

# WIPO



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**WORLD INTELLECTUAL PROPERTY ORGANIZATION**  
GENEVA

## **COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY (CDIP)**

**Second Session**  
**Geneva, July 7 to 11, 2008**

REVISED DRAFT REPORT

*prepared by the Secretariat*

1. The WIPO General Assembly, in its session held in September-October 2007, adopted the recommendations made by the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA). One of the decisions was to establish a Committee on Development and Intellectual Property (CDIP) to:

- develop a work-program for implementation of the adopted recommendations;
- monitor, assess, discuss and report on the implementation of all recommendations adopted, and for that purpose it should coordinate with relevant WIPO bodies; and
- discuss intellectual property (IP) and development-related issues as agreed by the CDIP, as well as those decided by the General Assembly.

2. It was decided that the Committee will be composed of the Member States of WIPO and open to the participation of all accredited intergovernmental organizations (IGOs) and non-governmental organizations (NGOs). It was also decided that the Committee will have two five-day sessions annually, with the first one convened in the first half of 2008. As done during the sessions of the PCDA in 2006 and 2007, WIPO would provide financing for the participation of representatives from developing countries, including least developed

countries (LDCs), as well as from countries with economies in transition, to attend the meetings of the Committee. Further, for the first meeting of the Committee, the present Chair of the PCDA would prepare initial working documents, including a draft work program, in consultation with Member States and the Secretariat. The draft work program should address, *inter alia*, the financial and human resource requirements for inclusion in WIPO's budgetary planning process. The Committee would report and might make recommendations annually to the General Assembly. The first session of the CDIP was held from March 3 to 7, 2008. The Second Session of the CDIP was held from July 7 to 11, 2008.

3. The following States were represented: Afghanistan, Albania, Algeria, Argentina, Armenia, Australia, Austria, Bangladesh, Barbados, Belarus, Belgium, Benin, Bhutan, Bosnia and Herzegovina, Botswana, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czech Republic, Democratic Republic of the Congo, Denmark, Djibouti, Ecuador, Egypt, El Salvador, Equatorial Guinea, Estonia, Ethiopia, Finland, France, Germany, Ghana, Greece, Guinea-Bissau, Haiti, Holy See, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Kenya, Kyrgyzstan, Latvia, Lesotho, Lithuania, Luxembourg, Madagascar, Malaysia, Mexico, Morocco, Myanmar, Nepal, Netherlands, Nigeria, Norway, Oman, Paraguay, Philippines, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Rwanda, Saudi Arabia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, The Former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, and Yemen (101).

4. The following IGOs took part as observers: African Union (AU), European Commission (EC), European Patent Office (EPO), Islamic Educational, Scientific and Cultural Organization (ISESCO), Organization of the Islamic Conference (OIC), South Centre, United Nations (UN), United Nations Conference on Trade and Development (UNCTAD), and World Trade Organization (WTO) (9).

5. Representatives of the following international NGOs took part as observers: Actors, Interpreting Artists Committee (CSAI), Centre for International Environment Law (CIEL), Centre for International Industrial Property Studies (CEIPI), Civil Society Coalition (CSC), CropLife International, Ibero-Latin-American Federation of Performers (FILAIE), Indigenous ICT Taskforce (IITF), *Ingénieurs du Monde* (IdM), Institute for Policy Innovation (IPI), International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP), International Bar Association (IBA), International Center for Trade and Sustainable Development (ICTSD), International Chamber of Commerce (ICC), International Environmental Law Research Centre (IELRC), International Federation of Associations of Film Distributors (FIAD), International Federation of Film Producers Associations (FIAPF), International Federation of Library Associations and Institutions (IFLA), International Federation of Pharmaceutical Manufacturers Associations (IFPMA), International Federation of the Phonographic Industry (IFPI), International Literary and Artistic Association (ALAI), International Policy Network (IPN), International Publishers Association (IPA), International Trademark Association (INTA), International Video Federation (IVF), Knowledge Ecology International (KEI), Latin American Association of Pharmaceutical Industries (ALIFAR), *Médecins sans frontières* (MSF), Public Interest Intellectual Property Advisors (PIIPA), The Federalist Society for Law and Public Policy Studies (the Federalist Society), The International Committee for the Indigenous Peoples of the Americas (INCOMINDIOS) and Third World Network (TWN) (31).

6. Representatives of the following national NGOs also took part as observers: American BioIndustry Alliance (ABIA), Electronic Frontier Foundation (EFF), *Fundação Getulio Vargas* (FGV), International Hotel and Restaurant Association (IHRA), Library Copyright Alliance (LCA) and Portuguese Author's Society (*Sociedade Portuguesa de Autores* (SPA)) (6).

7. The list of participants is attached to this report.

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

8. The Chair welcomed everyone to the second session of the CDIP and wished them a productive week. Explaining that the plan of the Committee was to continue developing a work program for the implementation of the adopted recommendations, he also reminded them that some work had already been broadly agreed upon during the first session of the CDIP in March, as well as during the two-day informal session in April. The Chair informed the meeting of his consultations with the Regional Coordinators which had taken place on June 30 of that year, where it was suggested that they use the same process used in March for the July meeting. The Chair also said that during the consultations with the Regional Coordinators, he had informed them that he would request Mr. Francis Gurry, Director General-Elect, to briefly address the Committee that morning on the completion of Agenda Item 3.

9. The Chair recalled that, according to the rules and procedures of the CDIP, it might agree, if it so wished, to have IGOs and NGOs represented in its sessions as *ad hoc* observers, for one year. The Chair informed that one application had been received by the Secretariat in the name of the International Committee for the Indians of America (INCOMINDIOS) based in Switzerland. Seeing no objections to the inclusion of the said Committee, INCOMINDIOS was admitted as an *ad hoc* observer for one year.

#### Agenda Item 2: Adoption of the Agenda (document CDIP/2/1 Prov.)

10. The Chair suggested that in view of the large number of issues to be discussed, all the five days should be devoted to discussions on the adopted recommendations. He, therefore, proposed that a Chair's summary be adopted at the end of the session, instead of a Draft Report. This had also been done for the Inter-Sessional Intergovernmental Meetings on a Development Agenda for WIPO (IIM) and the PCDA. The Chair's summary would form an integral part of the Draft Report that would eventually be prepared by the Secretariat. The Draft Report which would also contain the interventions made, would then be communicated to the Permanent Missions of Member States and also made available in electronic form on the WIPO website for comments. The revised Draft Report would subsequently be considered for adoption at the beginning of the next Session of the CDIP. Seeing no request for amendments, the agenda was adopted.

#### Agenda Item 3: Adoption of the draft Report of the First Session of the CDIP (document CDIP/1/4 (Prov.))

11. The Chair recalled that the report of the first session was circulated on April 21, 2008, and comments requested by May 5, 2008. Since no comments were received by the Secretariat, and seeing no objections, the adoption of the report of the First Session was confirmed.

Agenda Item 4: Consideration of Work Program for Implementation of Adopted Recommendations

12. The Chair then invited the Director General-Elect, Mr. Francis Gurry to address the Committee. Mr. Gurry thanked the delegations for the opportunity to speak to them briefly, and thanked, in particular, Ambassador Clarke first for allowing him that opportunity. Mr. Gurry also thanked the Ambassador for the wisdom and the pragmatism with which he had steered the Organization to a consensus for the adoption of the Development Agenda and for steering it now to the implementation of that consensus. He repeated his assurance of the importance that he personally attached to the Development Agenda which was a major development for the Organization. He said that it was a major achievement for the Organization to have adopted, with consensus, the Development Agenda, and it was also a major opportunity for the Organization to address the role of IP in development and, in particular, the contribution that IP might make to an amelioration of the knowledge gap and the digital divide. He said that he was of the firm view that the successful implementation of the Development Agenda was vital to a successful future for the Organization and that the most important challenge that they currently faced was the challenge of the implementation of the Development Agenda and the establishment of a work program that would ensure its appropriate implementation. He assured that the future work program of the Organization would fully respect all of the decisions that had already been taken by the Member States in the meeting of the Committee that took place in March, as well as to the decisions that would be taken in the course of the current week. Mr. Gurry recalled two matters about which he had spoken over the course of the last several months. The first of those was recommendation 8, which dealt with the availability of the technology that was disclosed through the patent system, and the improvement of infrastructure, in particular in the developing countries, to ensure that they might take advantage of the technology that was disclosed through the patent system. He said there were many elements to that broad project, including the digitization of patent collections and their publication, search engines, the availability, ultimately, of the world's technology through a central portal and, most importantly, appropriate training for the use of the technology disclosed through the patent system in accordance with the economic priorities and resources of developing countries. Related to that recommendation was the very important question of access to scientific literature. Mr. Gurry said that there was an enormous volume of new scientific literature published around the world each year, some 1.3 million peer-reviewed, science technology and medical articles. In the patents world, this was referred to as non-patent literature, but an increasing number of inventions cited, as their inspiration or as prior art, scientific literature, as opposed to inventions, particularly in the life sciences, where technology was reaching further back into basic science. He said that a very important element of the work program was finding ways in which access could be given to that extremely rich store of information to developing countries, not just to the offices, but also to research institutions and universities.

13. Mr. Gurry also referred to recommendation 10, which dealt with a variety of matters relating to the improvement of the infrastructure of offices in developing countries so as to enable a much better participation in the knowledge economy on the part of offices. Mr. Gurry recalled that the Development Agenda was not merely a question of capacity building, but required that the development dimension be taken into account horizontally across the Organization. In that respect, he assured the delegations that he intended to supervise personally the work of the Organization with respect to the Development Agenda, in order not only to give a signal as to the importance which he attached to the Development Agenda, but also to ensure a coordination of all of the activities and programs of the Organization with respect to the Development Agenda. As for the future budgetary process of

the Organization, Mr. Gurry reminded the Member States that the Director General, Dr. Kamil Idris, had proposed, in view of the transition, that the meeting of the Program and Budget Committee (PBC), which would ordinarily have been scheduled to take place in September of this year, be postponed until later this year. The proposal by the Director General had been transmitted to all the Group Coordinators and discussed by them. Consequently, it was likely that the meeting of the PBC would take place in December of that year for the purpose of considering a revision of the program and budget of the Organization for the year 2009. He assured everyone that the decisions that would be taken with respect to the Development Agenda that week would be reflected fully in the proposals that would come forward from the Secretariat with respect to revision of the program and budget for the year 2009. He also assured delegations that, should any of the decisions made in the course of that week, or that ensued from the meeting held in March, require implementation that year, the appropriate budgetary resources would be made available for that purpose. Mr. Gurry recalled that they were at a crucial stage in trying to find the means to have a practical implementation, at least of the commencement of the Development Agenda, and concluded by expressing his hope that the deliberations of the Committee would be fruitful. He looked forward to following the work of the Committee in the course of the week.

14. The Delegation of Brazil commented on the observations made by Deputy Director General, Mr. Gurry, regarding the future actions towards the implementation of the Development Agenda. The Delegation welcomed them as very interesting, but stressed that, in its view, the Development Agenda was a much broader concept. The on-going debates had pointed to the fact that it was not only a technical assistance agenda, but also an agenda which meant changing the culture of an organization and bringing it more in line with the 21<sup>st</sup> Century. It was being introduced into an organization that tended to see itself as basically the promoter of greater IP protection for right-holders, as an organization that considered itself in a clearer fashion and inserted itself within the overall goals of the United Nations (UN) system. An organization that promoted also the other components of the IP social contract in promoting social policies, or at least being aware of them and not encroaching upon them, as well as striking an adequate balance between the interests of the private sector and of the governments on one hand, and of the consumers and of the public in general on the other. The Delegation stressed that there were broader issues which could not be resolved only by concrete activity. Although they were very welcome, the activity of creating and improving the disclosure of technology and the system was an item they were considering in the context of the Standing Committee on Patents (SCP), called sufficiency of disclosure, and they were quite happy to see it being discussed there. The Delegation hoped that he would help them implement the Development Agenda. Finally, the Delegation added that for precision, without any undue lack of respect to Mr. Gurry, it would like that in the summary by the Chair, and in the report of the meeting, his current status be reflected as the nominee for appointment by the General Assembly as Director General of the Organization. The Delegation wished him well and said it was sure that he would be around to help them implement the Development Agenda in the future, but he was not yet the DG-elect, as referred to by the Chair.

15. The Chair noted the comments and said that he took his advice from the Secretariat in such matters. He congratulated Mr. Gurry, on behalf of the Committee, on his success in the recently concluded election, and looked forward to working with him on the development agenda. The Chair then opened the floor for statements on consideration of the program.

16. The Delegation of France, speaking on behalf of the European Community (EC) and its 27 Member States, declared that the first session of the CDIP had enabled the examination of

the work program, providing for the implementation of the 45 recommendations within a constructive and open mind set. Discussions would, therefore, continue at the second session under the brightest auspices as possible. With regard to the adopted recommendations mentioned in the clusters, the Delegation reiterated its commitment to continue fruitful and constructive discussions and, in that framework, examination of the work program for the implementation of the recommendations adopted was essential, whilst at the same time taking into account the analysis of the budgetary implications. The Delegation was pleased to be able to continue discussions on the WIPO Development Agenda within a cooperative atmosphere that was conducive to consensus.

17. The Delegation of Pakistan, speaking on behalf of the Asian Group, declared that significant progress had been made on the Development Agenda since 2006. It had explored convergences and bridged many divergences, but one should not be complacent with the progress made so far. The Delegation called for working towards effective and early implementation of all 45 recommendations. Development, the Delegation stated, should not be compartmentalized, but should rather be mainstreamed into all WIPO activities. Implementation of the Development Agenda recommendations was not an end in itself, but a continuous process which took consent of all Member States into account, it added. The Delegation expressed confidence that with its effective implementation, WIPO activities would truly reflect the aspirations and concerns of all Member States. Regarding the procedural format of deliberations during the Session, the Asian Group endorsed the Chair's approach to discuss the recommendations. As the discussion unfolded, members of the Asian Group would seek clarifications on the human and financial allocations of the proposed activities, as well as on other specific recommendations. The Asian Group stressed that it hoped to see appropriate budget allocations for the implementation of all the recommendations. It believed that all 45 recommendations were equally important and that they should be implemented in totality, calling for the earliest implementation of the 19 recommendations without any financial implications. As for the implementation of the remaining 26, the Delegation of Pakistan declared that the Asian Group was examining whether the 'early harvest' approach would be productive, and that it would come up with concrete proposals in that regard, as the discussions unfolded.

18. The Delegation of Algeria, speaking on behalf of the African Group, accepted the methodology the Chair had proposed, considering it as a very good approach. The Delegation declared that the 45 recommendations were equally important and hoped that by the end of the session, the Committee would successfully deliver so as to produce the results for the General Assembly for the implementation of the said recommendations.

19. The Delegation of China recalled that the Development Agenda process, which had started in 2004, had not always been easy, but that the achievements made were there 'for all to see'. The 45 recommendations had been agreed by the Member States and a permanent body had been established to deal with the implementation of the agreed proposals. As a developing country, China looked forward to the effective implementation of the agreed proposals. The Delegation believed that all developing countries, including China, and LDCs would benefit from it. Throughout the discussions, China had noted with appreciation that all Member States had an open and cooperative attitude and all had expressed pertinent views on the relationship between development and IP assistance. At the same time, China was happy to note that relevant discussions were going deeper and further. The Delegation stressed that development was one of the greatest concerns facing developing countries. It was also an important issue that caused great concern to the international community and it was a practical issue for the UN agencies to try to find solutions. In China's view, WIPO, as a

specialized agency responsible for IP systems, should provide an effective platform for the discussion and, through effective efforts, ensure that developing countries and LDCs would truly benefit from IP systems. The Delegation was very pleased to see that all members had made a great effort in the discussions and appreciated their cooperation. The Delegation hoped that all sides would continue with the spirit of finding common ground, and did their best to find a solution acceptable and satisfactory to all.

