launched, only the Development Agenda Group and the African Group had provided written submissions to the Committee. There was an idea that all Member States may wish to do the same. At the same time, it was also agreed that the joint Development Agenda Group / African Group proposal would be sent to capitals. The proposal would be examined and there was the possibility of comments and contributions on that particular document at the next session. It was agreed in the informal consultations. Subsequently, the Chair had shared the information with all the members of the Committee in the plenary.

621. The Delegation of Algeria echoed what was said by the Delegation of South Africa and the Delegation of Egypt on some issues. The summary should reflect facts. The Delegation of the United States of America, on behalf of Group B, had proposed deleting some of those facts. The Delegation would like these to be kept in the paragraph. The Delegation echoed the proposal by the Delegation of Egypt to include the manual on technical assistance as this issue had been discussed. The Delegation proposed that the word "examined" should be replaced with the word "discussed" in the last line of the paragraph. The Delegation agreed with the proposal by the Delegation of Egypt to include the phrase, "with a view to decide on the implementation of external review recommendations", at the end of the paragraph. The Delegation also supported the proposal by the Delegation of South Africa to include the word "immediately" before the word "implementable".

622. The Delegation of Hungary thought the easiest way to reflect what had happened would be to eliminate that part of the paragraph and include the suggestion from the Delegation of the United States of America. However, as a compromise, the Delegation proposed that the phrase, "Without discussion in the Committee and on request by the Chair" be included before the phrase, "The Secretariat identified the recommendations which, in its view, were important and implementable" in subparagraph (f). The Delegation of Egypt and some other delegations had suggested additions to the text. In this context, the Delegation enquired as to whether the Secretariat had mentioned anything else that was important and implementable. It was difficult to remember as it happened very quickly and there had not really been a discussion on this. The Delegation referred to the sentence, "The Committee underlined the importance of the delivery of technical assistance to the realization of the Development Agenda goals". The Delegation recalled that this was stated by some Member States and not the Committee as a

whole. It had also not been agreed that the Member States would provide contributions in writing for the discussions. As such, this should be struck out. The paragraph should continue with the suggestion by the Delegation of the United States of America.

623. The Secretariat stated that it had indicated three areas that were more readily implementable. These included country plans, a methodology for developing IP strategies and an independent review of the WIPO Academy. A manual for technical assistance was requested by certain delegations. However, the Secretariat did not know to what extent the Committee had formally tasked the Secretariat with that.

624. The Delegation of Brazil referred to the sentence, "The Member States agreed to provide their contributions in writing for discussions at the next session". In this context, the Delegation enquired as to whether document CDIP/9/16 would be made available in all official WIPO languages in due time for the delegations to make their comments. Difficulties can be created when documentation was not available in all WIPO languages.

625. The Chair stated that he had been informed that the document was already available in all UN working languages. Thus, that concern had been taken on board.

626. The Delegation of Egypt stated that it would not insist on the manual for technical assistance following the recollection by the Secretariat on what it had said. However, the Delegation would like the phrase, "together with other related documents, at its next session, with a view to decide on implementing the external review recommendations" to be included at the end of the paragraph.

627. The Chair referred to the proposal by the Delegation of Hungary and enquired as to whether the words "Some delegations" could be used to replace the words "The Committee" in the sentence, "The Committee underlined the importance of enhancing and improving the delivery of technical assistance to the realization of the Development Agenda goals".

628. The Delegation of South Africa reiterated that it did not have any problems with the use of the word "some". It was factual. The problem arose when it was used selectively. The Delegation referred to the proposal by the Delegation of Hungary to include the phrase, "Without discussion and at the request of the Chair". The Delegation could go with "at the request of the Chair" as it was factual. The Chair had initiated it. However, to state that it had not been discussed was stretching it too far because those things were discussed. It led to the Chair asking the Secretariat about it and some comments were made afterwards. If some did not comment, it did not mean that the discussion did not take place. Thus, it would be fair to say, "At the request of the Chair, the Secretariat identified".

629. The Chair wanted to know if the phrase, "Upon the request of the Chair", was acceptable to the Delegation of Hungary.

630. The Delegation of Hungary was unsure. There had not been an opportunity to react to those suggestions by the Secretariat or to ask further questions. This happened at the end when there were only two minutes left. It was open to suggestions from other delegations with regard to a factual account of what had taken place.

631. The Delegation of Switzerland supported the statement by the Delegation of Hungary. This element was mentioned at the very end of the discussions and there had not been an opportunity to comment. It was stated by the Secretariat following the request from the Chair. For subparagraph (f) to be factual, it was also important to mention that Member States requested clarification on cluster B in the management response. It could be included after the

point on a multilateral and multilingual environment. There had been a lengthy discussion on this matter.

632. The Chair requested the Delegation of Switzerland to propose some language.

633. The Delegation of Switzerland suggested that a sentence could be included as follows, "Member States requested clarification on cluster B of the management response". It could be added before the proposed language by the Delegation of Hungary, "Without discussion and at the request of the Chair".

634. The Delegation of the United Kingdom stated that its recollections were the same as the Delegations of Hungary and Switzerland on that point. The Delegation referred to what the Secretariat had said with regard to what was important and implementable. The Delegation of South Africa had stated that there were issues around the use of the word "important". However, the Secretariat had just referred to the ones that were more readily implementable, and perhaps that should be reflected.

635. The Chair clarified that the Delegation of South Africa had requested for the adverb "immediately" to be included before the word "implementable".

636. The Delegation of Hungary suggested some language in response to the concerns of the Delegation of South Africa. The discussion issue could be included in a sentence such as, "The Committee did not have sufficient time to discuss these identifications". This would make it clear that those elements had been discussed before they were identified by the Secretariat. However, there had not been enough time to discuss these after they had been identified.

637. The Delegation of South Africa was pleased that the Delegation of Hungary had taken note of its concerns and could go along with the proposal. It was beautifully crafted. The Delegation referred to the proposal by the Delegation of Switzerland. If it was going to be said that Member States requested clarification on category B, it should be qualified to refer to some Member States. It should also be balanced with the fact that some Member States had reservations on the categorization in Annex II of document CDIP/9/14, including category B.

638. The Delegation of Germany recalled that Group B always emphasized that the Committee should concentrate on cluster B. The explanation provided by the Secretariat indicated that cluster B recommendations were easily implementable. However, the Delegation had a different problem. If it was said that the three recommendations were the only recommendations that were important, the rest would appear to be less important. As it was drafted, quite a lot would be cut off. The three recommendations were included under cluster B. The Delegation would like to know whether the written contributions were only in relation to those three recommendations.

639. The Delegation of the United States of America stated that there have been many modifications to subparagraph (f). The solution offered by the CEBS coordinator was workable. The Delegation would like to hear how the paragraph would read, everything after "the Secretariat". The Delegation referred to its earlier suggestion, "the Committee agreed that the Deere report, management response and joint proposal...". The Delegation suggested that all the documents should be listed rather than referring to the main report and the management response as another document. The Delegation also reacted to the suggestion by the Delegation of Egypt to add, "with a view of implementing the recommendations". The Delegation thought, at this point, the Committee was just discussing and had not even discussed very much the recommendations. It would be prejudging the outcome if it was said "with a view of implementing the recommendations" because the Committee did not know if that was the route it was going to take.