20. The Delegation of Nigeria stated that this Agenda was important for developing countries, which wanted to make use of IP to accelerate the development process in their respective countries. Any country without the infrastructure and without the necessary training to get the whole thesis of IP, could not be part of any progress which had been engineered globally. The Delegation felt very contented that the Director General-Elect had shown his commitment to ensure the implementation of that very agenda in a very balanced way. However, the Delegation felt that technology without access to the basis of research outcomes could only work for those countries that possessed it. Whilst all were able to get access to the outcome of research that was mainly in the domain of developed countries, it would help them come into the arena for development. The Delegation was mindful of the fact that that very meeting might not really prioritize the areas that were being recommended in terms of the Development Agenda, but overall whatever aspect they dealt with, they should always be looking for those basic elements of infrastructure for development, the level of assistance that was available for technology capacity-building and of course the training facilities that could be made available.

21. The Delegation of Canada looked forward to the continued evolvement of a balanced work program with the implementation of all 45 recommendations in an efficient, practical and step-by-step manner. The Delegation welcomed the comments made by the Director General-Elect. The Delegation also acknowledged the financial and human resources assessment in document CDIP/2/2 and looked forward to further analysis in that regard. While there was certainly a lot of ground to cover that week, the Delegation declared that it was encouraged by the foundation laid during the first session in March and it looked forward to working constructively to help achieve the Committee's goal in developing the work program for the implementation of the 45 recommendations.

22. The Delegation of India considered it gratifying to know that the implementation process was being given full consideration and that WIPO had assured that the necessary resources would be provided. The Delegation called for the mainstreaming of the development dimension and the implementation of all 45 proposals. With reference to the clusters on norm-setting, the Delegation believed that it was not a proposal for implementation *per se*, but rather a set of guiding principles which should form the entire WIPO body, the entire WIPO system, to oversee and implement. The Delegation considered norm-setting as a very important process since it had to guide the negotiation of the instruments.

23. The Delegation of Colombia expressed its support for the integration of the development dimension in the area of IP and to further creativity and development. The Delegation also highlighted that a number of the proposals called for human, technical and financial resources, as well as technical training.

24. The Delegation of Thailand pointed out that, at the first session of the CDIP, several general principles had been proposed to guide the deliberations of the CDIP, and the Delegation was pleased to note that some of those points would help to guide its work as it

commenced the second session. The Delegation expressed support to the initiative to undertake an assessment of needs and requests of countries which would be reviewed and updated on a regular basis. That would not only assist the developing countries and LDCs in formulating nationally-focused IP plans and strategies in line with the respective development objectives, but would also help WIPO in formulating its work plan for the years to come. At the same time, the Delegation agreed to the inclusion in the terms of reference of a study paper under recommendation 8 within the context of facilitating access to technical and scientific information. As for the future work plan, it believed in the merits of having a comprehensive menu of options regarding the different types of technical assistance offered by WIPO. That should serve as a good guideline in developing a work plan for each country after completing the thorough needs assessment. In particular, the Delegation stressed that since the Development Agenda was an over-arching issue that transcended specific projects and activities, the work plan of the CDIP had to be developed on the basis of the overall needs in developing the IP system. It should also coincide with the social and economic development policies of each country so as to maximize its impact and flexibility on implementation. The Delegation raised certain concerns related to the budget and procedural aspects on the way forward. From the revised text, it took note of the human resource and financial requirements for some of the recommendations, yet found it difficult to agree to a budget for the recommendations in Cluster A without knowing whether sufficient funds would be available for other clusters. The Delegation, therefore, sought further clarification from the Secretariat on the entire budget allocated for the CDIP. In particular, it noted that WIPO development activities needed to accord a balance among regions. A clear objective of encouraging the realization of its benefits for the economic and social development of all countries should be reflected in the consideration of WIPO's budget, it added. The Delegation noted that only a relatively small portion of the total budget was intended for Strategic Goals 1 and 2. In view of the fact that those two Strategic Goals coincided with the greater needs of members, they should be given due consideration and priority in both the present proposed annual budget and future draft budgets. The Delegation was optimistic about making progress on the remaining clusters and was prepared to contribute fully to reaching that goal, yet remained realistic in the sense that it would maybe not be possible to complete deliberations by the end of the session, given the complexities of the issues. It, therefore, sought clarification on the procedural aspects and the next steps forward. Specifically, it wished to find out if the CDIP would send a set of recommendations that had been discussed and agreed upon by the WIPO General Assembly that year for approval to start immediate implementation, and then agree to continue the discussions on other clusters at the subsequent CDIP sessions. The remaining proposals would then be sent to the WIPO General Assembly the following year. The Delegation emphasized the importance of mainstreaming the work of WIPO's development into activities of other WIPO committees and avoiding any compartmentalization. As witnessed during the previous week, the SCP had also discussed issues such as public policy objectives and norm-setting activities related to the CDIP. It was apparent that the Development Agenda did not exist in a vacuum, was not confined solely to discussions within the CDIP, but was in reality an integral part of WIPO's activities. It was clearly recognized that IP no longer involved just rule-setting and enforcement of management. It was rather a vital key in its social and economic development. Therefore, the work undertaken in the CDIP represented the shared aspirations of the majority of Member States. For that very reason, it was incumbent upon them to ensure that the Development Agenda was embraced fully by all and carried forward in all its dimensions.

25. The Delegation of Japan pointed out that Member States had constructively discussed recommendations in Cluster A during the first session of the CDIP held in March, as well as

during the informal consultations held in April. Cluster A covered very important areas in the WIPO Development Agenda, namely technical assistance and capacity-building. The Delegation attached particular importance to those areas and had been providing assistance mainly to the Asia-Pacific region to that end. Japan had also launched a new WIPO Funds-in-Trust (FIT) specifically aimed at extending financial cooperation to the countries in Africa and the LDCs. Its new attempt went along with the action plan adopted at the 4<sup>th</sup> Tokyo International Conference on African Development, held in May in Japan, where participants from overseas, including 51 African countries, had discussed development issues comprehensively. Japan had been contributing to expanding extra-budgetary resources and the Delegation hoped that its initiative would encourage other Member States to create similar funds. Patents and IP systems were part of an IP infrastructure necessary for developing countries, as well as developed countries to achieve economic development. In that context, Japan had succeeded in establishing the 'intellectual creation cycle' based on its domestic IP systems and thereby obtaining its industrial competitiveness in international markets. By sharing its successful business examples, intellectual creation cycles were effectively utilized with developing partners, which would be able to help them achieve sustainable economic development. Establishing intellectual creation cycles was also advantageous to developing countries since it led to promote technology transfer and direct investment from enterprises and research institutions in developed countries to the markets of developing countries. With regard to the implementation of the agreed recommendations, the Delegation declared that WIPO and its Member States should consider how to achieve the desired results while controlling expenses and workload. It suggested that WIPO controlled expenses and workload by identifying how to effectively utilize actions that were already being implemented by WIPO. As regards to norm-setting, each relevant committee was to be allowed to deal with such issues based on its own expertise, upon request by Member States. While taking the outcome of the CDIP into due consideration, the Delegation encouraged WIPO to carry out its various development-related activities effectively and efficiently by taking advantage of existing programs. It hoped that discussions of that session would produce constructive results.

26. The Delegation of Brazil stated that it had always been very forthcoming in terms of expressing its views on the overall nature of the Development Agenda during the course of the four years that it had been talking about it, discussing it, implementing and agreeing on it, while it was currently in a phase of trying to achieve a work plan for its implementation. The Delegation declared that, since that was the second meeting for such a work-oriented process, it believed it could do without some general statements and simply resume the work started in the last meeting in a very pragmatic way. Certain references, however, did strike accord with the Delegation. It wished to build upon the argument put forth by the Delegation of Nigeria with respect to commitments not only of the management, but of the Organization as such. The Organization included members and their commitment towards the implementation not only of a few aspects of the Development Agenda, but of the Development Agenda in its entirety. The Delegation recalled the agreement reached on the 45 recommendations, which encompassed six wide-ranging clusters, of which technical assistance was only the first one of them. Although it considered it to be a very important one, it represented only one-sixth of the Development Agenda. The Delegation felt that whatever the future management of the Organization was, the important message would be that the work plan and the Development Agenda should be member-driven, in order for the agreed work plan to be the work plan the future management would implement. It was not incumbent only upon management and staff to define what the Development Agenda was. It was incumbent upon the members of the Committee to implement the work plan they were striving to elaborate and adopt by a consensus-building process, process to which the Delegation of Brazil was fully committed.

It hoped to work towards that consensus in as constructive a way as possible. Referring to the issue raised by the Delegation of India, it said that the Development Agenda was an all-encompassing platform on which discussions on many issues were being taken up and discussed by other WIPO committees, including permanent ones. The example of the patent information issue and information dissemination was an element of the SCP work program process. It agreed with the last intervention made by the Delegation of Japan that norm-setting principles should be developed in the particular norm-setting bodies. However, the work and the discussions held in the CDIP should have an influence on the work of those parties. That was how the Delegation would tend to interpret the cross-cutting nature of the work they did. If they had concerns about balance and development, with respect to the work done at the SCP or at the Standing Committee on Copyright and Related Rights (SCCR) or any other body, there should be a permanent way to communicate those concerns and to make them known to the relevant parties so that they were taken up and factored into the discussions of those particular bodies. The Delegation would be happy with a type of mechanism that would work in such a fashion and wished to give the CDIP the important role it deserved, whilst at the same time respecting the specific competencies of each of the other WIPO bodies. This was something that could be further discussed and elaborated as they strived to accomplish their work program, it added. The Delegation fully agreed with the views expressed by the Delegation of Thailand that the Development Agenda was an over-arching issue. That was one challenge since the CDIP was not dealing with issues that were independent from one another. Rather, it was dealing with an over-arching platform that crossed the whole range of IP concerns, including concerns that were parallel to the IP system, but connected with them in many ways. The budget and procedural aspects were very important and perhaps needed to be addressed in further detail, it added. The Delegation also agreed with the Delegation of Thailand on the fact that it would be useful to have some clarification as to the next steps since it was clear that during the course of those five days they would probably not be able to accomplish work on all of the clusters. It felt that the element of balance among regions was very important and stressed once again that all the issues formed a whole that needed to be addressed. The Delegation noted some focusing on technical assistance in the previous statements, but stressed that they needed to achieve consensus on all 45 recommendations which made up the Development Agenda. The Delegation would not be supporting any 'piece meal treatment' of it or breaking up of the agenda. It suggested a work plan that would adopt a step-by-step approach and address the partial outcomes as 'they were ripe for harvesting'. The Delegation was not unrealistic to the point of thinking that reaching agreement on all 45 recommendations could be done in a very short time, but one had to keep in mind that they were all part of a whole process.

27. The Delegation of (the Islamic Republic of) Iran expressed its view that the implementation of the approved recommendations should be accelerated and reflected in all aspects of WIPO's activities. In that regard, the report of the implementation of the agreed recommendations by the CDIP to the WIPO General Assembly certainly was important. It would facilitate and give the Member States a clear vision to fulfill the crucial work of the Committee. The Delegation expressed its readiness to cooperate constructively with the Committee and to engage in substantive discussions to pave the way for implementing all the recommendations.

28. The Delegation of Sri Lanka stated that the process of the WIPO Development Agenda had come along well, and added that the Government of Sri Lanka appreciated the interest shown by the Director General-Elect in recognizing the importance of that recommendation. It hoped that the Director General-Elect would implement all the recommendations when he took office. The development issues were the most daunting challenge of many Member

States, it added. Despite that fact there was an international consensus to ensure the transfer of technology to developing countries, a significant knowledge gap and digital divide continued to separate the wealthy nations from the poor. The Delegation called for all possible efforts to introduce corrective measures in that regard. The role of WIPO in that process was imperative and strongly significant. The proposed recommendations available to the Member States were far reaching if properly implemented, with commitment and dedication. As for the recommendations of the CDIP, the Delegation hoped that WIPO would take measures to immediately implement the 19 Recommendations where the financial implications would not apply. The Delegation also believed the meeting would reach consensus on the recommendations where the financial requirements were identified. The Delegation trusted the Member States to reach a common ground on the recommendations in Clusters A and B which would be discussed in the latter part of the week. It also believed it important to identify a suitable timeframe for the implementation of those proposals.

29. The Delegation of Norway stated that it attached great importance to the work of the CDIP which would assist developing countries in taking advantage of IP in their own economic development and raise awareness of development issues connected with IP.

30. The Delegation of Cuba underscored a number of elements which it considered had to be included in the Action Plan of the proposals. One of them was having automated tools that were free, but which would make it possible to translate a patent document, as well as automated tools and instruments for the analysis of information on the basis of their technological mapping. It believed it to be very important to have access to literature pertaining to patents, and considered that mobilization of resources of a budgetary nature should not in any way hinder WIPO from increasing spending on cooperation programs for the application of the 45 proposals of WIPO in favor of development, given the fact that access to financial resources was linked to specific objectives as well. The Delegation believed that the CDIP should be present in all of the aspects of the Organization, especially when it came to the work of the various standing committees of the Organization, and should go beyond the scope of cooperation and embrace socio-economic development of each and every one of the countries.

31. The Delegation of the United States of America said it was pleased to participate in the Second Session of the CDIP. It was also satisfied with the statement made by the Director General-Elect, to his commitment to the overall process and his sense of enthusiasm for the work. In particular, the Delegation focused on his emphasis on practical and achievable results that could come from the Committee's work. The Delegation took it as an important watch word for what it meant to be practical and to have a clearer outcome. The Delegation noted with appreciation the careful and deliberative approach the Committee had adopted for its work and in that spirit was certainly pleased to be there to work together to achieve those goals.

32. The Representative of the Library Copyright Alliance (LCA) expressed its commitment to address copyright issues that affected the library community nationally and internationally, as well as the public. The LCA was grateful to the Chair and to the Secretariat for the efforts made since March to modify the recommendations adopted in the First Session and to provide a progress report on the recommendations currently being implemented. It offered its firm support for the goals and successes of that process and to participating in the implementation of the activities that improved the ability of developing countries and LDCs to fully benefit from the global international property system. The LCA encouraged Member States to consider including the international library community in local efforts of technical assistance

and capacity-building, which would serve to promote the goals of information access and a balanced approach to IP protection. Librarians encountered the real needs of individuals and organizations making use of copyrighted material for creative, educational and informative purposes. Librarians could play a positive role in WIPO's efforts, it added. In that regard, the LCA appreciated the reference under the proposed activity for recommendation 10, forging links with the user and professional community. The LCA observed that the Development Agenda represented the evolution of an idea embracing the notion that access to educational and informational material was a necessary means to the achievement of material progress and welfare. Promoting public interest through the commercialization and protection of IP was one means towards the achievement of material progress and welfare. Yet to make that possible the intellectual creations should come into being first, and for that to happen, sincere efforts should be made at reducing levels of protection and at making it easier for those in developing nations and LDCs to use materials that would form the building blocks for development. The LCA recommended consideration of an amendment to the Berne Appendix as part of that strategy and for the implementation of functional limitations and exceptions in national copyright laws. That was a step which the LCA considered fundamental to the success of the Development Agenda, and it hoped that it would be articulated in the discussions of the remaining 39 Recommendations.

33. The Representative of the Electronic Frontier Foundation (EFF) commended the Member States for the progress made over the last three years and hoped that the same spirit of goodwill would guide the weeks' discussions on creating a work plan to implement all of the 45 Development Agenda Recommendations. The Development Agenda had captured the attention of many outside of Geneva because crafting balanced IP rules that served the needs of all the world's citizens was a matter of global importance. EFF wished to comment on four sets of recommendations and a proposed implementation activity contained in the Secretariat's matrix. It supported the call for WIPO to initiate a discussion on how to facilitate access to knowledge and technology for developing countries and LDCs to foster creativity and innovation, and to facilitate IP-related aspects of IT for development in recommendations 19 and 27. It was essential that national and international copyright and patent laws provided an environment that was conducive both to technology innovation and human development. Copyright exceptions and limitations were essential for access to knowledge by students, universities and libraries. They were also needed to create innovative new information and communication technology that could promote open knowledge sharing, such as robots, robust content hosting platforms like YouTube®, internet search engines and collaborative tools used to create the Wikipedia Global Encyclopedia®. Those technologies offered new opportunities for development and distance education, it believed. Creating the environment for innovation required exceptions and limitations to copyright, a thorough understanding of the impact of overboard technological protection measure regimes on innovation, and tailored limitations on liability for ICT developers and network intermediaries. The EFF welcomed the proposed report for implementation of recommendation 27. It suggested that WIPO could be in an open forum with representatives from the technology industry to gather empirical evidence to inform that report on current IP-related obstacles to technology innovation. In the context of recommendation 45, the EFF was concerned by two copyright enforcement proposals currently being promoted in various global policy arenas. Technological mandates on internet service providers and intermediaries to filter internet communications for potential copyright infringing material and proposals requiring internet service providers to disconnect citizens' internet access upon a right holders repeat allegation of copyright infringement. The EFF believed that those proposals threatened both the development of the very technologies that could facilitate education and development under recommendation 27, as well as the fundamental civil

liberties and privacy rights of citizens, creating a class of citizens whose access to internet was denied in order to meet the needs of a group of private stakeholders amounts to exclusion from participation in civic and cultural lives. The EFF was also concerned those proposals would slow technological innovation and lead to social division. It supported the recommendations to safeguard members' national sovereignty in the area of exceptions and limitations appropriate for the country's level of development and to take into account the potential flexibility of international IP agreements in recommendations 17 and 22. It also supported the promotion of norm-setting that it believed was protective of a robust public demand, in addition to producing guides on identifying copyright protected subject matter, advise Member States on how they could protect the public domain and existing exceptions and limitations against encroachments by overbroad legal protection for right-holders' technological measures and information about the various approaches taken by Member States to facilitate the use of orphaned copyrighted works. WIPO could also provide Member States with information about the benefits that education and scientific research of open innovation and user-driven innovation models could offer. Both these new series of innovation were being explored by WIPO stakeholders in the developed world and had the potential to radically reshape collaboration and innovation in the developing world. WIPO could undertake a study of those new innovation methods to identify the impact of standardized low-transaction cost licensing, and to survey as a very open and publicly accessible policy being implemented in the United States of America, Europe, Australia, Brazil and Canada. To assist Member States to identify how the outputs of government-funded research could be managed to best promote innovation and education, WIPO could also commission a study on the potential benefits of a standard research exemption to patent rights. As recognized in the recent Organization for Economic Co-operation and Development (OECD) background paper, clear patent research exemptions could serve many important public policies. Scientists just needed to have the freedom to do their own research without fear of lawsuits. On the evaluation, the EFF believed that the success of the Development Agenda depended on objective and credible evaluation of WIPO's development activities. It, therefore, went along with recommendation 33, strengthening WIPO's capacity to perform objective assessment of the impact of that activity. The EFF, however, remained concerned that there had been little discussion on the criteria for evaluating the development orientation of WIPO's existing work, particularly in relation to the suite of 19 recommendations. The EFF supported the adoption of concrete measures to ensure transparency in WIPO's technical assistance and norm-setting activities in recommendation 5. It was concerned, however, that one of the main instruments of WIPO's technical assistance program, the model copyright law, was no longer available for review on WIPO's website. As part of the commitment to transparency in recommendation 5, it expected the WIPO model copyright law would be made available on a general access section of the proposed technical assistance website, together with the report that was being prepared containing the interpretation of the flexibilities that exist under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, referenced in paragraph 10 of the Secretariat's matrix for recommendation 1. The EFF also hoped that cost estimates were not used as a basis for impeding or slowing the creation of a transparent database of technical assistance materials. It believed that access to non-country specific technical assistance documents was necessary for both public evaluation of WIPO's commitment to neutral technical assistance and would ultimately serve to strengthen WIPO's capacity to meet needs of citizens of all of its Member States.

34. The Representative of the International Chamber of Commerce (ICC) declared that the ICC was an active contributor to the discussions on the elaboration of the Development Agenda, and intended to continue to contribute constructively to the on-going discussions on

its implementation. Over the past three years, the ICC had organized meetings to allow persons working in the field of IP in, or with, developing countries to share with delegates their concrete experiences of how the IP system could be made to work for development in practice. The ICC hoped that those panel discussions had contributed to a better understanding of the types of policies that could help achieve the Development Agenda's objective of using the IP system to promote development. WIPO was now at the important stage of deciding how to implement the 45 proposals in the Development Agenda. During those discussions, the ICC had urged the delegations to take a pragmatic and practical approach, to ensure that any implementation measures discussed would work in practice to stimulate development. In particular, it had suggested that delegations kept the following in mind: (a) The aim of the Development Agenda proposals was to ensure that the IP system helped stimulate development and progress in all WIPO Member States, as development was a concern for every country. Even in countries where the IP system had been in place for some time, it was often not being used to its full potential. (b) Implementation should be focused on specific practical measures and based, where possible, on lessons learnt from experiences in different countries. The intergovernmental nature of WIPO and its network of stakeholders would make it an ideal forum for the exchange of information on practical experiences. (c) For implementation to be effective and timely, any implementation proposals should be realistic and achievable in relation to WIPO's resources and mandate. (d) WIPO should not waste time and resources by 'reinventing the wheel', but should use and build on existing work by other organizations. Work had been or was being done by other organizations, both in the public and the private sector, on several of the issues addressed in the proposals. It would be more efficient for WIPO and its Member States to take stock of such work first to see if the existing mechanisms were sufficient before deciding to start a separate initiative in the same area. (e) While IP protection was a necessary precondition of development in today's knowledge based economy, it could not work in a vacuum. IP protection had to be supported by sound economic management and other appropriate policies in areas such as education, science and technology, culture, taxation policy, investment regulations, production and technical incentives, trade, and competition. Governments also had to commit themselves to establishing an effective infrastructure to process and make use of IP rights (IPRs). The ICC had developed more specific observations on some of the proposals in the Development Agenda which could be found in the ICC paper.

35. The Representative of the Centre for International Environmental Law (CIEL) expressed its pleasure on the way the past few sessions had been chaired and on the statement made by the Director General-Elect, who had participated in open and webcast discussion in civil society. It hoped Mr. Gurry would continue that openness and that the CDIP and other WIPO bodies reflected that great openness and transparency. The Representative urged for the speedy movement towards the implementation of the issues decided by the Committee. It stressed that the Development Agenda recommendations were already agreed upon and that it was not the time for 'undue timidity and unwarranted caution'. A key element of the Development Agenda, it believed, was that IP norm-setting ought to become evidenced-based and not be reliant on bland statements of faith in the benevolence of the IP system. To that end the Secretariat was urged to take on expertise, especially critical institutional economists to ensure that it could conduct studies, examine the causes and co-relational relationships between specific IP policies and specific positive development outcomes. In the interest of transparency and accountability, the Representative urged WIPO to make available all the data and evidence on which policies and technical assistance were made to all stakeholders. WIPO, it said, was not an isolated institution, as it was also obligated to its Member States to abide by human rights standards. With respect to economic and social rights, the Representative declared that WIPO should participate in the progressive realization of those

rights, including the right to health, the right to education and the right to participate in the cultural life of the community. The Representative also stressed that WIPO also had obligations on the rights of indigenous people. A major element of the progressive realization of those rights was the conduct of impact assessments to ensure that policies did not negatively affect human rights. WIPO, it said, should take on expertise to ensure that assessments could be conducted prior to norm-setting and policy-making. The Representative looked forward to seeing the mainstreaming of development as it was understood in the broader UN system, rather than simply the promotion of IP.

36. The Representative of the International Federation of Library Associations and Institutions (IFLA) declared that, since 1927, it had represented the world's major libraries and library associations, and through its 1,700 member organizations in 150 countries, it spoke for hundreds of thousands of professional librarians around the world. The IFLA remained hopeful that the full realization of the promise of the Development Agenda was that it pertained to the public interest and access provisions of libraries that would be addressed and recited in WIPO's implementation activities. IFLA supported the true balance between the rights of owners and users of IP. It considered libraries to be stakeholders in all IP regimes as they provided the direct link to the user community. By its continued presence at WIPO meetings, the IFLA had been vested in charge and to that end it offered expertise to support the activities of the Development Agenda. Specifically, with regard to recommendation 8, the IFLA recognized the connection between research institutions as members of its constituency in the development of specialized access to patent databases. The librarians working in science and engineering faculties were experts in patent searching and instruction making them potential partners and consultants for WIPO in the implementation of the Development Agenda. With regards to recommendation 10, it supported the promotion of fair balance between IP protection and the public interest. It offered libraries to be named under proposed activities as relevant institutions in the teaching and training of IP at universities and other institutions, and it offered libraries to be listed along with similar institutions to create local awareness in training material and human resource and capacity development. The IFLA expressed caution with recommendations 27 and 28 regarding the implementation of IP-related aspects of ICT. IP, it believed, was part of a complex and nuanced national, social and cultural policy, which allowed for different levels of access for a variety of purposes. The ICT should be developed to accommodate the complexity of a nuanced national information policy in order to function with IP.

37. The Chair informed the meeting that in his informal discussions with Member States, it was suggested that all the sessions be kept as formal and the detailed report to be prepared by the Secretariat would report the interventions in full. He requested the delegations to be brief in their statements and interventions.

38. The Delegation of Brazil wished to know if the Secretariat had gathered the information contained in the information documents anew or whether the information was extracted from existing documents, from budgetary documents, or from the website. It wondered if it was an entirely new document or whether there would be items that could be found elsewhere in the current lot of documents.

39. The Secretariat explained that document CDIP/2/2 was the revised text in respect of the discussions held in the first session of the CDIP in March 2008. Document CDIP/2/3 was a document which supplemented the information available in CDIP/2/2. The Secretariat stressed that these documents had been prepared on the express request from different delegations during the first meeting in March. Document CDIP/2/INF/1 related to the

adopted recommendation 10. Document CDIP/2/INF/2, which related to recommendation 2 in the list of 26, was an information paper on the mobilization and utilization of extra-budgetary resources. Document CDIP/2/INF/3 related to recommendation 8 and provided the terms of reference for a study paper in respect of the said recommendation.

40. The Delegation of the Republic of Korea declared that during the previous CDIP meeting, it had made several proposals for the implementation of the Development Agenda, and during the course of the discussion, its understanding was that those proposals had been accepted, with the current meeting dealing with some budget allocation of budget for these proposals. Yet, document CDIP/2/2 did not specifically mention those specific proposals made by the Delegation of Korea. The Delegation sought clarification on the status of those proposals, and whether it included all the proposals or it was just left to the Member States or the Secretariat for the detailed implementation of the program.

41. The Secretariat explained that there had already been a long discussion on all those items in the first session and there were certain things mentioned in the proposed set of activities by WIPO in respect of each one of those recommendations. Based on the discussions held in the first session of the CDIP, the Secretariat had revised the text and to the best of its ability had tried to reflect the ideas and suggestions which had come from all the papers presented then.

42. The Delegation of the United States of America called for clarification on certain technical, human and financial resource information that had been attached to specific recommendations. The Delegation declared that the meeting had focused first on the mandate, which had required the delegations to coordinate with other relevant WIPO bodies that included the PBC. The Delegation had listened carefully to the Director General-Elect's information on the PBC which had been postponed in the transition year to December. The Delegation wanted to know to what extent the human and financial resource information put forward constituted either an allocation or reallocation of existing resources, and what mechanism was to be proposed in order to follow the mandate to coordinate the discussion with the PBC.

43. The Secretariat stated that the point on procedures for the implementation of additional financial and human resources, as raised by the Delegation of the United States of America and a number of other delegations, would be clarified by the Office of the Controller.

44. The Chair proposed that the question of budget and procedural issues which was raised by the Delegation of the United States of America be taken up under topic of "future work" later that week.

45. The Delegation of the United States of America sought to gain a deeper understanding of the particular human and financial resources information that had been attached to particular activities. The Delegation wanted the discussion to be contained within a larger framework required under the mandate of the General Assembly to coordinate and report that through the appropriate committee which was understood to be the PBC. The Delegation sought clarification on that, which was paramount for accomplishing the work under the direction of the General Assembly, it believed.

46. The Delegation of Switzerland agreed with the views of the Delegation of the United States of America and called for clarification on the different budgets allocated and the different recommendations discussed. It requested additional clarification on the role of the

PBC and the division of work between the CDIP and the PBC in order to agree with the budget presented by the Secretariat. That clarification could facilitate discussion on the individual budget allocated to the individual recommendation, it added. The Delegation also sought a brief discussion in the presence of the Office of the Controller of WIPO as that would shed some light on the division of work and would facilitate discussions on the specific budgets allocated to the specific recommendations.

47. The Delegation of Brazil referred to the issue of the mandate raised by the Delegation of the United States of America and said that, basically what it stated, was that the Committee was supposed to develop a work program for the implementation of the adopted recommendations. Furthermore, the Committee should also monitor, assess, discuss and report on the implementation of all recommendations adopted and for that purpose coordinate with relevant WIPO bodies. It said there was also a clear mandate that stated that the committee would report and make recommendations annually to the General Assembly, which would occur prior to any other meetings of the PBC. The Delegation stressed that there would be no PBC meeting prior to the General Assembly, as the decision had been taken to postpone it until December of that year. The general mandate to coordinate with other relevant WIPO bodies should not and could not prevent them from reporting and making recommendations to the General Assembly, as that was the core element of the mandate of CDIP.

48. The Chair invited the members from the Secretariat, to explain the budgetary process and its interaction with the output of the CDIP.

49. The Secretariat stated that, in accordance with the WIPO financial Regulations and Rules, the draft budget first had to go through the PBC, which made its recommendations to the Assemblies of WIPO Member States for their consideration and approval. The PBC reviewed detailed budget proposals, with elements such as those being currently considered by the participants to go forward as approved in substance.

50. The Delegation of the United States of America thanked the Secretariat for the explanation as it believed it was the way things should work. It recalled that that year's Program and Budget process would be slightly different since the General Assembly would actually convene before the PBC. The Delegation wondered how the PBC could receive those figures and subject them later on to the General Assembly; would there be another process by which whatever might have been approved would then be reviewed by the PBC or some other different mechanism.