640. The Delegation of Egypt stated that the first part of the amendment just mentioned by the Delegation of the United States of America was fine. The three elements of the review could be added. However, the Delegation clarified that at the end of the paragraph, what it had said was, “with a view to decide on the implementation of the external review recommendations”. The Delegation just wanted to have momentum in the next session.

641. The Delegation of Algeria added to the proposal by the Delegation of Hungary. The Delegation proposed the following, “The Secretariat identified, on the request of the Chair, and based on the interventions of some delegations, to be factual, the recommendations....”. After that sentence, the proposal by the Delegation of Hungary would be included, “The Committee did not have sufficient time to discuss this issue”.

642. The Delegation of Hungary stated that its initial suggestion was to delete the whole part. However, if this was to be allowed in the paragraph, it had to be factual. The Delegation thanked the Delegation of Algeria for its suggestion. However, it would be stretching it too far by stating that the Secretariat had identified the recommendations based only on the interventions of some delegations. It did not know the basis for the Secretariat’s identification. This should not be pursued.

643. The Chair proposed language that he hoped would secure the approval of all delegations. It began with, “A number of delegations noted the importance in a multilateral and multilingual environment of translation of key documents into all official WIPO languages”. Then, following the proposal by the Delegation of Switzerland on “Member States” and the proposal by the Delegation of South Africa that this should be qualified by “some” to be factual, “Some Member States requested clarifications on cluster B of the management response and some others expressed reservations about the categorization of recommendations into categories...”.

644. The Delegation of South Africa proposed that the sentence could continue as follows, “some Member States expressed reservations on the categorization in Annex II of document CDIP/9/14, including category B”. This was necessary to balance the proposal by the Delegation of Switzerland.

645. The Delegation of Switzerland stated that the use of the word “some” after the sentence it had proposed was fine. However, the words “and some others” should be used as it was not expressed by all of the other Member States.

646. The Chair stated that the proposal included, “and some others”. Following the proposal by the Delegation of South Africa, the sentence would read as follows, “Some Member States requested clarifications on Cluster B of the Management Response and some others expressed reservations on categorization in Annex II of document CDIP/9/14, including category B”.

647. The Chair enquired as to whether the Committee could agree on that part of the paragraph. It was agreed. The paragraph would then continue as follows, “Upon request by the Chair, the Secretariat identified the recommendations which, in its view, were important and immediately implementable”. This took into account the concerns of the Delegation of Germany that some recommendations were being emphasized and not others. The information that was just provided by the Secretariat on the three recommendations would be included after this phrase.

648. The Delegation of Algeria agreed with the Chair’s proposal. However, it would like the word “important” to be deleted.

649. The Delegation of Switzerland stressed that the word “important” should be retained as it was mentioned by the Chair when he made his request to the Secretariat.

650. The Delegation of Hungary suggested that perhaps the Secretariat could remember.

651. The Delegation of South Africa stated that the question should go to the Chair as he was the person who posed the question.

652. The Chair acknowledged that he had used the adjective “important”. However, he had focused on what was on immediately implementable.

653. The Delegation of the United Kingdom referred to the issue raised by the Delegation of Germany. The wording did sort of imply that other recommendations were not important. The Delegation suggested the use of the phrase, “both important and immediately implementable”, to get around the issue.

654. The Chair noted that the suggestion correctly reflected the objective behind his question. Thus, the phrase, “both important and immediately implementable” would be used. This would be followed by the areas that were identified by the Secretariat. The Secretariat would provide the language. That part of the paragraph was agreed. The next sentence began with the suggestion by the Delegation of Hungary to include the words “Some delegations”.

655. The Delegation of Hungary stated that the sentence, “The Committee did not have sufficient time to discuss these identifications” which it had proposed should be included before that sentence.

656. The Chair stated that it was part of the agreement that had just been reached. The paragraph would continue as follows, “Some delegations underlined the importance of enhancing and improving the delivery of technical assistance to the realization of the Development Agenda recommendations”. The word “recommendations” was included instead of the word “goals”. This part of the paragraph was agreed. The paragraph would then continue with “Member States agreed to provide their contributions in writing for discussions at the next session”.

657. The Delegation of Hungary reiterated that there was no agreement on that.

658. The Chair proposed that the word “agreed” be replaced with the words “were invited” as that was exactly what had happened.

659. The Delegation on Hungary accepted the Chair’s proposal.

660. The Chair stated that the sentence would then read as follows, “Member States were invited to provide their contributions in writing for discussions at the next session”.

661. The Delegation of South Africa stated that the written contributions had to be linked to the relevant documents. The Delegation understood from the Chair’s explanation that the contributions concerned different documents. Perhaps it would be advisable to state that the contributions would be on the three documents.

662. The Chair noted the point but the next sentence would again refer to the three documents.

663. The Delegation of Brazil requested for clarification on when and how the contributions should be provided and whether these should be submitted in the same way as the document that was sent before to the Secretariat.

664. The Chair thought that the documents should be ready and made available well in advance of the session. This was one of the lessons learned from this session.

665. The Delegation of Brazil enquired as to whether there would be a deadline for submissions as problems with translations etc. could be encountered again.

666. The Chair proposed that the words "well in advance of the session" could be included without referring to a specific time.

667. The Delegation of Germany suggested that the sentence could be moved to the end of the paragraph as all three documents would be part of the session and delegations would have the chance to comment on all three.

668. The Delegation of the United States of America was a little confused. The Delegation wanted to know whether the paragraph would state that the comments received would be translated.

669. The Chair stated that all comments should be communicated to the Secretariat for translation and would be made available to all Member States well in advance of the session. For example, if the Delegation of the United States of America made a contribution, it should be made available by the Secretariat in all UN working languages to the Member States well in advance of the session.

670. The Delegation of Switzerland stated that this was a full discussion of something that had not taken place in the discussions under this agenda item. The invitation to send comments was mentioned. However, nothing was said on translation or anything else.

671. The Chair noted that this particular point was mentioned in the consultations and the plenary.

672. The Delegation of Switzerland stated that translation was not discussed.

673. The Chair stated that it was mentioned as part of the need to work effectively. Translation and availability of documents had been an issue throughout. Thus, in this particular context where delegations were invited to contribute, the contribution from a Member State such as the Russian Federation should be made available to all. If the purpose was to really contribute, delegations must be able to communicate their views.

674. The Delegation of Switzerland agreed if it was an official proposal made to the Committee. This was in the general rules of procedure. Thus, if the general rules of procedure were to be repeated, it should be included in a general context in the draft report. However, the Delegation really did not see the need to repeat obvious things, especially on a particular point where it was not mentioned.

675. The Chair now understood what the Delegation of Switzerland had meant.

676. The Delegation of Denmark emphasized what was said by the Delegation of Switzerland. A particular date or deadline was never mentioned. The Committee was discussing the Chair's summary of the discussions. It was not reopening discussions that had been concluded.

677. The Chair noted the point. However, in his view, in order to be effective, it was good to make useful contributions even when reviewing a summary.

678. The Delegation of Hungary referred to the statements made by the Delegation of Switzerland and the Delegation of Denmark on behalf of the EU and its Member States. These were totally accurate. The only thing that happened was the invitation to make comments on the proposal. This should be reflected. All delegations would want to provide their comments in due time and the procedures would need to be respected in any case.