51. The Secretariat stated that rather than looking at that issue as two different processes, it could actually be considered as a question of phasing the same process. Its substance would be reviewed by the CDIP, which would present its report for endorsement to the General Assembly in September. The financial implications of these proposals would then be incorporated in the budget proposal, to be presented to the PBC at its later session in December for consideration. The budget proposal, together with the recommendation of the PBC thereon would then be submitted to the next session of the Assemblies of WIPO Member States for approval.

52. The Delegation of Brazil requested some clarification on the allocation of resources to the activities of the Development Agenda. Its understanding was that the CDIP was one of the WIPO Permanent Committees and that making recommendations to the General Assembly was part of its mandate. The Delegation believed that delegations were not

gathering there to merely have a new *modus operandi* with regard to the relationship between the CDIP and the General Assembly and between the CDIP and the PBC. Once the General Assembly or the PBC had decided to allocate a specific budget to the programs related to the activities of the Development Agenda, it wondered if there was anything that would impede the delegations from the CDIP from deciding, based on the 45 recommendations, on how to allocate the said budget or if there was anything that would impede them from doing so. The Delegation stressed that the CDIP should not interfere with the activities of the PBC, but once the PBC and the General Assembly had decided to allocate a certain amount of resources to the CDIP and to the activities of the Development Agenda, how would the CDIP allocate these resources to the activities of the WIPO Development Agenda.

53. The Secretariat stressed that the General Assembly endorsed the allocation of resources to specific activities and programs, decided upon the structure in which those funds would be utilized, as well as any specific mechanisms to monitor their implementation. The Secretariat wondered whether the latter were outstanding issues which needed to be reviewed and discussed in the case of the CDIP activities. It further recalled that among the proposals put forward to the Assemblies for their consideration in 2007 for the utilization of available reserves, there was a proposal for a specific fund for the implementation of the Development Agenda activities.

54. The Chair then suggested to turn to document CDIP/2/2 which contained matters relating to the human and financial resources, suggesting that those issues should be considered sequentially. He requested the Secretariat to initiate the discussions on recommendation 2 in the list of 26.

55. The Delegation of the United States of America wished to make a general comment that it believed could apply to all the work achieved so far. Although the Chair had requested the delegations to focus their attention on the human and financial resources, the Delegation could not totally exclude discussion of substance, it added. It wished to know about the way resource numbers were generated, and about the source materials that were used. It believed it would be helpful to provide some context on each specific item and that would set the stage for useful discussion.

#### *Consideration of Recommendation 2 in the List of 26*

56. Initiating the discussions on recommendation 2, the Secretariat referred to document CDIP/2/INF/2, the first part of which provided an explanation of the current arrangements of FITs, the second part which dealt with the mobilization of extra-budgetary resources, and the third part which looked at possible options for the future. Page 12 of the said document mentioned the possibility of holding a two-day donor conference, an issue which had been raised at the First Session of the CDIP. The Secretariat stressed that the intention there was to give a rough indication of what the costs might be for hosting such an event and, based on practices for WIPO's Standing Committees, it had been estimated at 140,000 Swiss francs. That figure included conference costs such as interpretation, as well as travel for financed participants. The second figure which was referred to in the document was 50,000 Swiss francs which represented the cost for missions to donor countries and organizations, missions which were aimed at discussing ways to mobilize extra-budgetary resources. The Secretariat added that, in addition to countries, WIPO also thought of donor organizations so the 50,000 Swiss francs for the mission referred not only to missions to donor countries, but also to donor organizations, such as regional banking institutions in Africa, Latin America or Asia,

and other potential donor organizations that might be interested in contributing to WIPO's activities, at least in so far as the development dimension of those activities was concerned.

57. The Delegation of Brazil wondered which format was envisaged by WIPO with respect to the donor conference, and if the idea was to hold a conference between the WIPO Secretariat and donors, or between the WIPO Secretariat, donors, and the wider WIPO membership.

58. The Secretariat called upon the Member States' guidance on how they wished to organize a donor conference. The format presented for consideration in the document was a wider conference which involved potential beneficiaries, donors, and the WIPO Secretariat. The idea being for WIPO to be able to demonstrate some of its activities which were relevant for potential beneficiaries to be able to identify what the priority needs were for them, and for donor organizations and donor countries to be able to give an indication of where their priorities lay as well.

59. The Delegation of Argentina was of the opinion that a donor conference should be open to the participation of all Member States, and wished it to take place in Geneva.

60. The Delegation of Pakistan asked for clarification on the financing of participation of a number of developing country representatives, included in the 140,000 Swiss francs figure, regarding the criteria and the actual number of financed participants foreseen.

61. The Delegation of Germany also wished to seek some clarification from the Secretariat on the issue of the donor conference. Although the PBC still had to endorse those financial and budgetary issues, it wondered whether the two allocations of 50,000 Swiss francs and 140,000 Swiss francs were intended to reach the same objective, namely to attract donor money, and if that was the case, the Delegation thought that it could actually probably gain some scales of synergy there. It wondered if it was really necessary to have two approaches or if it was not sufficient if a one-track approach was adopted.

62. The Delegation of France said that as it understood it, the aim behind the idea of having a donor conference was to encourage people to make donations or to contribute towards the programs and activities that provided technical assistance. Although the Delegation considered it a good idea to hold such a conference for those reasons, it was of the opinion that the objectives were not entirely clear to the extent that things seemed to have been swapped around in terms of their priorities, and it wondered if in order to encourage people to develop programs, whether the core aim of what was intended should not be clearly defined, and see if that was the best way to proceed. In other words, the Delegation was wondering if the objectives and the goals pursued in the last paragraphs of the document, in particular paragraphs 41 and 42, were the best way of achieving its goals. It also wondered if it would not be a better idea to have a forum during which it would be able to present some initiatives and actions that had met some success. It was looking to exchange views, highlight good ideas that could possibly be used or re-used, or highlight difficulties that had been encountered, but without setting in stone from the start, or in advance, the future needs of countries, future needs which by definition changed over time and which had a dimension which was necessarily a pragmatic one. The Delegation wondered if it would not be better to carry out such an exercise as a brainstorming activity, a mixture of ideas which encouraged people to take initiatives, rather than having a programming exercise which had a much more bureaucratic, programmatic approach in nature, which at the end of the day would nullify entirely all the good ideas that had been voiced and which would involve the delegations in a

burdensome process. Those were the few concerns it had with regard to the format which was being proposed.

63. The Delegation of Japan also wished to briefly comment on the donor conference. It believed that in order to effectively utilize the existing extra-budgetary resources, each Regional Bureau within WIPO comprehended and prioritized demands or programs to be solved in respective countries within the given region. In that regard, a mechanism was surely indispensable to allow the Regional Bureaus to share information with donors. The Delegation supported the idea of setting-up such a mechanism for sharing information yet believed that the donor conference as mentioned in the document could be a bit premature. In its opinion, if the participants for the donor conference extended not only to donors and recipients, but also to all the other parties, such a conference would be aimed at coordinating all FIT activities, which might exceed the scope of information gathering. If that was indeed the case, it would be a time-consuming process and such a mechanism might hamper the implementation of the existing assistance in a timely manner. The Delegation, therefore, stated that careful consideration should be given to the modalities and purposes of such a donor conference.

64. With regard to budgetary allocations, the Delegation of El Salvador considered that the decision taken to initiate discussions on the financial and human resources was constructive, as a positive signal was being given for the implementation of the Agenda. The Delegation believed that it would give it a certain dynamism. With regard to the donor conference, it considered it a very good idea, but did not believe that the CDIP should wait until the donors actually gave money to begin an activity. Those initiatives could begin as of September, before holding a donor conference or before funds were actually allocated.

65. The Secretariat responded to the Delegation of Pakistan, stating that 26 financed participating countries were incorporated in the figure of 140,000 Swiss francs. It also replied to the Delegation of Germany on the question of process and donor missions, and declared that it was indeed the intention. The Secretariat added that if the proposal for the donor conference was accepted, a full proposal would have to be worked out with detailed costing, which would be put through the normal process and submitted to the WIPO General Assembly and for consideration by the PBC. Donor missions were in fact intended to promote both the conference and also to help them in mobilizing extra-budgetary resources. The point made by the Delegation of France on the nature of, the type of discussion or dialogue that should take place, and the need to avoid onerous processes had been duly taken into account and the Secretariat called for guidance from the Member States on those issues. The Secretariat also declared that the intention was not to set up the donor conference as a body for coordinating FITs, but a suggestion to identify new donor sources and funds to broaden the Organization's donor base.

66. The Delegation of Thailand wished to raise a couple of points. First, it supported the Delegation of Argentina which had called for such a conference to be held in Geneva. The Delegation suggested that it could be done in conjunction with the WIPO General Assembly in order for savings to be made. The Delegation also believed the donor conference should be open-ended, namely that other members should be able to participate and be listened to, as well as hear what the donor had in the intention of funding the activities under their consideration. Finally, with reference to the amount of 50,000 Swiss francs which would be used for the mobilization of more donors - which might include other organizations that had not been donating to WIPO before - the Delegation declared that looking at the budget line in the approved 2008/2009 Program and Budget, it thought that that issue was already covered

and that an additional burden should, therefore, not be added to the Development Agenda's cost in that regard.

67. The Delegation of Brazil wished to make comments on the two proposals. The first one, which it supported, was related to WIPO-promoting missions to donor countries and donor organizations at an estimated cost of 50,000 Swiss francs, and which it considered to be fully in line with the recommendation encouraging the WIPO Secretariat to seek more funds for development-related activities. The Delegation believed that it would indeed be very interesting to hold such missions. It also supported the comment from the Delegation of Argentina which considered that the donor conference should be open-ended and that it should take place in Geneva. It added that should the CDIP believe that the donor conference was still a premature idea, it should look at what the Delegation of France had declared regarding the idea of developing the modalities and attempting not only to have a donor conference, but also a forum or a broader event which would deal not only with financing and donor activities, but also with the broader technical assistance and capacity-building activities which had developed in WIPO. As a consequence, should the CDIP decide in a way to set aside the idea of a donor conference, it should look at the second alternative, namely an open forum which would deal with financing, and then with capacity-building activities, in order to attempt to match those two issues into one single event.

68. As the questions raised by the delegations had been answered by the Secretariat, the Chair called on all delegations to consider and accept those financial resources as reasonable in the context of the objectives sought in order to adopt recommendation 2.

69. The Delegation of France wished to clarify the conclusion which had been reached. It considered that on the main principles of the proposal it had no difficulty, yet insisted on the fact that it somewhat deserved to be slightly refined, that it should be made a bit more specific in order to avoid 'setting off in the wrong direction'. Although the Delegation did not have any difficulty with the approval process, it preferred the Chair to avoid concluding that the proposal as presented at that moment, was written in stone.

70. The Delegation of Tunisia congratulated the Secretariat for the priority and detail of the well-documented CDIP/2/INF/2. It wished to draw the CDIP's attention to the fact that, since in the course of the First Session, certain decisions and recommendations had been approved, it would not be very beneficial for the Committee at this Session to start reviewing and reconsidering these approved decisions. It believed it would be a lot more useful to keep the recommendations which had already been approved and then look only at the financial and human resource aspects. It thereby suggested continuing that way. Failing to do so would create a feeling that they would never come to the end of the process of reviewing the document.

71. The Delegation of Germany wished to support the statement made by the Delegation of France. It also took note of the Chair's comment that summarizing and concluding would be subject to a further process, specifically a budget process as outlined by the Secretariat. With regard to the 50,000 Swiss francs provision for missions to donor countries, the Delegation wondered whether this was a one-time-cost, such as for the donor conference. The document mentioned that those costs were annual costs, unless otherwise stated and the Delegation, therefore, called for clarification.

72. The Secretariat confirmed that both the costs for the donor conference and for the missions were one-off costs.

73. The Chair reiterated his wish to focus on the figures provided. He supported the statement made by the Delegation of the United States of America which advocated that one should not look at the figures in isolation of the proposed activities, since there was a clear interaction between both. The Chair stressed that some delegations had raised detailed issues about the conference itself, its location, participation, etc., details which he believed could be provided at a later stage. With the acceptance of the proposed activities, as had been done in the past, an explanation of how these numbers were generated would be offered. Once the figures relating to the missions and the donor conference were accepted as reasonable, the Committee would move forward. There were details that still needed to be discussed, but in terms of the figures presented and the activities, the Chair wondered if the delegations were satisfied with adopting recommendation 2.

74. The Delegation of France agreed to move forward and to go back to the details later. There was, however, one issue it wished to raise, with respect to the format and objective of the donor conference, which in its view should be more specific.

75. The Delegation of Tunisia recommended that the CDIP request the Secretariat to prepare a proposal to be submitted to the forthcoming WIPO General Assembly on the holding of the donor conference, taking into account all the points made and concerns expressed by the different Delegations.

76. The Delegation of the United States of America wished to support the statement made by the Delegation of France. It considered that the 'somewhat reluctant response in the room' seemed to have a little bit to do with the fact that the delegations would have a glimpse of a picture of what they wished to do, but that the objective and the methodology were not totally clear and the corresponding number was not necessarily clear either. If one agreed to a number, one might box-in the methodology and what could be accomplished, and so the Delegation just wished to echo the thoughts from the Delegation of France.

77. The Chair concluded the discussion on the item, requesting the Secretariat to proceed as proposed. A detailed proposal for the donor conference would be presented to the General Assembly. He then requested the Secretariat to initiate discussions on recommendation 5 in the list of 26.

#### *Consideration of Recommendation 5 in the List of 26*

78. With regard to recommendation 5, the Secretariat recalled that it had to initiate work to design and develop a consolidated database for activities of technical assistance and capacity-building, and to provide a regular update in two ways: general information, and more detailed, specific, information including, where necessary, on specific activities following appropriate authorization having been secured from concerned Member States. The Secretariat also recalled that in order to implement the said recommendation, the need to undertake a project that would gather inputs from at least three kinds of tasks had been foreseen. Two consultants would be required, a Project Coordinator and a Business Analyst. The Project Coordinator would be responsible for the design and implementation of the entire database project. The Business Analyst would focus on assisting, analyzing and customizing the required steps in the longer term. A professional-category WIPO staff member had also been foreseen to internalize the entire work, as well as to be responsible for maintaining and updating of the database dedicated to collecting and packaging the information and the data

when required. The cost of the consultants was a one-off cost, while that on the professional was an annual recurring cost.

79. The Delegation of Argentina recalled that it had submitted a non-paper during the first session of the CDIP. As far as the recommendation went, the website should include the WIPO department in charge of technical assistance activity, name of the project, summary of the project, the amount of money involved, the destination of the technical assistance activity, the country and recipient agency. The Delegation noted that not all this data had been reproduced in the document presented and requested for the information to be included.

80. The Secretariat said that it intended to develop a project and in the course of developing that project, it would take into account all the important views that had been expressed in the non-paper.

81. The Delegation of Switzerland requested that the 300,000 Swiss francs mentioned as corresponding to the funding of the two consultants and the 178,000 Swiss francs standard cost for the cost of the administrator be specified in the document, as one could get the impression that these were two different costs displayed.

82. The Secretariat confirmed that the two consultants were earmarked as a one-time cost of 300,000 Swiss francs, while the 178,000 Swiss francs were related to the staff member who would internalize and manage the arrangements later on. The Secretariat also confirmed that the comments made by the Delegation of Switzerland would be accordingly reflected in the document.