679. The Delegation of South Africa stated that it was very important to provide a factual account. The Delegation recalled that delegations such as Venezuela, the Development Agenda Group, Russia and Spain had emphasized the issue of translation. The Delegation did not see any problem in referring to this issue. The Delegation of Brazil was also correct to state that a time frame was required. The Chair had also mentioned that sufficient time was needed for translation to take place. The document would form part of the Committee's work. There was no reason why this should not be referred to in the summary if it was factual.

680. The Delegation of Belgium referred to the statements made by the Delegations of Hungary and Switzerland. The Delegation had listened very carefully during that discussion and did not recall any agreement to provide comments in writing before the next meeting. If this was to be agreed, it would create a complete imbalance with regard to the proper rules of procedure.

681. The Delegation of Paraguay disagreed with the Delegations of Belgium, Switzerland and Hungary. The Delegation agreed with the Chair on this point. It shared the views expressed by the Delegation of Spain on translations. The Delegation also agreed with what was just said by the Delegation of Brazil.

682. The Delegation of Switzerland stated that a general sentence could be included in the summary to highlight the importance of submitting new contributions and proposals in time to allow for translation. That was the best way to do it. A general sentence could be included but not in this paragraph.

683. The Chair said that the proposal was constructive and it would be looked into. A proposal would be developed, including where it could be reflected in the summary. The approach was agreed. The paragraph would then continue as follows, "Member States were invited to provide their contributions in writing for discussions at the next session". The Chair requested the Secretariat to read out the next sentence.

684. The Secretariat stated that following the proposal from the Delegation of the United States of America, the paragraph would continue as follows, "The Committee agreed that the Deere / Roca report, joint Development Agenda Group and African Group proposal, would be further examined together with other documents at the next session". That sentence would end with the suggestion by the Delegation of Egypt, "with a view to decide on the implementation of the technical assistance review recommendations".

685. The Delegation of the United States of America clarified what it had said earlier. The Delegation's suggestion was as follows, "The Committee agreed that the Deere / Roca report, management response, and the joint proposal by the Development Agenda Group and the African Group contribution would be examined at its next session". The Delegation referred to the suggestion by the Delegation of Egypt, "with the view of deciding on implementing the recommendations". It may be more acceptable for the Delegation if it was said, "with the view of considering implementing the recommendations" as this did not prejudice the outcome of those discussions.

686. The Delegation of Egypt accepted the proposal by the Delegation of the United States of America.

687. The Delegation of Algeria agreed with the proposal by the Delegation of the United States of America. However, it would like the word “examined” to be replaced with the word “discussed”. The word “contribution” should also be removed as it was a proposal.

688. The Delegation of the United States of America accepted the suggestions by the Delegation of Algeria.

689. The Delegation of Germany stated that the Secretariat had earlier defined the joint proposal by the Development Agenda Group and the African Group. That was the official wording. Thus, a proposal was not required on this. The Delegation of South Africa had raised an issue with regard to the documents that the Member States would be commenting on. That link was not reflected and it was not clear as to which documents this referred to.

690. The Chair recalled that the Delegation of Germany had made a proposal that the sentence, “Member States were invited to provide their contributions in writing for discussion...” would be inserted at the end of the paragraph. That would be included at the end.

691. The Delegation of Switzerland requested for the whole paragraph to be read as there had been a lot of work on it.

692. The Chair thought that was prudent. It was agreed that the Committee would continue with its work while subparagraph 9(f) was being rewritten. The Committee would return to subparagraph 9(f) for final approval. The Chair turned to subparagraph 9(g).

693. The Delegation of Switzerland, speaking on behalf of Group B, made a proposal to strengthen and shorten subparagraph (g) as it was very long. The first sentence would remain, “The Committee considered an information document clarifying the scope and the possible implications of the implementation of recommendations 1(c), 1(f) and 2(a) of the Scoping Study on Copyright and Related Rights and the Public Domain”. The second sentence would be deleted and the paragraph would continue with the first sentence of the next paragraph. In that sentence, the word “supported” would be replaced with “discussed”. The sentence would then read as follows, “Members discussed the description of options and scenarios contained in document CDIP/9/INF/2”. The next two sentences would be dropped. Sub-paragraph (g) would then continue as follows, “With respect to Recommendation 1(c), the language would be revised to reflect the discussions. Moreover, proposed terms of reference for a comparative study on copyright relinquishment will be submitted to the next session of the Committee”. This would be the end of the paragraph. The sentence, “However, some members were concerned that the study needed to be balanced...” would be deleted. Thus, the text would concentrate on what was decided by the Committee. The same approach would apply to the next two paragraphs. With regard to Recommendation 1(f), the first three sentences would be dropped. That paragraph would read as follows, “With respect to Recommendation 1(f): A meeting of interested Member States would be organized to discuss the priorities in regard to copyright infrastructure”. With regard to Recommendation 2(a), the first sentence would be deleted and that paragraph would be as follows, “With respect to Recommendation 2(a): The document would be revised according to the discussions”.

694. The Delegation of Egypt stated that it disagreed almost entirely with the amendments suggested by the Delegation of Switzerland on behalf of Group B. The Delegation proposed that subparagraph (g) should be kept as it was.

695. The Delegation of South Africa reacted to the proposals by the Delegation of Switzerland. The Delegation agreed with the suggestion to replace the word “supported” with the word “discussed” in relation to Recommendation 1(c). However, the Delegation would like the rest of the language on Recommendation 1(c) to remain as it was a factual representation of the

discussions that had taken place. The Delegation agreed with the Delegation of Switzerland on Recommendation 1(f) as there had not been any agreement on the latter part, especially with regard to the development of international networks of information. It would be factual to state that different views were expressed under this recommendation. That should be included. On Recommendation 2(a), the Delegation would like the phrase, "any reference to the protection of traditional knowledge and folklore" in the second sentence to be amended as follows, "references to traditional knowledge and folklore". The phrase referred to protection. However, the issue was more to do with the references to traditional knowledge and folklore in that document. Those references should be removed as traditional knowledge and folklore were not linked to the public domain.

696. The Delegation of Switzerland explained that its proposal was based on the fact that, as mentioned by the Delegation of South Africa with regard to Recommendation 2(a), the discussions on all three recommendations had been quite complicated. Thus, it was better to just state that there were different views. If the Delegation of South Africa agreed, a sentence could be added as follows, "With respect to Recommendation 1(f), different views were expressed" and then continue with the decision. This would avoid negotiations on the views that were expressed. This could be applied to all three recommendations.

697. The Delegation of South Africa stated that it should only apply to Recommendation 1(f). With regard to 1(c), the Delegation of the United States of America had reservations on the contents of that study. This was also expressed by the Delegations of Algeria and South Africa. Thus, the language was factual. It was not trying to say too much. The study had to be focused and there was a need to remember what was said about it. One sentence on its own did not provide a context to what was discussed. On Recommendation 2(a), apart from the amendment concerning the references to traditional knowledge and folklore, the language reflected the discussion and brought it into context.