83. The Delegation of the United States of America wished to raise a point that it believed had already been discussed. It recalled that recommendation 5 had been carefully negotiated, and that parties had negotiated to use the words 'general information' since there had been serious concerns, reflected in the negotiations for this recommendation, with respect to recipient anonymity. The Delegation believed that the proposal should include details on specific activities as opposed to the negotiated language of 'general information' on technical assistance activities. It also believed that there was a need to adhere to the terms of the negotiated language. When one heard about activities, those activities should cling closely to the agreement reached in those negotiations, it added.

84. The Chair concluded the discussion on recommendation 5 stating that the committee agreed to the proposed activities and the resource requirements, subject to the budgetary processes.

#### *Consideration of Recommendation 8 in the List of 26*

85. The Secretariat introduced the proposed activities under recommendation 8 in the list of 26, divided into "Conducting a study for implementation of the recommendation" and "Strategies to enhance access to and use of patent databases." It was recalled that the recommendation had been discussed at the First Session of the CDIP, and that there were a number of comments which had been incorporated into the proposed activities presented in document CDIP/2/2. The main proposal which had come out in the previous session was that the Secretariat would prepare terms of reference for a study to be presented to the second session of the CDIP. The said terms of reference, which were contained in CDIP/2/INF/3, mentioned the preparation of a study paper to produce a recommendation on how offices could get access to specialized databases, including patent databases for the purpose of

research and examination. The terms of reference went essentially through an analysis of the demand, the needs of patent offices, followed by an analysis of the supply, in other words, which patent databases and specialized databases were available. Those were divided into commercial databases and free databases and the resources and the services already provided by WIPO. The output of that study would be a recommendation on how to implement the proposal and that would contain much more detailed information on which databases should be made available, the modalities for making those databases available-taking into account things like the IPRs associated with those databases-and naturally the cost. The human and financial resources associated with producing the said study were documented in Annex II of document CDIP/2/3. They essentially covered the costs of a consultant for a three-month period, totaling 40,000 Swiss francs. As for the other recommendation mentioned, the Secretariat clarified that it would be a one-off cost to which some associated travel costs should be added in order to be able to visit the database providers and possibly the IP offices.

86. The Delegation of France wished to comment on the second part of recommendation 8, "Enable strategies to enhance the access to and use of patent databases." Its understanding was that there were activities foreseen to be undertaken under the Technical Assistance and Capacity Building Sector, in order to capacitate through different initiatives a number of research institutions and information centers which so far had not been using as much as necessary, the information contained in patent databases. There were also pilot projects, including regional consulting and equipment to the tune of 300,000 Swiss francs; equipment for IP information centers for 200,000 Swiss francs; regional and four national training workshops for 200,000 Swiss francs, as well as the standard costs relating to two staff, one in the professional category and one in the general service category with the entire project being implemented by a consultant. It believed that the pilot projects were certainly interesting projects, yet sometimes sensitive and ambitious, and as a result costly and difficult to technically implement. It recalled the difficulties the Organization had faced in implementing the WIPONET and, therefore, requested that great attention be devoted to matters pertaining to procedure and mechanisms already in existence and, wherever possible, making data accessible on a free basis. The Delegation took the example of the database called '*esp@cenet*' and it believed it would be interesting to derive as much benefit from that source of information rather than reinventing complicated and not necessarily effective systems.

87. The Chair requested the Secretariat to clarify which costs were one-off costs and which one were recurring costs.

88. The Secretariat explained that the costs for the consultants, namely 40,000 Swiss francs, and 150,000 Swiss francs, and the associated travel budget of 50,000 Swiss francs were all one-time costs, while the costs related to the staff were recurring costs, and that the activities would be budgeted on an annual basis.

89. The Delegation of Brazil wished to make one clarification. At the last session, it recalled that it had asked for the development of a model contract that could serve as a reference and that could aid IP Offices in developing countries when negotiating with private databases or with other IP Offices. The Delegation wished to hear more from the Secretariat on how the development of model contracts were reflected there. The Delegation strongly believed that this model contract should not be compelling or an obligation, yet would serve as an important reference, and as a valuable tool for IP Offices in developing countries.

90. The Secretariat first clarified that the terms of reference which had been drafted and which were available in document CDIP/2/INF/3 made reference in several places, especially

under sub-paragraph (d), to reusing existing databases and existing services. The Secretariat, therefore, hoped that the idea captured was that this project, if it was to proceed, would not be a risky ground-up software development project. In reply to the question from the Delegation of Brazil, the Secretariat declared that the model contracts were also mentioned in document CDIP/2/INF/3 under (e)(iii). As per the terms of reference, the consultant was expected to develop proposals on how those model contracts could be put in place. It stressed that it was very difficult to give further information at this point in time since there was not really a precedent in terms of commercial databases or patent databases. Every office negotiated its own terms and conditions of access to those databases and so the idea of a model contract with database providers would be something new, and, therefore, difficult to further elaborate on what it might eventually look like.

91. With regard to the total cost mentioned on page 4 of document CDIP/2/2, the Delegation of Thailand wondered if this referred to the pilot project being set up in the OAPI Organization, used as an example in sub-paragraph (a). With reference to sub-paragraph (c), it also wondered if some additional budget had to be set aside if one was to work in other sub-regional or regional projects with particular reference to the 40,000 Swiss francs and 50,000 Swiss francs project(s) mentioned under recommendation 8.

92. The Secretariat believed that the Delegation of Thailand actually referred to two things. First, the 90,000 Swiss francs – made of 50,000 Swiss francs and 40,000 Swiss francs - were linked to the first part of the recommendation, while the second cost element amounting to 300,000 Swiss francs was linked to (a) and (c). The Secretariat recognized that the example given under (c) should actually not be termed as it was. It mentioned that it was envisaged to launch such a project between WIPO Member States, to basically enhance the exchange of information between the Center, the OAIP Headquarters, and the 16-member countries of the Organization. The repository of information would move through the Center to the other 16-member countries, while the same project base with certain modifications would apply in the case of ARIPO since the system was slightly different from that of OAPI. The Secretariat highlighted that there were two different regional systems in the African region so the cost was linked to the schemes that would be developed in order to enhance the capacity of those organizations to access patent information. In so doing, due attention would be given to the word of caution that had been expressed by the Delegation of France regarding the fact that one should avoid ‘reinventing the wheel’ and one should try and take advantage of all the packages and information that already existed. The Delegation of France had specifically mentioned ‘*esp@cenet*’, but had also referred to other projects that had taken place in the Organization in the past, particularly, in the case of information and communication technology. The Secretariat had taken due note of the word of caution which should be taken account of in the process.

93. With regard to page 4, point (b) of document CDIP/2/2, which mentioned and envisaged the possibility of launching pilot projects in selected country or countries, the Delegation of Indonesia sought clarification on the mechanism or criteria that would be used to select the country or countries.

94. The Secretariat clarified that like all other activities undertaken in WIPO, and particularly in the context of the CDIP where the principles of development assistance had been negotiated, launching pilot projects would be based on requests from the Member States further to consultations and discussions. It stressed that there was no prejudgment regarding the country that would be selected on whether there was a need for such an initiative to be developed or not.

95. The Delegation of Sudan wished to make an observation with regard to traditional and industrial knowledge. It wondered if both, as well as the works of art and expressions of folklore, received appropriate support and assistance from the Organization.

96. The Secretariat assured the Delegation of Sudan that, indeed, the activities of the Organization very well covered the whole spectrum of the rights mentioned.

97. The Delegation of Switzerland thanked the Secretariat for the comprehensive redrafting of the text which had been discussed in March. It considered it to be clearer, much more to the point. It also believed it was much easier to understand what the objective of the Secretariat was and easier to discuss. The Delegation wished to obtain more information on the activity (c), "Promotes the establishment of sub-regional, regional or inter-regional IP search databases." It did not doubt its usefulness in some regions, but wished to know what regions were being considered, whether there had been a needs analysis request from a given region, and how such databases would be established. Moreover, it was not clear to the Delegation what budget was allocated to this specific action under (c). It also had another question concerning the last sentence, "To establish IP advisory services and information centers particularly in LDCs". Again, although the Delegation was not opposed to the activity, it wished to find out what the Secretariat had in mind when it wanted to establish IP advisory services and information centers, and whether there was a specific budget allocated to this specific activity. Concerning the overall budget foreseen under this recommendation, the Delegation believed that there was quite a number of activities listed, such as to: (a) undertake several pilot initiatives; (b) envisage launching other pilot projects; (c) promote several databases; (d) provide training; and (e) establish mechanisms and advisory services. The Delegation wondered if the budget allocated, although considerable, would be sufficient to cover such a wide range of activities. Moreover, it declared that a time-line for those activities would be useful. An additional column in the document, which could be entitled "Time-line for the implementation of activities", would clearly define the occurrence of these costs, that is, for example, every two, three or 10 years. The Delegation, although aware that it was maybe not the right time to do so, wished to propose a number of additional columns in order to make the document more comprehensive. One column would mention the lead actor within WIPO, while another one would cover the measure of success. The Delegation declared that it would go back to these more general issues at a later stage.

98. In reply to the questions raised by the Delegation of Switzerland, the Secretariat declared that what WIPO had attempted to do was to design "strategies to enhance access and use of patent databases", that is to design a strategy with new approaches for spreading the use of IP information, in particular – but not limited to - patent information and documentation. In so doing, it was targeting a number of institutions such as IP Offices, but also the creative sector, research and development (R&D) institutions, academic institutions and small and medium-sized enterprises (SMEs). The activities listed under (a) to (e) were, therefore, designed to translate into action, the strategy by identifying a number of potential beneficiaries, such as the regional institutions, as a reaction to the comment regarding (c), stating that it was necessary to promote the establishment of sub-regional and regional databases. The Secretariat believed that emphasis should be put on the promotion side, as often requested by many institutions in developing countries. It also stressed the importance of the assistance of scientific institutions from the region in order to facilitate and enhance their ability to accede to patent information, patent database and so forth.

99. Referring to assistance regarding access to documentation, the Secretariat said that the point covered in the conference could be regarding software development, but also digitization, or provision of equipment, or maybe a reference to traditional knowledge (TK) for instance, such as the digital library regarding some of the TK available in the country, which it believed came under that very heading of promotion. Promoting did not mean that WIPO itself would be in a position to implement everything alone. It would have to maybe take the lead in facilitating, counting on other stakeholders to come and 'chip in' extra resources. Accordingly, it believed the costing of 700,000 Swiss francs indicated was rather conservative. In the Secretariat's opinion, a good way to support and to capacitate people in order to be able to provide the service was to first receive some modicum of training, which explained the reference to training under paragraph (d). Lastly, as far as LDCs were concerned, and in reply to the question raised by the Delegation of Canada in relation to the IP advisory services and information centers conceived to be established in LDCs, the Secretariat stressed that the LDCs Division of the International Bureau had received a number of requests regarding this particular outfit. It declared that it was usually an outfit which might or might not be in the patent office - in most instances not in the patent office -, and it was usually in the league of science and technology or university institution, outfit which had a repository of very vital information regarding, but not limited to, patent information, and which provided some visibility to the center concerned. There had been examples of such centers which had been set up in Tanzania, Ethiopia and Cambodia, and a number of requests were still pending, such as Rwanda for instance. What had been attempted there was to cover the entire range of requests that could emanate from developing countries concerning the very critical issue of access to patent information, or information containing patent databases. The Secretariat would take the lead in opening the field and ensuring that the different stakeholders could be in a position to support the countries that had pending requests.

100. The Delegation of Switzerland thanked the Secretariat for the detailed explanations. In its understanding, what was actually foreseen under (a) to (e), some of the key strategies under consideration, were not necessarily being carried out, but merely a number of examples. Moreover, the 700,000 Swiss francs was a global amount and a number of these activities, but not necessarily all of them, could be carried out. Carrying out meant to advise other countries on these issues, but WIPO would not necessarily bear all the costs and do all the work, it added. Since WIPO would be held accountable for the implementation of the work plan, it had to be very clear and its mandate clearly defined. A list of examples of what could be done, also in terms of budget, would be useful, stressing that such a list would not be a promise *per se*, but rather a statement that such activities were indeed available to Member States upon request. With regard to the sub-regional, regional or inter-regional IP search databases, which could be a good thing, the Delegation wondered if there had been an analysis on whether establishing further regional databases on patent issues was the most cost-effective means to provide access. The European database had cost tremendous amounts of money to establish and run, so the Delegation wished for the most cost-effective method of providing access to these regions.

101. The Delegation of Colombia wished to make a few comments on recommendation 8. As pointed out during the First Session of the CDIP, it reiterated its concern with the way this issue was being tackled. The two activities in document CDIP/2/2 did not appear to fully reflect the objective of the Delegation's proposal, namely facilitating access by national patent offices to the specialized databases with a view to carrying out patent searches. The first activity dealt with carrying out a study with a view to implementing the recommendation upon which the Committee would give its point of view, given that it was further elaborated in document CDIP/2/INF/3. The second activity dealt with measures to improve access to the

patent databases and the use thereof, which sought to promote the use of IP information, in particular information and documentation on patents, to benefit the sectors that depended on creativity, the academic institutions, R&D institutions and SMEs. Whilst the Delegation was not opposed to this kind of activity, it expressed its concern about the fact that more emphasis had been put on the second activity, and that time was devoted to only one study which was being developed as the main objective of the proposal, namely access to the databases for patent research and searches. As pointed out during the First Session of the CDIP, the second group of activities involved other agencies such as academic institutions and SMEs, *inter alia*, which was not in accordance with the proposal which pointed out that the only beneficiaries would be the national offices since these bases had been designed to facilitate the prior art searches in order to enhance patents. Going back to the first activity, document CDIP/2/INF/3 presented the instructions to draft the study document which would enable them to implement recommendation 8, yet said recommendation was limited only to a study which would reflect the following aspects: (a) a needs analysis for each country; (b) the review of specialized patent databases; (c) review of specialized non-patent literature databases; (d) comparison analyses between added value commercial databases with respect to free of charge databases; (e) possible issues and recommendations to be developed by the study paper; and (f) necessary resources, human and financial. The Delegation was of the view that these aspects were appropriate and that they should be in tune with the needs of the countries and optimize the human and economic resources of the countries. Yet, in its opinion, the main objective of the recommendation was primarily point (c), namely “review of specialized non-patent literature databases”. Moreover, one important aspect of recommendation 8 was the extent to which, in certain areas of technology - such as biotechnology, pharmaceutical or IT-the non-patent literature technology was the main source for prior art information and, unlike patent documents which were made available freely to patent offices, this specialized literature was usually not free nor freely available, which made it more difficult to many developing countries to have access to the information necessary to undertake patent searches. The Delegation was, therefore, concerned with the approach given to recommendation 8 and wished to return to the main spirit of the proposal, as made in document PCDA/1/3, with a view to refining activities proposed therein, geared towards the establishment of an agreement organized by WIPO and with commercial companies which would enable the national offices to have access to their databases on a monthly and free basis.

102. The Chair asked the Delegation of Colombia if it could clarify whether it considered the study relevant to the concerns and preferences it had. In the Secretariat’s point of view, a study was meant to explore the options and in particular issues like considering the property rights associated with specialized databases.

103. With reference to recommendation 8, namely access to databases, the Delegation of Nigeria believed that paragraph (b) dealt with the possibility of launching parallel projects in selected countries with the aim of establishing IP information centers. Just using the databases would make it very difficult to engage in accessibility as being envisaged in this technical assistance and capacity-building. To that effect, it did not see the possibility of achieving that by merely ‘envisaging’ since envisaging did not mean pushing towards that end. Launching pilot projects would make it happen. The Delegation, therefore, called for such pilot projects that would enhance or help towards getting these databases. Not addressing the issue of databases was a major omission, it added. All countries should be connected, whether they were already in possession of such a database or not. For those which were not, there was a clear need to help them achieve such a capacity. Although WIPO was not expected to do everything, its knowledge in this area in terms of advice and technical

assistance was useful. By the end of the day, connectivity and accessibility would not take place if the countries themselves did not have the capacity to do so, and overall the thrust of the recommendations, such like promoting the establishment of sub-regional, regional and inter-regional IP databases, were worded correctly, but when you scrutinized them you did not know exactly what you meant by 'promote' because promotion could not sometimes lead to a substantial outcome other than the 'flying of flyers here and there'. The Delegation believed that what was stated were estimates of what was expected to help, and that the amount was very conservative, maybe too conservative to really think in terms of the practical output that would come out of it. The Delegation thanked the Secretariat for its effort in making a clear understanding of the direction which should be taken, but called for even more clarity.

104. The Chair made a summary of the discussions which had taken place, highlighting that the Secretariat had provided examples of what could be done. The Delegation of Switzerland had commented on the kind of additional information that should accompany projects of this sort. There had also been a proposal by the Delegations of Australia and Switzerland which had provided a template that could be used to capture some of the information that was requested when the final stage of the project document would be reached, so more information was expected to reach the Committee. There had been no objection to the figures provided, which were the specific focus at that stage, so the Chair said that the proposals were broadly approved and so they could now proceed on the basis of the human and financial resources to the next stage.

*Consideration of Recommendation 9 in the List of 26*

105. Initiating the discussion on recommendation 9 in the list of 26, the Secretariat said that it dealt with the idea of having a tool which would assess the needs and also match needs and resources. This idea needed further elaboration, for which the Secretariat had indicated the need for a consultant coordinator to undertake a detailed analysis of the requirements. As for its output, a one-time cost of a consultant had been budgeted, as well as one staff member from the Professional category who would handle the process later. As for the consultant's skills, it stated that IP knowledge would be needed rather than IT, in view of the original proposal's mandate.

106. The Delegation of Brazil thanked the Secretariat for the clarification regarding the skills expected from the consultant to be hired. It added that the said consultant should not only have IP skills, but also skills necessary to understand the specific needs of developing countries in relation to IP, that is to say someone capable of understanding IP-related development needs of promoting innovation and also of promoting development.

107. The Delegation of Colombia did not disagree with the particular recommendation of using some kind of collaboration mechanism financed by future donors. However, one should bear in mind that the issue of the digital divide was important and setting up a fund there as one of its priority objectives was to have the introduction and development of infrastructure to reduce the digital divide as it related to activities of WIPO. It did not quite understand the role of WIPO in this process. Moreover, the activity proposed in document CDIP/2/2 seemed in general terms to be the proposal to establish an effective diagnostic tool to evaluate the development needs of countries with respect to IP. The Delegation called for the objective proposed to be as clear as the recommendation. It did not wish to get into a situation where it was not actually contributing to improving the access of citizens to digital technology. It reiterated that it could not support this proposal since it did not believe it was actually the role of WIPO to preach the digital divide. These were activities taking place in

other fora dealing with issues which went beyond IP. This was the reason why it called for the specific proposal to refer to exactly what WIPO would be doing in this area so as to expand the scope of its technical assistance programs, maybe with the objective of preaching the digital divide. As far as the situation stood at the time, the details of the proposal were not clear to the Delegation.

108. The Delegation of South Africa added that, in view of the statement made by the Delegation of Brazil, maybe WIPO could hire an economist who would understand IP.

109. The Delegation of Nigeria said that it considered the paragraph very differently from the delegations which had taken the floor earlier, since in its opinion, it was very clear. The paragraph stated that WIPO would help in terms of coordination with Member States and with specific reference to developing a database to match IP-related development needs with available resources. The Delegation recognized that every issue that concerned development-related agenda would require some knowledge of economics, and this had been made very clear. It wondered if there was a database that provided help to find out IP issues specifically speaking in relation to development needs. It declared that, in doing so, it would lead to a kind of efficiency in the management of resources, which was the end result. If resources were managed efficiently, and if you could reach specifically for those development needs, it could bridge the gap, in terms of the digital divide. So the first primary act from there was not digital divide, but addressing those issues of Development Agenda in relation to IP specifics and/so that digital divide could then result as an outcome of that expansion. Here really the idea of saying that WIPO had no business in the digital divide was a big misnomer, since the entire idea of IP was digital-oriented. The Delegation did not see any limitation on what the Secretariat had put there.

110. The Delegation of Spain believed that the Committee should be careful when proposing activities to be carried out by the Secretariat, and should ensure that overlapping and duplication of work was removed. The activities proposed for recommendation 9 could be an example of that overlap and the Delegation, therefore, called for measures to be taken to avoid such overlap. The first measure would be to come up with an effective diagnostic mechanism so as to contrast a given recommendation with similar one to be reviewed later. The Delegation referred to recommendation 10, Item 3, document CDIP/2/INF/1, arguing that there could be some overlaps there. Another measure would be for the Secretariat to engage in the activity of monitoring the possible support mechanisms for Developing Countries so as to assess what their needs were and what improvements could be made to their industrial property systems at the national level. Referring to recommendation 9, on gleaning data from donors, the Delegation was of the opinion that it was a duplication of recommendation 5 which proposed to come up with a project to design a database that contained all cooperation activities. As such, the Delegation deemed that recommendation 9 should be reviewed. It believed it was not simply a duplication of functions or commitments, but also an overlap between activities to implement the Recommendations. The Delegation of Spain added that there were also budgetary implications to the recommendation under review, given that a consultant, a coordinator and a staff from the professional category were envisaged, with a total amount of 90,000 Swiss francs being committed to that end. The Delegation did not know the extent to which those human and financial resource allocations were compatible with the commitment to implement recommendation 5, in which there was commitment of a consultant and a professional category staff for a total of 300,000 Swiss francs. It believed that the issue of duplication had a two-fold implication: on one hand, the Committee should not repeat what it had committed to do in another recommendation, and on the other hand it should not duplicate costs, but rather seek to save costs.

111. The Delegation of the United States of America believed that, with regard to the proposed activity for Cluster A, recommendation 9, the task before the Committee was to implement the recommendations as agreed and adopted by the General Assembly. In that regard, it felt that more precision could be needed in the first sentence: ‘for the proposal to establish an effective diagnostic tool for assessing the IP-related development needs for countries’. The Delegation added that while the foregoing introductory phrase seemed to be in the spirit of recommendation 9, nowhere in the agreed and adopted language were the words ‘effective diagnostic tool’ used. Moreover, it felt that the proposal developed throughout the negotiation process was such that the ‘diagnosis’ - if that was the right word to employ - of the strategy adopted by a country would be a ‘self-diagnosis’, that the Member States themselves would determine what their development-related IP protection needs were, and once that self-identification process had been completed, a relatively neutral marketplace mechanism that matched that self-assessment needs to a willing donor would take place in the database. Yet, the Delegation added that, as it read the proposed activity, it seemed to go beyond that initial concept. It, therefore, called for some clarification on the meaning of an ‘effective diagnostic tool’, such as who would prepare it, if not the Member States, and how it would relate to the language of the agreed and adopted recommendation.

112. The Delegation of Brazil, in agreement with the Delegation of the United States of America, also wished to obtain additional clarification on what would be an ‘effective diagnostic tool’. However, it was not in agreement with the background of what had been said by the Delegation of the United States of America on the fact that countries could not have a diagnostic tool. The Delegation believed that a developing country or a LDC could request WIPO’s expertise and assistance in order to diagnose its needs. It added that many delegations had declared that all the technical assistance activities would be made upon request and if a country was to decide nationally to request WIPO to make a diagnosis of its own needs, then it was its prerogative. It was also mentioned that a country could also decide to make its own self-assessment. The Delegation saw no restriction with respect to a country requesting WIPO’s assistance for the diagnosis of its needs, considering such a request as reasonable and doable, stressing that the Committee should not lose sight that it was working under the overarching principle that technical assistance activities would be carried out upon request. Having said that, the Delegation still called for clarification on what was meant by ‘an effective diagnostic tool.’

113. The Delegation of South Africa also sought clarification regarding the diagnostic tool. Based on the proposed activity for this recommendation, most developing countries, especially Africa, would find it very difficult to understand what it was trying to achieve on the ground. The Delegation added that the same proposal could be indirectly linked with recommendation 5 which indicated that WIPO should display general information on technical assistance activities. It believed that transparency was crucial in whatever activity was being carried out, and that information should be made available for Member States’ viewing. Making such information available to Member States would serve to display best practices on the nature of whatever activities were carried out in, for example, country “A”, so that a country “B” could also learn from those best practices carried out.

114. The Chair requested the Secretariat to address the question of overlap and duplication in recommendation 9, as well as to clarify the proposal to establish an ‘effective diagnostic tool.’

115. The Secretariat said that in its effort to propose and formulate activities in response to the various recommendations that had been made, it had indeed attempted to avoid the

merging of activities and to keep recommendations separate. It highlighted that due to the holistic nature of development, the risk of overlapping between the various branches was always existent. Regarding recommendation 5, the Secretariat believed it addressed a different set of issues altogether. Wherein the Secretariat was providing existing information as well as developing tools, so as to offer information and make it available to Member States as the Delegation of the United States of America had put it, in concurrence with the Member State concerned. In recommendation 9, the Secretariat believed that Member States requested the International Bureau to basically develop a common platform which consisted of a diagnostic tool and a needs assessment mechanism. The needs assessment mechanism would either be undertaken by the Member States themselves or upon their request by the International Bureau. The Secretariat underscored the fact that technical assistance activities were needs-based and carried out upon request by Member States. That mere principle, it added, had been enunciated and supported by the CDIP in the last WIPO General Assembly meeting. It made specific reference to activities such as advisory missions, namely expertise provided by the International Bureau, or calling upon third party experts to come and support the International Bureau in relationship to specific areas of IP, as well as the range of possible activities which could of course vary depending on the situation that prevailed in the country concerned. The Secretariat underscored the fact that there was no solution that fitted all countries, and that there was a need to factor the competitive advantage and specificities of each country in order to define the range of activities that needed to be covered. It also mentioned issues pertaining to monitoring, reporting, evaluation and implementation. The Secretariat further elaborated that the platform would consist of the 'diagnostic tool', which would be a match-making mechanism bringing together the potential countries that had made the request with the potential donor countries into a dialogue regarding the type and level of assistance, as well as the potential 'funders', that is those funding the assistance. In the process, there might be more than one or two countries that would be put together in order to provide a customized requisite assistance, and that explained the term 'clearing house' which had been used. The Secretariat further explained that the aim was to bring people together and make sure that they had taken stock of their particular circumstances in order to come to certain prescriptions to suit both the donor and the recipient country. The Secretariat believed that the thrust of recommendation 9 was different from that of recommendation 5. It also emphasized that the skills sets required with a view to implementing these recommendations were also different, which was in fact supported by the Delegations of Brazil and South Africa. The Secretariat concluded that both delegations had pinpointed the need for specialists in IP who understood how it related to development.

116. The Chair suggested to change the wording 'effective diagnostic tool' into 'effective interactive process'. He believed it would make it clearer that it was a process whereby WIPO brought recipients and donors together in order to assess needs, and then moved forward into a clearing house mechanism which would be part of that process. With that, he said that the proposed activities were approved, subject to the usual budgetary procedures.

#### *Consideration of Recommendation 10 in the List of 26*

117. Initiating the discussion on recommendation 10 in the list of 26, the Secretariat emphasized that development and enhancement of IP national institutional capacity, for both IP and non IP institutions, covered a wide range of activities including infrastructure development, institution building, human resource development and link creation between users and professional communities, as well as other areas. Those sorts of activities were naturally required for the group of countries mentioned and those countries alone accounted for over 155 Member States of the Organization. The Secretariat added that recommendation

10 also required WIPO to assist the Members States in creating efficient, productive and cost-effective IP structures, and to take on the new role of contributing to development and being service-oriented. In so doing, WIPO would contribute to the creation of an effective and balanced IP system, as stated in the recommendation itself by the use of the words “promote a fair balance between IP protection and public interest.” The Secretariat underscored the fact that the aforementioned approach had been stressed in the course of the forum on Development and IP Service Orientation that had taken place in Geneva on July 1 and 2, 2008. The Secretariat stated that the existing financial resources were not adequate to undertake the programs and activities with a view to implementing these recommendations, since the recommendations required new initiatives as well as the deepening and widening of technical assistance. It also mentioned that while considering recommendation 10, the delegations might also wish to refer to document CDIP/2/INF/1 which provided a menu of options. The said document had been put together at the request of some delegations during the first session of the CDIP, containing the kind of programs which the Secretariat could take up to implement the recommendation.

118. The Delegation of Sudan stated that, with respect to technical assistance, it believed that there was a need for a unified diagnosis and a need to determine the needs of countries. The Delegation also declared that it would contradict itself, and in fact what it believed was that there was no need for a unified diagnosis, but rather a need to determine a country’s needs in the following way: countries needed to indicate their needs to WIPO, since needs did not remain the same and developed as the situation in a country changed. Therefore, it concluded that a unified diagnosis was not possible as there was no one-size-fits-all solution.

119. Referring to the text of recommendation 10, the Delegation of Tunisia quoted that: ‘WIPO shall assist Member States to develop and improve national and IP institutional capacities through further development of work of the influential structure and other facilities.’ Therefore, it requested the Secretariat to further develop the material aspect of assistance and the proposed range of activities. It added that the ‘Human and Financial Resources’ needed to be revised, in order to take into consideration the material aspect of technical assistance. The Delegation added that it was expecting a quantification related to the material aspect of assistance and did not see in the document ‘Additional Information and Human Financial Resources’ any reference to the cost of the material aspect of material structure and how much it would cost in terms of financial and human resources. It explained that if the amount of 1.5 million Swiss francs indicated for technical assistance would be made ready for both technical and infrastructure assistance, then it believed that the amount was insufficient to cover the activities mentioned.

120. The Delegation of South Africa referred to the comments made by several other delegations previously concerning bridging the digital divide, and was of opinion that it was not for WIPO to be engaging in such a matter. The Delegation reiterated that in fact the example provided in recommendation 10 with respect to office automation and the software to enhance collective management societies dealt directly with bridging the digital divide. It added that one was not talking about broadband or cables, yet the above-mentioned were the typical examples that could be referred to as an attempt to bridge the digital divide.

121. With respect to the menu of options, the Delegation of Brazil recognized that there were around 13 programs described in the document. It stated that it was aware of traditional technical assistance activities which were devoted to and focused on the general objectives of strengthening IP Offices in developing countries and LDCs, and on strengthening the IP Offices’ capacity to protect IP and on providing IP services to users. It, however, was

concerned about what one would call the new or the non-traditional technical assistance activities. The Delegation clarified that by 'new technical assistance activities' it was referring to technical assistance activities which focused on enhancing the creators and innovators in Developing Countries and in LDCs to protect their own creations. The Delegation questioned whether the new technical assistance activities indicated in the recommendation actually reflected the manner in which those activities could strengthen the national capacity of developing countries.

122. The Delegation of Cameroon believed that recommendation 10 referred to the fact that Member States should try to develop national institutional capacities in respect of IP, and therefore, actually referred to infrastructure. However, when it reviewed document CIDP/2/INF/1, it observed that in spite of how 'copious' the document was, it made no reference to the way the development of infrastructure would be achieved by Member States. It, therefore, questioned what exactly was being referred to and exactly how it was going to be achieved.