698. The Delegation of Switzerland stated that if it was really important for Member States to restate what was said in the discussions, it could go along with that. Thus, if it understood correctly, a sentence would be included as follows, "The Member States discussed the description of options and scenarios contained in document CDIP/9/INF/2." Then, "With respect to Recommendation 1(c): Some members were concerned that the study needed...". With regard to Recommendation 1(f), the first two sentences would be dropped and that section would read as follows, "With respect to Recommendation 1(f): Different views were expressed. It was agreed that a meeting of interested Member States would be organized to discuss their priorities in regard to copyright infrastructure." The final section on Recommendation 2(a) would read as follows, "Some Member States requested to eliminate from the document any reference to traditional knowledge and folklore. It was agreed that the document will be revised accordingly." If that was all correct, it could go along with that.

699. The Delegation of South Africa stated that the section concerning WIPO's participation in the UNESCO International Conference on Memory in the World in the Digital Age: Digitization and Preservation was important because the Secretariat had informed the Committee that WIPO would be participating in that conference. The Member States had not been requested to endorse the participation. There was a difference and in reply to the information that was provided, the Member States had requested the Secretariat to take into account what they had highlighted during the discussions.

700. The Delegation of Switzerland stated that given the late hour, all delegations should try to be flexible. It could go along with the inclusion of that sentence if it was specified that some Member States had made the request as it was not decided by the Committee.

701. The Delegation of South Africa thanked the Delegation of Switzerland for its flexibility as it was important.

702. The Delegation of Australia requested the Chair to read out Recommendation 2(a) as it stood, following the amendments.

703. The Chair said that if his understanding was correct, it would read as follows, "Some Member States requested to eliminate from the document any reference to traditional knowledge and folklore in order to dissipate any concern that the public domain overlaps". However, there was a suggestion that this should be slightly rewritten.

704. The Delegation of Australia stated that it also viewed this as an important point. The Delegation proposed that a full stop should be inserted after phrase, "traditional knowledge and folklore." There were views expressed on the overlap with the public domain. However, there were also other views expressed on duplication with the IGC and a number of other matters. Thus, to capture all those thoughts, perhaps a full stop could be included after "protection of traditional knowledge and folklore."

705. The Delegation of South Africa stressed that the sentence emphasized something that was raised by many Member States. The reference to TK and TCEs was erroneous. The sentence somewhat captured that. However, it referred to protection. Protection was not the issue. The issue was the reference and this was prejudicial. The scoping study explicitly excluded the consideration of TK and TCEs. The sentence also informed the participation of WIPO in other fora and that was why the Delegation wanted to maintain the second part. Thus, it would be advisable for it to be kept because it was connected.

706. The Delegation of Egypt aligned itself with the statements made by the Delegation of South Africa. Perhaps the Delegation of Australia would like to include a reference to state that this issue was being discussed in the IGC. However, the Delegation would not like a full stop to be inserted after "folklore". That would not be advisable.

707. The Delegation of Australia stated that it was comfortable with the suggestion by the Delegation of Egypt. Perhaps the Delegation of Egypt could help in this regard.

708. The Delegation of Egypt stated that this could read as follows, "However, they requested to eliminate from the document any reference to traditional knowledge and folklore in order to dissipate any concern that the public domain overlaps with this protection. The Committee recognized that discussion on this issue is being conducted in parallel in the IGC and it was agreed that the document would be revised accordingly. The participation of WIPO in the UNESCO International Conference....."

709. The Delegation of South Africa said that it could accept a comma and then, "taking into account the ongoing work in the IGC on this issue".

710. The Delegation of Australia suggested that the phrase could be as follows, "in order to dissipate concerns relating to overlap with the public domain". If that was acceptable, the Delegation could be flexible on the language. However, the Delegation thought that the Delegation of South Africa had reinserted "protection". It assumed that that was not the intention.

711. The Chair explained that the Delegation of South Africa had proposed a comma and then "taking into account the work being done at the...". The Chair enquired as to whether this would be acceptable to the Delegation of Australia.

712. The Delegation of Australia replied that it was acceptable. Thus, the sentence would read as follows, "Some delegations requested to eliminate from the document any reference to traditional knowledge and folklore in order to dissipate concerns relating to overlap with the public domain, taking into account the work in the IGC."

713. The Chair stated that the paragraph would then continue with "It was agreed that the document would be revised accordingly." The rest would be kept as it was.

714. The Delegation of Egypt stated that the suggested language was fine. However, if possible, it would like to add a reference to "traditional cultural expressions and folklore".

715. The Chair informed the Delegation of Egypt that he was informed by the Secretariat that these were synonyms. "Traditional cultural expressions" was the modern equivalent of "folklore".

716. The Delegation of Egypt thanked the Chair for the clarification.

717. The Delegation of Switzerland suggested that the phrase, "taking into account work undertaken in the IGC" could be included at the beginning of the sentence, "It was agreed that the document would be revised accordingly." This would then read as follows, "Some delegations requested to eliminate from the document any reference to traditional knowledge, TCEs and folklore, in order to dissipate any concerns relating to overlap with the public domain. Taking into account work undertaken in the IGC, it was agreed that the document would be revised accordingly."

718. The Delegation of South Africa disagreed with the proposal by the Delegation of Switzerland. The comma should be kept and the sentence should continue as before because it referred to one thing.

719. The Delegation of Switzerland explained that its proposal reflected the purpose of that agreement. It was agreed that the reference would be dropped because of the work currently undertaken at the IGC. The Delegation had shown flexibility in this regard.

720. The Delegation of Germany stated that the last sentence concerning the participation of WIPO at the UNESCO conference should be corrected as the English was not right.

721. The Chair noted the point and requested the assistance of the Delegation of Australia to correct that sentence.

722. The Delegation of Australia stated that the Delegation of Germany had rightly pointed out that the English was not correct. The sentence could be amended as follows, "With regard to the participation of WIPO in the UNESCO International Conference on Memory in the World in the Digital Age: Digitization and Preservation, it was also noted that this participation should take into account careful consideration of the need to keep both notions separate." The point was that the sentence should state that "WIPO needs to take careful consideration", rather than "WIPO's participation needs to take careful consideration".

723. The Delegation of Egypt agreed with the Delegation of South Africa that a comma was needed and the sentence should continue. With regard to the issue of participation, this could be as follows, "the representation of WIPO in the UNESCO.....would also take careful consideration....."

724. The Delegation of South Africa noted that the Delegation of Switzerland had shown flexibility. When the Delegation suggested "some Member States", the Delegation of

Switzerland had pronounced their support. This was prior to the intervention by the Delegation of Australia. The concerns of the Delegation of Australia had also been taken into consideration. It had been included and the Delegation of Australia had helped in crafting the language. The Delegation fully endorsed the proposal by the Delegation of Australia.

725. The Chair stated that there was broad agreement on this particular paragraph. As there no observations, he declared that the paragraph was adopted. The Chair turned to subparagraph 9(h).

726. The Delegation of Switzerland stated that it still had some concerns with keeping all the parts in that sentence in subparagraph 9(g). Thus, it suggested that the first sentence should be amended as follows, "Some delegations..."

727. The Chair informed the Delegation of Switzerland that subparagraph (g) had been concluded. He had given the Delegation the opportunity to react and it had not. The Delegation had allowed the Chair to conclude.

728. The Delegation of Switzerland said that it was aware of that. However, during that time, the Delegation was reading the phrase again to see if there were problems. The Delegation requested the Chair to return to that sentence in order to reach an agreement.

729. The Chair maintained that as far as he was concerned, that sentence was concluded. He was not going to reopen discussions on subparagraph 9(g).

730. The Delegation of the United States of America remarked that it was late. A lot of time had been spent on the subparagraphs. However, the request by the Delegation of Switzerland should be respected. Things had moved quickly. There was a lot of discussion and there had been different interventions. When the different interventions were added together, things got confused. A bit more time was needed to make sure that what was being agreed was in fact what the members had understood it to be. Thus, the Delegation requested the Chair to give the Delegation of Switzerland a bit of time to react.

731. The Chair said that he was ready to do so. However, this would give an opportunity to other delegations to state that there had not been an agreement on paragraph 7. There had been a discussion on this.

732. The Delegation of the United States of America thought that the Delegation of Switzerland had reacted fairly quickly. The Delegation of Switzerland was reading the notes on what was being said but some discussions were still going on.

733. The Delegation of Australia supported the statement by the Delegation of the United States of America. The Delegation was having consultations with the Delegation of Switzerland on this particular issue and had missed the fact that the discussion had moved on in the meantime.

734. The Chair stated that he had to re-open discussions on subparagraph 9(g). He was doing it reluctantly.

735. The Delegation of Hungary supported this. Paragraph 7 was read out before it was agreed. A point had to be read out before it was agreed to ensure that everyone was on the same page.

736. The Chair explained that the suggestion was not to read out but to re-open. The Chair enquired as to whether the Delegation of Hungary supported the re-opening of that discussion.

737. The Delegation of Hungary said that the discussion had not been concluded. A point was concluded when it was read out and everyone said yes, they agreed.

738. The Chair reiterated that the Delegation of Switzerland would be given an opportunity. However, he wanted it to be recorded that he was doing it reluctantly.

739. The Delegation of Switzerland wished to speak in French so as to convey the exact sense of what it wished to say. The Delegation thanked the Chair for letting it express itself again. All delegates were tired but it would be regrettable to finish the meeting on a bad note as all may continue in the same manner.

740. The Chair thanked the Delegation of Switzerland. Far from the intention to finish on a bad note, the Chair would like things going well. It was only to avoid the procedural risk that another delegation, by using this precedent, could revisit the text. The Chair expressed his determination to keep a convivial atmosphere until the end as it would be a loss not to work in that manner.

741. The Delegation of Switzerland suggested that the paragraph on Recommendation 2(a) could read as follows, "Some delegations requested to eliminate from the document any reference to traditional knowledge, TCEs and folklore in order to dissipate any concerns relating to overlap with the public domain. Taking into account work undertaken in the IGC, it was agreed that the document would be revised accordingly. With regard to the participation of WIPO in the UNESCO International Conference on Memory in the World in the Digital Age: Digitization and Preservation, it was also noted that WIPO would take careful consideration of the need to keep both notions separate."

742. The Delegation of South Africa stated that it could deal with the change proposed by the Delegation of Switzerland on the last sentence. However, it would like to keep the comma after "public domain" in the first sentence as this should be linked to the IGC. It should not be broken into two parts. Thus, the comma should be kept and the sentence would continue.

743. The Delegation of Switzerland understood that when this issue was discussed, it was agreed that the document would be revised to delete the reference to traditional knowledge, TCEs and folklore because of the ongoing discussions and work at the IGC. This was the intention behind its proposal for the phrase, "Taking into account the work of the IGC", to be added at the beginning of the sentence concerning that decision. However, the Delegation would be willing to go along with the suggestions by the Delegation of South Africa if those were agreed by all other delegations.

744. The Chair thanked the Delegation of Switzerland for its cooperation. Thus, the Committee would go back to the paragraph that was adopted. The Chair turned to subparagraph 9(h).

745. The Delegation of the United States of America proposed a minor amendment to subparagraph (h). The word "further" in the second line should be deleted as the document had not been discussed. That part would read as follows, "and agreed to consider the document at its next session".

746. The Chair enquired as to whether subparagraph (h) could be adopted with the minor amendment proposed by the Delegation of the United States of America. It was adopted. As there were no objections, subparagraph (i) was also adopted. The Chair turned to subparagraph (j).

747. The Delegation of the United States of America proposed that the word “further” should be deleted from subparagraph (j).

748. The Chair enquired as to whether subparagraph (j) could be approved with the minor amendment suggested by the Delegation of the United States of America. It was approved. The Chair turned to subparagraph (k) and stated that it should read as follows, “The Committee discussed a Study on the Anti-Competitive Enforcement of Intellectual Property Rights: Sham Litigation (CDIP/9/INF/6) and the Secretariat agreed to convey the observations made by delegations to the authors”.

749. The Delegation of the United States of America recalled that it was the only delegation to comment on this. The Secretariat had said that it would convey the observations to the authors of the study. The Secretariat had also gone further and said that the Delegation’s request for changes would be accommodated. As such, the Delegation suggested that a phrase should be added to that effect.

750. The Delegation of Brazil said that it was not present during those discussions. However, it had been informed that the Delegation of the United States of America had suggested some amendments and its request would be transmitted to the authors of the external study. The Delegation had a question concerning the procedure. The Delegation enquired as to whether, in cases such as this when a request was conveyed to the authors for their consideration, the revised document or comments of the author would be submitted to the CDIP for its consideration.

751. The Delegation of Algeria suggested that the word “delegations” in subparagraph (k) should be replaced with the words “a delegation” because the Delegation of the United States of America was the only delegation that had made observations. That part would read as follows, “the Secretariat agreed to convey the observations made by a delegation to the authors”. As the Committee needed to know the outcome, that document should be resubmitted to the Committee for its consideration.

752. The Secretariat stated that its recollection was similar to the Delegation of the United States of America. Mr. Carvalho had said that he would convey the observations to the authors and hoped that they would be willing or happy to accommodate the observations that were made.

753. The Delegation of Brazil wanted to expedite the discussions. There had been preliminary discussions on a list of documents for the next session. The summary mentioned that the Committee had “broadly agreed upon the issues” but these were not listed. If the Committee could agree that this document would be included for further consideration by the Committee, the sentence would not need to be changed. The document would be included in the list of documents to be discussed or presented to the Committee in the next session.

754. The Delegation of Australia suggested an alternative compromise. The Delegation agreed that the Secretariat had said that it would convey the information to the author. However, it was said in a particular context, after confirming an understanding expressed by the Delegation of the United States of America. Thus, perhaps the solution would be to state the following, “The Secretariat confirmed the understanding articulated by one delegation concerning the scope of the study. The Secretariat agreed to convey the observations made by the delegation to the author.”

755. The Delegation of the United States of America appreciated the suggestion by the Delegation of Australia. That proposal would be acceptable.

756. The Delegation of Brazil stressed that since the language was acceptable, it wanted to make sure that there was an understanding that the document would be included in the list of documents for the next session.

757. The Secretariat explained that there was a section for other related documents on the web page where all the CDIP documents were posted. All the documents that the Secretariat was requested to revise were included in that section. Some were even considered by the Committee, as in the case of Committee reports. For instance, when the Secretariat was requested to prepare substantive summaries of documents, it had not been asked to bring those for the consideration of the Committee. They all went under the list of related documents. Thus, after it was revised, this document would also be included under that section and Member States would be able to comment on it.