123. The Delegation of Argentina believed the document dealt with the various programs which WIPO had been engaged in, was still engaged in, or could engage in. It requested clarification as to which of those activities were those which had not yet been engaged and which were those scheduled for the implementation of recommendation 10.

124. On behalf of the EC and its 27 Member States, the Delegation of France requested clarification with respect to the information document on Human and Financial Resources. It asked whether the Secretariat could explain the total figures provided in order for a distinction to be made between expenditure as a one-off cost and recurrent expenditure. The Delegation added that such a distinction would make it easier for most delegations to read and understand the document.

125. Referring to the fourth project in document CDIP/2/INF2, the Delegation of China believed that recommendation 10 had, as its main objective, to assist Member States in strengthening their institutional capacity in the area of IP. It added that the said project referred to the strengthening of cooperation mechanisms between IP institutions on a regional and sub-regional basis, and that from the categories of activities discussed so far in the recommendation under review, the Committee had talked about the coordination of activities between various cooperation mechanisms. In that context, the Delegation requested the Secretariat for some clarification with respect to the mandate. It further conveyed its belief that the concern in this recommendation was one of coordination in the area of IP and that coordination in itself was a very complex activity. It, therefore, asked how the Secretariat envisaged embarking upon the particular task of coordination.

126. The Delegation of Nigeria commended the Secretariat for developing the manual of options under recommendation 10, which it believed was central to the aspirations of developing countries and LDCs. The Delegation added that looking at the quantum of work envisaged under that recommendation, and given the understanding of the importance of Human Infrastructural Resources in the LDCs and developing nations, it believed that the estimated financial proposals were quite conservative and should be enhanced.

127. The Secretariat spoke on activities in the area of IP training and education. It stated that recommendation 10 mentioned the IP Institutional Capacity as well as Human Resources, which were very important factors in supporting the IP institution. The Secretariat added that WIPO's program focused on the Human Resources development in both the contexts of

development and of the use of IP for development. This was evident from the fact that WIPO had proposed a number of options in the document including some specific activities regarding patent and trademark examiners. The Secretariat added that activities were not necessarily limited to broad training programs and that due to the recent evolution in the membership there had been a significant shift in the strategy and vision of the human resources development aspect. The Secretariat pointed out that many delegations had referred earlier on to the fact that programs should be made in such a way as to respond to the needs and demands of recipients, in particular given the fact that needs of Member States had evolved and changed significantly over the past 10 years. The Secretariat acknowledged that while some countries still needed basic training for government officials, others actually needed much more extensive or broader education, even reaching out to primary schools to educate boys and girls about the importance of innovation and creativity in the context of IP. The Secretariat added that a strategy had been formulated and reviewed by several advisors and experts in the field of IP education. The Secretariat believed it necessary to build awareness on IP among the policy-makers, leaders and government advisors in order to consider IP education in the context of development and economic growth. It added that it had formulated a program called 'Policy Development Program' and in that area had organized policy forums, the most recent of which had been organized in cooperation with the Government of China, aimed at providing a forum for the Heads of IP Offices from African countries and the Chinese authorities to share experiences with each other. The Secretariat specifically referred to the activities in document CDIP/2/2 and pointed out that these activities were intended to further strengthen the areas specifically requested by the Member States in the context of the Development Agenda. The Secretariat had proposed additional professional and general service staff in order to carry out the activities with partner organizations. The Secretariat added that it would expand coverage of its programs to a number of relevant institutions in order to strengthen the IP institutions, for example in the area of requests from universities seeking assistance in the establishment of new courses on IP and the establishment of standard teaching materials. In that area, the Secretariat stated that it would use the additional resources as proposed, in order to strengthen its activities and make the teaching material readily available to those universities. The Secretariat concluded by stating that it had given a brief sketch of activities proposed in the document and that in the interest of time it would not elaborate, nevertheless, it would be happy to answer any questions.

128. The Delegation of France stated that it attached a lot of importance to recommendation 10, which in its opinion was rather ambitious. The Delegation wished to highlight a couple of elements which, it felt, the Committee should not lose sight of when it came to implementation, namely the usefulness of an implementation timeframe or schedule and having a set time for an assessment.

129. Elaborating on its activities, the Secretariat further stated that the activities indicated on page 7 mainly aimed at supporting Member States to create, protect and commercialize IP as an economic asset for their nationals. The Secretariat referred to the intervention made by the Delegation of Brazil which had mentioned the importance of creating programs that would allow countries to take part in the system as creators. It further elaborated that the program's targets were mainly institutions, universities, technology-based enterprises, incubators and science parks, among others. The Secretariat added that those were the central knowledge creators, especially in developing countries, where most of the R&D investments were allocated to public institutions, and it was for that reason that the focus audience for the program was mainly universities and R&D institutions. In that context, the Secretariat stated that activities had been implemented through training programs and seminars and that WIPO

had received increasing demands from Member States. It further added that the total amount of resources indicated in document CDIP/2/2 would be allocated for the development of six main activities. Those activities were: (a) programs on IP national strategies; (b) workshops on IP institutional policies for universities and R&D institutions; (c) patent drafting training programs (in this case patent drafting would be a version which combined face-to-face interaction with distance learning modules); (d) successful technology licensing programs (basic and advanced modules). With regard to the fifth main activity (e), namely the creation of a website which would require the expertise and development by an IT specialist as indicated in the first column of these activities, it was to be noted that the website would serve participants of training programs, such as technology managers and professionals from technology transfer offices, and would enable them to exchange ideas, communicate and create a community of managers that could help each other to further develop programs, contracts and different issues on technology management. Lastly, (f) the development of training programs on IP evaluation. The Secretariat indicated that some of those activities were also referred to in the general document CDIP/2/1, item 10, page 8, under the section on patent drafting and licensing. In addition, the Secretariat referred to the statement made by the Delegation of Argentina, in which it requested the Secretariat to mention the new activities throughout the document. In that context, the Secretariat stated as an example the IP evaluation program that was being developed, as well as the programs on patent drafting and licensing. It reiterated that although such programs had already been developed, they were still being adapted and fine-tuned. The Secretariat concluded by stating that it would make brochures on all of these training programs available to Delegations, namely: the Manual of Patent Drafting, Successful Technology Licensing (STL), the Booklet on IP National Strategies, and the IP Audit Tool (a methodology to assess country needs on the establishment of IP national strategies within the context of economic, industrial, education and trade policies).

130. With respect to the Creative Industries, the Secretariat stressed that it was an area that was important in developing countries and gave some insight of what programs it had in mind. The Secretariat added that in order to implement recommendation 10, it would suggest two types of activities. The first activity was the organization of two roundtables for Creative Industry support institutions, which would be more of a discussion type of forum where issues related to management, economics and financing of creative enterprises could be addressed. The Secretariat believed that the issue of giving a specific focus to creative enterprises was new to some countries, and stated that it had developed some instruments which could now be put in place and offered as a program. The other activities, the Secretariat added, were National Workshops. Those workshops would focus on measuring the impact of IP in the Creative Industries and the contribution that those industries made to the national economy. The Secretariat stated that it had some experience in that field and capacity-building type Workshops were of considerable interest to developing countries, from which there had been an increased number of requests. It added that there had been many questions raised in the room, most of which were legitimately interesting and ranged from very specific to very conceptual questions. In that context, the Secretariat mentioned the questions raised by the Delegations of Argentina and Brazil, in relation to how the proposed activities would be different, new and non-traditional. It stated that in reality the activity being offered would probably be of the same type, either a workshop or roundtable. However, the new element would be the focus given, which would now be on how to use the instruments and the results that had been obtained by developing countries for their specific needs. It added that at that stage it would not be possible to go much further into the substance of the Workshops and the Roundtables as they would be specific to the country in which they would be implemented. The Secretariat concluded that it was proposing four activities in this respect, two Workshops

and two Roundtables, and it did not believe it would need additional professional staff for their implementation. It added, however, that based on past experience and due to the load of logistical work involved in organizing activities for a period of one year, there might be a demand for one technical staff at a standard cost. With regard to the request for clarification on one-off and recurring costs, the Secretariat elaborated that for activities which were carried out over a period of one year, it would need that resource person in the general category for one year. With respect to the cost of the activities, the Secretariat believed that it would be a program of one year and the cost would be 240,000 Swiss francs or 60,000 Swiss francs per Workshop or Roundtable.

131. With regard to the activities related to SMEs, the Secretariat explained the need to cover the six UN languages, so as to effectively deal with the enterprise sector in any country, and thus the need for a team that could work in all six languages. It added that the languages being focused on were Arabic, Russian and Chinese, since it was already competent in English, French and Spanish. The Secretariat stated that it had not been able to do anything on the ground effectively in the Russian, Chinese and Arabic speaking countries so far. It also underscored the need for funds for the translation of the content of the eight different publications it had created over the years, four of which had been in the IP for Business Series. The Secretariat stated that those publications were available in some of the UN languages and needed to be further adapted to the national law and provide national examples. It added that there were pending requests for translation or adaptation of one or more of those publications from 26 different countries, with another 14 countries which had made requests for translation or adaptation of the 10 modules of the IP Panorama. The Secretariat concluded that if those requests had to be met on a cost-sharing basis, it would need much more than what had been indicated since those were recurring costs. It added that there was, therefore, a need for more than what was requested in the document.

132. The Delegation of France wished to reconsider two important points with respect to the implementation of recommendation 10 and stated that the first point pertained to the timetable for implementation. It added that the activities proposed could lead to expectations which might be higher than what was proposed at the time and *vice versa*. Furthermore, it stated that sometimes difficulties with implementation could mean that activities scheduled to take place over a certain period of time might face problems, and for various reasons often tied to the diversity of the countries in which the activities were being implemented the times might not be kept. The Delegation, therefore, believed that if there were a timetable, it would imply that an assessment had to be carried out at some stage which would make it easier to monitor while taking into consideration the resources which might not have been used, or on the other hand, the demands which might not have been fulfilled. The Delegation of France was certain that the Secretariat had already considered that issue, but nonetheless wanted to draw its attention to the issue so that it could be borne in mind when the Report on Implementation was drafted. The Delegation added that a timetable might serve as a useful evaluation concept to give an overall picture of what was happening. It stated that through the presentations made, one could see that there was a plan for the next 12 months, yet the Delegation would revert to that question at a later stage when the discussions on what would need to be done with respect to requests which had not been met and how they could be responded to would resume. The Delegation also wished to raise a more specific question on the content of document CDIP/2/INF/1. It pointed out that in activity 11, reference had been made to the promotion and establishment of specialized centers for IP information management, and that it would be grateful for some additional clarification with respect to the meaning of that sentence and its intention. More specifically, the Delegation made reference to the creation of international databases sought to find out if there was any link provided between those and

other databases on patents which had been referred to in the course of the discussions previously. The Delegation added that if such a link was provided for, then in establishing the database one could make use of what already existed and ensure that the service responsible for dealing with the database was working in coordination with the other services mentioned earlier on.

133. With reference to document CDIP/2/2, in which reference was made to different activities and the training given by the WIPO, the Delegation of Pakistan emphasized that the document referred to the programs reflected in CDIP/2/INF/1 which placed emphasis on developing a balanced IP system. The Delegation believed that a reference was being made there to developing a balanced IP system in all types of training which was imparted by the Academy's very 'cross-cutting nature', however, it sought clarification on how it did that. More specifically the Delegation enquired whether the Academy provided some international guidelines, whether it addressed specific IP regimes to be developed at the national level, and what was the preferred balance. The second query by the Delegation related to SMEs and the amounts which have been reflected in document CDIP/2/2. The Delegation sought clarification from the Secretariat as to why the entire amount required for the full scope of the activities the Division wished to carry out had not been reflected, and its plans for the future.

134. The Delegation of Sudan declared that, with regard to policy centers for TK, Sudan had established 26 centers dealing with TK and folklore. It added that activities were underway in Sudan, but it lacked any active participation by WIPO or guidance from WIPO. The Delegation further stated that WIPO had participated a little and contributed to training, but that there had been no formal cooperation mechanism between those centers for Sudan and the Organization. It wondered whether the permanent delegations attached to WIPO were as active as they could be in respect of cooperation. With respect to investment in IP, the Delegation also questioned whether SMEs in Sudan could be helped to benefit from those systems.

135. The Delegation of Jamaica thanked the Secretariat for providing the updates on the activities which were envisaged under that cluster. It stated that Jamaica had embarked on a strategy to have the country achieve developed country status by 2030, and had already begun examining the integral role that IP could play in that regard. It added that some of the activities envisaged in the document could prove to be very useful for Jamaica, including at the sub-regional level within the Caribbean Community and Common Market (CARICOM), since the framework was already there for such cooperation to take place. The Delegation referred to the document CDIP/2/2/INF and wondered to what extent it was possible for the Secretariat to quantify the expected outcomes in more details in terms of numbers. It added that it was aware that some of the activities were long-term activities, while others were short- to medium-term ones, and therefore, in terms of expected outcome, it wished to seek some clarifications as to the extent to which the Secretariat could quantify in numbers what it expected to achieve from some of those activities. The Delegation further stated that it did not know whether it was achievable, but that one critical aspect of an outcome was the extent to which it could be quantified, not just the qualitative aspect of it, but also the numerical impact that it could have. The Delegation concluded by requesting the Secretariat to confirm whether it was possible and which activities it could quantify in a more detailed way.

136. The Delegation of Brazil commended the Secretariat for having detailed in a very efficient manner the activities that were envisaged under recommendation 10. It had had a look at the figures presented and, taking into account the wide range of activities foreseen therein, its preliminary reaction would be to say that the figures suggested were reasonable

and to a large extent rather conservative. The Delegation thanked the Secretariat for having further elaborated on the new or additional focus of WIPO technical assistance activities. The Delegation believed that enhancing the capacity of small inventors and SMEs in developing countries to protect their own creations was one of the central objectives of the Development Agenda. It also believed that although the format of the activities remained traditional, the focus was new.

137. The Delegation of the Republic of Korea wished to comment on the proposed activities under recommendation 10, recalling that earlier on it had enquired on the status of some proposals it had made in the previous session of the CDIP. The Delegation indicated that the Secretariat did explain that any omission of the proposals could be reflected in the document. The Delegation, therefore, proposed that the document be reworked in order to reflect its proposals on the activity for women and the young generation. It added that it had closely looked at documents CDIP/2/2 and CDIP/2/2/INF1/1, as well as at all the budgetary allocations, and was unable to find any activity directly related to its proposals. It suggested for its proposals to be inserted on page 6 of document CDIP/2/2, and that the second paragraph on that page would be an appropriate place to include the training forum on inventions for women and students. It added that since the proposals emanated from a Member State, and given that in the last session of the CDIP such proposals had been accepted, it would appreciate if they were reflected in the document. The Delegation also made reference to its proposal on the development of an online transaction system for invented goods, which it believed was a huge project which might require additional budgetary funding. The Delegation also believed that the language used in the document should include reference to the creation and commercial exploitation of IP. It declared that it would seek consultation with the Secretariat at a later stage on that issue.

138. The Delegation of South Africa suggested that the activities of the Academy be geared towards the needs of developing countries, in terms of what IP was about, the various instruments available, and their protection. The Delegation believed that there was a need for the development dimension to be integrated into those activities in order to be particularly well understood by the academic institutions in developing countries. It added that it would serve to provide a balanced perspective of the IP system and clearly demonstrate the development dimension. The Delegation further stated that it appreciated the format given previously for the donor conference as well as the presentations made by the Secretariat.