758. The Delegation of Brazil understood that the document would be included in the list of other related documents and it would be a normal procedure if it wanted to make comments during the next session of the CDIP.

759. The Chair enquired as to whether the Committee could approve subparagraph 9(k) with the amendment proposed by the Delegation of Australia. It was approved. As there were no observations, subparagraphs 9(l) and (m) were also approved. The Chair turned to subparagraph 9(n).

760. The Delegation of Paraguay, speaking on behalf of GRULAC, suggested an addition in order to clearly reflect what had taken place during the debate on that document. It would be included at the end of subparagraph (n) and would read as follows, "Some delegations proposed the analysis of scenarios and possible options concerning additional recommendations. Other delegations did not agree on this initiative."

761. The Delegation of the United States of America wanted to quickly return to subparagraph (m) for clarification. Sub-paragraph (m) seemed to repeat the substance of subparagraph (d). Both referred to the studies on patent-related flexibilities. If that was the case, perhaps one of those paragraphs could be dropped.

762. The Chair acknowledged that the Delegation of the United States of America may be right. He enquired as to whether the delegation suggested the deletion of sub-paragraph (m).

763. The Delegation of the United States of America confirmed the suggestion.

764. The Chair deleted sub-paragraph (m) and returned to sub-paragraph (n).

765. The Delegation of Pakistan recalled that in the discussions on future work, it was mentioned by some delegations that the document needed to be further considered at the next session of the CDIP. That should be reflected in the text.

766. The Delegation of South Africa supported the suggestion by the Delegation of Pakistan.

767. The Delegation of Egypt also supported the proposal by the Delegation of Pakistan.

768. The Delegation of Switzerland enquired as to whether the sentence proposed by the Delegation of Pakistan would begin with the words "some delegations requested".

769. The Delegation of Pakistan clarified that the sentence did not include "some". The Delegation recalled that no one had objected to this issue when it was raised in the discussion

on future work. As such, after the addition by the Delegation of Paraguay, a sentence could be added as follows, "The Committee agreed to further consider the document at its next session".

770. The Delegation of Hungary recalled that the issue was raised by the Delegation of South Africa during the discussion on future work. That issue would be discussed in the Chair's consultations on future work. The Committee had not agreed to any new suggestions for future work. Indeed, it was mentioned in the discussions that there were too many issues for the next session. The Committee should not prejudge the outcome of the Chair's consultations.

771. The Delegation of Switzerland said that its recollection was the same as the Delegation of Hungary. That should be reflected in the proposed sentence.

772. The Delegation of South Africa affirmed that the Delegation of Pakistan was correct. There were no objections when the Delegation had said that it wanted the agenda item to be retained in the work of the Committee. It was concerned that the Delegation of Hungary had mentioned that there was already a long list of agenda items to be considered at the next session as the Delegation had stated its request. The Delegation of Paraguay had already highlighted some of the views that were expressed. That was important and it provided a balance. However, the document should be kept, even though there were differences, until the Committee concluded on it.

773. The Delegation of Switzerland stated that there was no agreement on continuing work on this document. The Delegation recalled that many delegations had said that the discussions on the document should not be continued. Some delegations had made a proposal under future work. However, there was no agreement on that. Thus, the sentence should not state that this was decided by the Committee. The Delegation could be flexible in terms of referring to it as a request by some delegations. However, no decision was taken on this.

774. The Chair noted that views continued to diverge on this point. He enquired as to whether the proposal to include "some delegations" could be accepted as a way forward.

775. The Delegation of Pakistan found it interesting that some members were insisting that "some" should be included on some points and not on others. When there was no agreement on a document, it was normal practice for the document to be kept for the next session of the Committee. The Delegation noted the comments made by certain delegations with regard to this issue.

776. The Delegation of South Africa shared the understanding of the Delegation of Pakistan that this was normal practice. No additions were needed as the Delegation's understanding was that the document would be retained for the next session as there had not been an agreement on the document.

777. The Delegation of Switzerland stressed that if there was no agreement to continue work, it could not be said that the Committee agreed to continue work on the document. The best way to address this issue would be through the Chair's consultations on future work. There was no agreement and this was recognized by the Delegations of South Africa and Pakistan when they said that there had not been an agreement. Thus, at this point, it cannot be concluded that the Committee agreed to have it on the agenda for the next session.

778. The Chair proposed that the paragraph should not refer to the continuation of work on the document. This could provide a way forward.

779. The Delegation of South Africa stated that that would be fine. However, it did not mean that the Committee would not return to it. This had to be clear. The Chair's consultations would

not only be on this issue. The consultations would be on the number of issues to be included in the work plan. The Delegation understood that the consultations would be on the work plan.

780. The Chair confirmed that the consultations would be on the work plan, including that particular issue. He enquired as to whether the amendments should be read out.

781. The amendments were read out by the Secretariat as follows, "Some delegations proposed the analysis of scenarios and possible options concerning additional recommendations. Other delegations did not agree on this initiative".

782. The Chair pointed out that the paragraph would end there.

783. The Delegation of Pakistan noted that the last part was missing. It was unclear as to what was happening with the last part in relation to keeping the document on the agenda for the next session.

784. The Chair stressed that he had just proposed that a reference should not be included on that. He thought that he had secured the support of all delegations on that point. However, the Delegation of Pakistan did not seem to agree. There was an understanding but it should not be reflected in the summary.

785. The Delegation of Pakistan enquired as to whether the understanding was that the document would be on the agenda of the next session and for that to be finalized, the Chair was going to consult with the delegations before the next session.

786. The Chair replied in affirmative. However, the discussion was currently on the text of subparagraph (n). The text needed to be approved in order for Committee to move on.

787. The Delegation of Hungary stressed that one delegation had asked for something and there was no agreement on it. The suggestion would be considered in the Chair's consultations on future work. However, the outcome of those consultations was not known as the consultations had not yet taken place.

788. The Delegation of South Africa emphasized that more than one delegation had requested for this. The African Group and the Development Agenda Group had made statements on this. The African Group had 54 Member States and the Development Agenda Group had 20. Thus, there were about 74 Member States. The Delegation did not like the reference to one Member State, two delegates and so on. Members had to be constructive in their engagement. There had not been any objections to the proposal when it was suggested to the Secretariat that it should be included as the issue was outstanding. Delegations had kept quiet and now the matter was being raised. The Delegation shared the understanding of the Delegation of Pakistan on this issue.

789. The Delegation of Switzerland referred to the Chair's proposal to omit any reference to this. If some delegations wanted something to be mentioned, this should be along the lines of the proposal by the Delegation of Hungary, i.e. it was proposed by some delegations but there was no agreement because many other delegations also said that they did not want to continue working on this document. There was no decision at this stage. Consultations would be held to decide on this.

790. The Delegation of Paraguay offered to submit its proposal in writing to the Secretariat to ensure that it was correctly recorded.

791. The Delegation of Australia said that the suggestion that every statement that went unchallenged was a decision of the Committee was not a precedent that it wanted to establish at this time of the night. When that statement was made, it was not challenged but it was the view of some delegations. In that context, the solution suggested by the Chair to omit the reference altogether was the best solution.

792. The Delegation of Egypt suggested the inclusion of the phrase, "and it was agreed to incorporate it in the future work of the Committee".

793. The Delegation of South Africa could live with the proposal by the Delegation of Egypt. The Delegation was happy that the Delegation of Australia mentioned that the statement was not challenged. It contradicted the statement by the Delegation of Switzerland that there had not been an agreement. As reiterated by the Delegation of Pakistan, their recollection was that the proposal was not challenged. Silence normally implied that members were in agreement or did not have any opposition to an issue.

794. The Delegation of Switzerland stated that the proposal was not refused. There was no decision on the proposal. The discussions had stopped and it was decided that the Chair would hold consultations. The Delegation referred to the proposal by the Delegation of Egypt. There was a proposal to include the document under future work and the Chair would hold consultations. Hence, at this stage, there was no agreement to include it under future work.

795. The Chair suggested the phrase, "there was a proposal to consider it in future work".

796. The Delegation of Switzerland proposed the phrase, "to consider it under future work". However, it should also be stated that there was no agreement and it was just a proposal at this stage. The Chair would hold consultations on this.

797. The Delegation of Hungary supported the suggestion by the Delegation of Switzerland. The Delegation recalled that when those items were discussed under future work, the African Group had proposed a long list of recommendations that the Committee could continue working on. Many delegations came up with the idea of the scoping study. At the end, some delegations had reacted to that. The Secretariat had mentioned several items for future work and the delegations were coming with new suggestions. As this could be a problem, consultations may be required. This was the Delegation's recollection of what had happened. Thus, the suggestion by the Delegation of Switzerland was in the right direction.

798. The Delegation of Pakistan thanked the Delegation of Egypt for its proposal. The Delegation could live with that proposal. The Delegation also understood the concerns expressed by the Delegations of Hungary and Switzerland. All issues should be treated equally. The language on all items for future work should be subject to the same treatment in the summary.

799. The Delegation of South Africa stated that the Delegation of Pakistan had raised a very valid point. If everything was subject to consultations, this should be reflected. The current situation was unprecedented. For example, although certain countries did not want the issue of IP and development to be included, the proposal submitted by the Development Agenda Group (document CDIP/6/12 Rev.) was still on the table. The Delegation could not understand why the scoping study should be treated differently. It was very important to follow what was normally practiced. That document should remain until an agreement was reached on it.

800. The Delegation of Switzerland stated that the same situation did not apply to all the documents. There had already been a discussion on the scoping study. There was a proposal to continue work on that document. Several delegations had also taken the floor to state that

there had been enough discussion and work on the document had come to an end. The Committee did not arrive at a conclusion on this point. Subsequently, when the Committee discussed future work, some delegations proposed to include it under future work. However, the Committee had not reached a final decision on future work. There was only a list of what could be done. As that agenda item had to be concluded, the Chair proposed that he would hold consultations. Some points were decided during the week. However, there was no decision on that document. The Development Agenda Group and the Delegation of South Africa had suggested that work should continue on the Deere report and it was agreed that it would be on the agenda for the next session. This had been agreed. However, there was no such agreement on the scoping study. Thus, it would be factual to state that there was no agreement. Alternatively, as proposed by the Chair, the issue would not be mentioned and it would be included in the Chair's consultations together with other proposals for future work.

801. The Delegation of South Africa noted that the statements of the Delegation of Switzerland were contradictory. The Delegation mentioned that the discussion on this agenda item had not concluded. This meant that the document was still on the table and should be considered at the next session. The Delegation recalled that the Committee did not conclude on this item. The discussion was still going on. However, work in the Committee was behind schedule and it had to tackle other issues. As that discussion had not concluded, the document should be carried over to the next session.

802. The Delegation of Denmark echoed what was said by the Delegation of Switzerland. There had not been an agreement to continue the discussion on that document. Thus, some language should be found to resolve the impasse and a decision would be reached through the Chair's consultations on future work.

803. The Delegation of Algeria emphasized the need to be factual and to reflect what was said by certain delegations. Some had said that discussions needed to be continued and others had disagreed. The Chair concluded that this issue would be discussed in the consultations on future work. Those were the facts. As such, the Delegation proposed the inclusion of the following, "Some delegations proposed that this issue be discussed in the next session. Some delegations opposed the continuation of that discussion in the next session. The Chair concluded that this issue will be discussed in the consultations on the future work".

804. The Delegation of Brazil did not see any contradiction between the document remaining on the agenda for the next session and it being discussed in the informal consultations. This happened with many other documents. An agreement had not been reached in the discussions. The Delegation did not see a problem with the document remaining on the agenda for the next session or under future work and for informal consultations to be held at the same time.

805. The Chair proposed that the suggestion by the Delegation of Algeria could serve as the way forward.

806. The Delegation of the United States of America supported the suggestion by the Delegation of Algeria. The Delegation referred to the suggestion by the Delegation of Brazil. There could not be an agenda item on something and then also discuss it in future work. There would not be a need to. The suggestion by the Delegation of Algeria would work. It would be discussed in future work during the informal consultations.

807. The Chair suggested that the proposal which was read out by the Delegation of Algeria be approved by the Committee. It was approved. The Chair turned to subparagraph (o).

808. The Delegation of the United States of America, speaking on behalf of Group B, suggested an amendment to make the paragraph more factual in terms of what was discussed.

The Group proposed that the phrase, “and could not reach agreement, but agreed to retain the proposal” be included after “(CDIP/6/12 Rev.)”. It captured the idea that the Committee had not agreed on anything but it did agree to carry it on to the next session.

809. The Chair enquired as to whether subparagraph (o) could be approved with the amendment proposed by the Delegation of the United States of America on behalf of Group B. It was approved. The Chair turned to paragraph 10.

810. The Delegation of the United States of America, speaking on behalf of Group B, suggested that the phrase, “broadly agreed upon the issues to be included in the draft agenda for the next session” be deleted and replaced with the phrase, “the Chair suggested to hold intersessional consultations on possible agenda items for the next session”. The sentence would then read as follows, “Under Agenda Item 9 on Future Work, the Committee considered a number of suggestions, and the Chair suggested to hold intersessional consultations on possible agenda items for the next session”.

811. The Delegation of Hungary, speaking on behalf of the CEBS, agreed with the suggestion by the Delegation of the United States of America on behalf of Group B.

812. The Delegation of Egypt suggested the following, “and broadly agreed upon the issues to be included in the draft agenda for the next session based on the outcome of the Chair’s consultations”.

813. The Delegation of Algeria accepted the proposal by the Delegation of Egypt. However, the Delegation could agree to delete the word “broadly”.

814. The Delegation of the United States of America referred to its suggestion and pointed out that with respect to the suggestion by the Delegation of Egypt, it was not possible to broadly agree on something until the Chair actually held the informal consultations. Thus, the way it read, the suggestion was out of place.

815. The Delegation of Hungary agreed with the point made by the Delegation of the United States of America.

816. The Delegation of Denmark, speaking on behalf of the EU and its Member States, also agreed with the Delegation of the United States of America. “Broadly agreed” should be avoided. The Delegation supported the proposal by the Delegation of the United States of America.

817. The Chair thought the proposal by the Delegation of the United States of America made sense. He enquired as to whether it could be approved by the Committee.

818. The Delegation of Algeria would like the word “possible” to be deleted from the proposal by the Delegation of the United States of America as the Committee was going to have a draft agenda, it was not an issue of whether it was possible or not.

819. The Delegation of South Africa supported the proposal by the Delegation of Algeria. The Delegation proposed that the words “suggested to” be deleted and replaced with the word “will” as it had to be definite.

820. The Delegation of the United States of America accepted the suggestions by the Delegations of Algeria and South Africa.

821. The Chair noted that everything had been resolved. Paragraph 10 was approved with the amendments proposed by the Delegations of the United States of America, Algeria and South Africa. There were no observations on paragraphs 11 and 12. These were approved. The Chair returned to subparagraph 9(c).

822. The Delegation of South Africa enquired as to whether consultations could be held among the Delegations of Pakistan, Canada, Switzerland and South Africa as they were the members that had problems with subparagraph 9(c).

823. The Chair agreed to the request and the meeting was temporarily adjourned.

824. The Chair thanked those that were involved in the consultations for their efforts. He invited the Delegation of Pakistan to read out the outcome of the consultations.

825. The Delegation of Pakistan read out what was agreed in the consultations on subparagraph 9(c). The following was agreed, "The Committee discussed the Work Program on Flexibilities in the Intellectual Property System – New Elements Proposed at CDIP/8 (CDIP/9/11). Some delegations emphasized the importance of WIPO's work in the field of flexibilities in the IP system. Some delegations emphasized the need for the Committee to undertake this work efficiently and without duplications of the work taking place in other committees and/or forums". The paragraph would continue with its last sentence.

826. The Chair enquired as to whether the paragraph as read out by the Delegation of Pakistan could be adopted. It was adopted. The Committee was invited to adopt the entire summary. The summary was adopted. The Chair thanked and expressed his deepest gratitude to the delegations for their hard work, dedication and cooperation. He expressed his profound gratitude to the Vice-Chair, Mrs. Alexandra Grazioli, Senior Legal Advisor, Swiss Federal Institute for Intellectual Property, for her assistance.

827. The Delegation of the Russian Federation referred to the Russian translation of the text. There were some differences with the English text. The Delegation relied on the Secretariat to check the differences.

828. The Chair announced that the Secretariat would communicate a copy of the agreed text to all delegations. It would be available in all UN working languages. All delegations were expected to comment on the text.

829. The Delegation of Pakistan, speaking on behalf of the Asian Group, thanked the Chair for the excellent way in which he had conducted the session and looked forward to his continued engagement with the Committee.

830. The Delegation of Egypt, speaking on behalf of the African Group, congratulated all delegations on the conclusion of the session. The Group also thanked the Chair for his able guidance and compromising spirit. The Group looked forward to his continued leadership.

831. The Delegation of Algeria, speaking on behalf of the Development Agenda Group, thanked and expressed its gratitude to the Chair for the work that he had done. His wisdom and patience had led the Committee to these results. The Delegation and the Group thanked the delegations for the achievement.

832. The Delegation of Hungary, speaking on behalf of the CEBS, thanked the Chair for his patience and dedication. Perhaps the Committee had set a bad precedent by working until almost 1 a.m. The Group hoped that the Committee would be more efficient in the next CDIP session under the Chair's leadership.

833. The Delegation of Denmark, speaking on behalf the EU and its Member States, thanked the Chair for his leadership and looked forward to seeing him at the next meeting. The Committee had learned a lesson and perhaps it would conclude at an earlier time in the next meeting.

834. The Delegation of South Africa thanked and congratulated the Chair on the way he had chaired the meeting. The Delegation recalled that it was not the first time that the discussions in the Committee had carried on after midnight. There was a time when delegations left at 3.30 a.m. Thus, the Committee was not setting a precedent. It was a sign of engagement and dedication. In the end, diplomacy had prevailed. The Delegation thanked the delegations for their constructive engagement which allowed the Committee to complete its tasks.

835. The Delegation of Paraguay, speaking on behalf of GRULAC, congratulated the delegations for the good outcome. The Group also thanked the Chair for his leadership and looked forward to working with him in the next session.

836. The Delegation of the United States of America, speaking on behalf of Group B, thanked the Chair for chairing the session. The Group also thanked the Secretariat for its hard work, putting all the many documents together and providing them to delegations in a timely manner.

837. The Chair realized that he had made an important omission. He thanked the Secretariat for its extraordinary support and Mr. Geoffrey Onyeama for his presence and continued engagement throughout the session.

838. The Delegation of the People's Republic of China thanked the Chair for his excellent diplomatic skills and wisdom in guiding the Committee to a successful conclusion of the session. The Delegation looked forward to his continued leadership in the next session. The Delegation would continue to cooperate to achieve good results under the framework of the CDIP. The Delegation thanked all the delegations for their participation.

[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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AFRIQUE DU SUD/SOUTH AFRICA

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

ALGÉRIE/ALGERIA

Sami BENCHEIKH EL HOCINE, directeur général, Office national des droits d'auteur et des droits voisins (ONDA), Ministère de la culture, Alger

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

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ARMÉNIE/ARMENIA

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TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO

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TUNISIE/TUNISIA

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II. ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES/
INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

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

Shakeel BHATTI, Secretary, International Treaty on Plant Genetic Resources for Food and Agriculture, Plant Production and Protection Division, Rome

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

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UNION EUROPÉENNE (UE)/EUROPEAN UNION (EU)

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ORGANISATION AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE(OAPI)/AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI)

Paulin EDOU EDOU, directeur général, Yaoundé

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

Khabibullo FAYAZOV, Vice-President, Moscow

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

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

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

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

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ORGANISATION INTERNATIONALE DE LA FRANCOPHONIE (OIF)

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Sandra COULIBALY LEROY (Mme), observateur permanent adjoint, Délégation permanente, Genève

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

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Xiaoping WU (Mrs.), Counsellor, Intellectual Property Division, Geneva

UNION AFRICAINE (UA)/AFRICAN UNION (AU)

Georges-Remi NAMEKONG, Counsellor, Permanent Delegation, Geneva

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

Slimane CHIKH, ambassadeur, observateur permanent, Délégation permanente, Genève

Fuat CANAN, premier secrétaire, Délégation permanente, Genève

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

Association IQSensato (IQSensato)

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Association européenne des étudiants en droit (ELSA international)/European Law Students' Association (ELSA International)

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Davide ARDUINI, Representative, ELSA Italy

Hilma-Karoliina MARKKANEN, Representative, ELSA Finland

Hande ÖZTÜRK, Representative, ELSA Turkey

Association internationale pour la protection de la propriété intellectuelle (AIPPI)/International Association for the Protection of Intellectual Property (AIPPI)

Michael John BRUNNER, Chairman, Q207, Zurich

Association littéraire et artistique internationale (ALAI)/International Literary and Artistic Association (ALAI)

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

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Jennifer BRANT (Ms.), Consultant, Geneva

Communia. International Association on the Public Domain (COMMUNIA)

Mélanie DULONG DE ROSNAY, President of the Administration Council, Paris

Creative Commons Corporation

Andrés GUADAMUZ, Representative, Edinburgh, United Kingdom

CropLife International

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Fédération ibéro-latino-américaine des artistes interprètes ou exécutants (FILAIE)/Ibero-Latin-American Federation of Performers (FILAIE)

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José Luis SEVILLANO ROMERO, Presidente del Comité Técnico, Madrid

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Karsten GERLOFF, President, Berlin

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[End of Annex and of document]