139. The Delegation of Tunisia stated that it had listened very carefully to the delegations which had spoken earlier and wanted to speak in response to what had been said. The Delegation referred to the concern expressed about the issue of evaluation or assessment with respect to implementation, and pointed out that Cluster D dealt with the follow-up and assessment, or evaluation, of implementation and, as such, believed that the Delegations' concerns were taken into account in the said Cluster. It added that it did not see the need to include in all 45 Recommendations, an element dealing with evaluation or assessment as Cluster D already dealt with that issue. With regard to additional funding, the Delegation reminded that 'they were sitting in the CDIP and not in the PBC'. In that context, it added that the main purpose there was to look at the programs and identify those programs which the CDIP wanted to implement, taking into account their costs. It further added that the CDIP would carry out an overall evaluation of the programs and would forward said estimate to the PBC, which would in turn assess the recommendations of the CDIP at its next session. With regard to the need for activities related to SMEs, the Delegation said that it had heard the Secretariat say that their needs were greater than those reflected in the document, and if so,

wondered why the current real needs of SMEs were not covered. It added that if those amounts had been included in the document, they could have made a proposal to the PBC.

140. The Delegation of Benin said that it appreciated the discussions which were going on in the Committee. Referring to the digital divide, it said that it definitely existed in developing countries and added that in most developing countries the right holders themselves were not aware of their rights. Therefore, despite the efforts of WIPO and the government authorities, they could not use IP as a tool for promoting development. Referring to document CDIP/2/2, it had noted with satisfaction that the concerns of copyright collective management societies in boosting institutional capacities had been taken into account. The Delegation said that WIPO should contribute towards the development of the AFRICOS software. The Delegation further added that there was a need to include technical assistance in the form of the provision of technical equipment and software, so as to assist developing country organizations ensure that IP developed in a way which would enhance the overall economic and social development in the country. The Delegation advocated the need for the activities covered by the different recommendations to be supported and strengthened by the substantial provision of financial and human resources requirements so as to enable countries to maximize development benefits from IP.

141. The Secretariat addressed the questions raised by the Delegations of Pakistan and South Africa in connection with the Academy. With respect to the first question raised by the Delegation of Pakistan, which was how the balance between IP protection and public interest should be made, the Secretariat stated that in that regard it had reviewed the program, curriculum and pedagogy of IP education and training over the past few years in the light of the specific needs from Member States. It elaborated that, at the time, and with all programs, it was a rule to include new elements in the curriculum and to also invite the participation of the representatives of different interests. It gave an example in the patent and public health policy where it had invited the World Health Organization (WHO) and the World Trade Organization (WTO) to share their perspectives and opinions with the participants. The Secretariat also stated that its practice was also to invite industry representatives and NGOs. The Secretariat mentioned a WTO/WIPO Colloquium for IP Teachers which was being organized that week to discuss a number of IP policy issues including public health and, where representatives of the International Federation of Pharmaceutical Manufacturer's Association (IFPMA) and of the Knowledge Ecology International (KEI) had been invited as representatives of NGO interest. After the presentations from different perspectives, a facilitated debate on the issues was usually organized in which the different interests, pros, cons, and arguments, were exchanged and allowed for a better understanding of the different perspectives amongst participants. The Secretariat stated that following the theoretical debates, case studies and recent cases of jurisprudence were presented so as to demonstrate the policies adopted by certain Member States and allow for discussion on the initial outcome of the implementation of that policy. Concerning the point raised by the Delegation of South Africa on the strategic use of IP in the context of development, the Secretariat stated that it attempted to address the issue in its activities through the presentation of success stories and case studies in developing countries. It believed that such cases were very important given that developing countries had particular constraints related to infrastructure of the programs, and that within those constraints, it was necessary to find realistic and pragmatic solutions, which had already proven to be successful in the area of IP. The Secretariat added that in the case of South Africa, the Hoodia plant case was used to demonstrate the benefit from the successful exploitation of traditional medicinal knowledge shared between the tribes, the government and the pharmaceutical industry. It underscored the importance of that case study and the lessons it provided for participants. The Secretariat stated that based on those

specific case studies, developing countries and participants in the IP education program could learn about the strategic use of IP. The Secretariat concluded that the foregoing were reflections of the recent changes that had been introduced to the program.

142. The Secretariat also addressed the statements made by the Delegations of Pakistan and of Tunisia concerning the non-inclusion of adequate human and financial requirements for the implementation of recommendation 10, stating that it was trying to be as realistic and conservative as possible in its submissions. The Secretariat added that for most of the additional activities it had been proposed that their implementation be done by existing staff of the respective Divisions. It added that the exceptions to that statement would be in the Creative Industries Division where there was one General Service staff and in the SMEs Division, one Professional and one General Service staff. The Secretariat further added that it had tried to keep human and financial resource requests to Member States as realistic as possible and to the minimum, in particular given the linkages between recommendations which were still to be discussed and might require activities that could feed into different recommendations and not only into one specific recommendation. The Secretariat reiterated its willingness to revise its submissions should Member States believe that they were inadequate and that there should be a modification of the requests made concerning funds and/or staff.

143. In response to the comments made by the Secretariat, the Chair stated that, sometimes, the bigger the numbers the greater the challenge of getting approval and that it might be wise for the Committee to start with what it had and recognize that it was just the beginning of the work of the CDIP. He added that there would be more opportunities for the Committee to assess what had been done initially, to consider what additional work needed to be done as well as what additional activities needed to be carried out, and therefore, what additional funds were needed. The Chair concluded that whilst the Secretariat had made a reasonable response to suggestions made earlier on, he believed that it would also be reasonable to deal with what the committee had before it at that moment so as to move the program forward.

144. The Delegation of Tunisia thanked the Secretariat for its clarification regarding the needs in terms of financial and human resources and reiterated its earlier statement that the CDIP was not the PBC, so that 'activities rather than money should be discussed'. The Delegation added that if a given activity needed a certain amount of money, one could mention whether it was realistic or not, however, the CDIP should not be discussing the financial aspects of the activity. It further added that if 10 staff were required then 10 should be indicated and not three. As such the Delegation believed that the recommendation should be revised in order to include what the Member States wished to reach.

145. The Chair stressed that revision would mean non approval at that time, but that it could be revisited at some future time. He recalled that the options were either for the Committee to approve what it had before it or to request the Secretariat to review and assess the additional resources required. The Chair declared that his preference would be to accept what was before the Committee and move on since he was certain there would be opportunities to come back and deal with those issues in the future. The Chair mentioned that a couple of delegations were inclined to await additional information from the Secretariat, and he seemed, therefore, the only one so far to be in favor of working on the present submission. He therefore, called for comments on which of those two options the delegations were most inclined to accept.

146. The Delegation of China believed that CDIP/2/2/INF/1 listed a range of activities which clearly reflected the core ideas of recommendation 10, namely assist developing countries in building their infrastructure, and therefore, it supported it. However, it reminded the Chair that it had raised a question concerning Item 4 on strengthening mechanisms for sub-regional, regional and inter-regional cooperation in the field of IP. The first activity referred to concerned the coordination of IP systems and the Delegation considered inappropriate to include it under technical assistance since the coordination of IP systems did not belong there. The Delegation believed the Coordination of IP systems pertained to norm-setting and legislation work of different countries and, so as to avoid a request for additional human and financial resources, it was of the opinion that it should be moved away from technical assistance.

147. The Delegation of Nigeria reiterated its earlier position regarding the need to take a second look at the financial provision on recommendation 10, especially to meet the scope of activities that were being envisaged in document CDIP/2/2/INF/1. It stated that the reason for this was to avoid any handicap coming in from the inception of the implementation, especially where there was a need for manpower to be sought. The Delegation believed that provision for that Division to source its requirement should be made so that it would deliver in a manner that the Committee would want WIPO to deliver its services to developing nations and LDCs. The Delegation of Nigeria believed that revision would be based on needs and requests from various countries, highlighting that “no country would want to lag behind in the development effort”, especially as far as the Development Agenda was concerned.

148. The Delegation of South Africa wished to link the Chair’s approach of having to move forward, to other approaches that the Chair had mentioned with respect to having a bigger picture. The Delegation believed there was no contradiction there as the Committee could build on what was before it and at the same time have the picture of what it would obtain when it moved forward. The Delegation of South Africa believed that the implementation of the Development Agenda was a process, and that the demand for more activities could increase during the implementation process. It stated that most countries would seek best practices from elsewhere with respect to a particular initiative/project and on the basis of that, the country would make a request for a similar activity in its own country. The Delegation added that it was not something which happened, but that there was a process to it and therefore, it felt that in moving forward there would be an assessment of the entire picture at the same time.

149. The Delegation of Brazil agreed with both the Chair and the Delegation of South Africa that one should move forward. It emphasized the need, however, to think about a methodology of work that would remind delegations that they were dealing with the 45 agreed recommendations and that there were many aspects that overlapped among those. The Delegation added that there were numerous linkages among the 45 recommendations and, therefore, the Committee should move forward as the Delegation of South Africa had mentioned, so as to get a ‘bigger picture’. It further added that a decision to move forward then would not imply an approval and closure on the proposal, but rather would simply demonstrate that a decision to move forward had been made in the interest of having the bigger picture and that at some time in the future an overall assessment of the work program would be made.

150. On behalf of the EC and its 27 Member States, the Delegation of France said that the exercise carried out was a very useful exercise which had enabled the Committee to clearly set out what the two aspects of the plan of action were, namely, aspects of content and aspects

of finance. The Delegation added that the intervention made by the Secretariat earlier on was very useful and believed that it would be necessary to revisit at a later stage the financial aspects pertaining thereto, so as to look at them in more detail and decide upon figures. It added that at the current stage, it was useful to have some idea of the scale of the figures, what the activities would entail, and to ask questions on the content and implementation of those decisions so that the way forward could be made clearer. The Delegation concluded that the work being carried out was very useful and that the Committee could continue along the path it had begun to tread.

151. The Delegation of Tunisia quoted a proverb from Tunisia which said: “one bird in the hand is better than 10 on the tree”. The Delegation referred to that proverb in order to align its thoughts with the Delegations of South Africa and Brazil. It also stated that bearing in mind that the CDIP was a process in motion, it could go along with the proposal.

152. The Delegation of Pakistan agreed with the statement made by the Delegation of Tunisia and sought clarification from the Secretariat as to whether there was a timeframe in mind for reviewing proposals or whether it was open.

153. The Chair emphasized the fact that the implementation of the Development Agenda was a process and that the implementation of recommendation 10 was also a process. He stated that delegations had mentioned the importance for the Committee to move through the 45 adopted recommendations so as to get the bigger picture, reminding at the same time that there were indeed overlapping recommendations. The Chair believed that the Committee had been brought together with tremendous cooperation, good spirit and good faith, in firstly adopting the recommendations and then moving forward. He conveyed that he had every confidence that the future of the work was assured and that at no time, whether under his Chairmanship or his successor's, would there be a situation where the Committee would reach an impasse, the issues having already been dealt with. He expressed his anxiety to see the bigger picture, to get to recommendation 45, to obtain the approval of the PBC and of the WIPO General Assembly as the Committee went through its work, and to see the implementation of their work. He concluded the discussion on recommendation 10, saying that the committee had broadly approved the activities and requirements of human and financial resources, subject to the budgetary procedures.

154. The Chair then moved to recommendation 1 in the list of 19 discussed in March, and requested the Secretariat to introduce document CDIP/2/2 which contained the revised text for consideration.

#### *Consideration of Recommendation 1 in the List of 19*

155. The Secretariat indicated that the revised text for recommendation 1 in the list of 19 dealt with certain guiding principles for WIPO technical assistance programs, as well as with the delivery mechanisms, design and evaluation processes of the programs. In the earlier text, there were a lot of details and information about specific activities which the Secretariat had proposed to take up in order to implement the recommendation. Based on the comments made by Member States during the first meeting of the CDIP, the text had been revised and divided into two broad categories. The first part dealt with the overall strategy for implementing those programs, while the second part concerned the mainstreaming of principles. The revised text was available for comments and adoption. No assessments had been made for additional requirements of human and financial resources, as it was from the list of 19 agreed recommendations.

156. The Delegation of Brazil requested some clarification with regard to paragraph 8 of the Summary Report for the March Session. Its understanding was that agreement had been reached for the 19 Recommendations for immediate implementation, and that the Secretariat had to provide a progress report aligned with any suggested changes or new activities for the July Session of the Committee. It believed that the progress report was being released for recommendation 1 and wondered when the overall report regarding the 19 Recommendations would be made available.

157. The Secretariat stated that it had been decided to discuss recommendations in the list of 19. A progress report or revised text was available in certain instances, with revised texts provided for every recommendation based on the discussions held in the meeting. The recommendation which had been discussed in the last formal session – and also those considered in the informal session – mainly dealt with certain general guiding principles and objectives which the Secretariat had to bear in mind while implementing its activities. Again, there had been a long discussion on mainstreaming principles into the activities and programs of the Organization and various options had been previously suggested by Member States. It had been decided that the Secretariat would look at them and then come up with certain options for the next meeting. That could be considered as a progress report in the sense that they had taken into account whatever had been discussed the last time and come up with a revised set of recommendations, which were then up for discussion, consideration and approval. The 19 Recommendations were for immediate implementation and at the following session of the CDIP, there would be a more comprehensive report on how they were being implemented.

158. The Delegation of Sweden fully associated itself with the statements made by the Delegation of France on behalf of the EC. The Delegation wanted to make some observations on the implementation of recommendation 1, as a perspective of some specific WIPO-Sweden activities. Since 2004, the Swedish International Development Cooperation Agency fully financed each year three IP programs. Each program had around 25 participants from developing countries and LDCs. The programs were organized in cooperation between WIPO and the Swedish Patent and Registration Office. Each program included a three-week session in Stockholm and, six months thereafter, a follow-up in one of the participating countries. A key element in those programs was the design and implementation of the so-called country projects, managed by the participants themselves under the guidance of a Swedish contact person. To that day, around 250 country projects had been designed and implemented in the course of the programs, dealing with a great variety of issues, such as the revision or drafting of IP legislation, awareness creation activities, upgrading of IP Offices, creation or upgrading of collective management organizations, improvement of enforcement mechanisms, formulation of IP policies, etc. All these country projects were based on initiatives from the respective developing countries themselves. They were consequently both development-oriented and demand-driven and tailored to the specific needs of the country concerned. The Delegation was happy to announce that the three yearly programs had received funding in order to continue until the year 2011. This meant that when the cycle would come to its end, 24 programs would have been completed with around 600 persons from developing countries having participated in those programs.

159. The Delegation of Algeria declared that for the African Group, the recommendation was an important one since it included some very important principles such as transparency and that said principles were development-oriented. Although those were in fact one of the main elements of the Development Agenda, it was glad to see that the Secretariat's proposal

reflected the element raised by the African Group and by others. As it stood, the document was giving more clarity, and the African Group was therefore, ready to accept it.

160. The Delegation of the United States of America recalled that in the past it had been broadly supportive of recommendation 1, which suggested the important role of technical assistance and capacity-building in meeting the needs of WIPO Member States using IP as an instrument for economic and cultural development. The question before the Committee had never really been the ultimate objective of the recommendation, since it had attracted a great deal of consensus. Rather, the question had been “What should the specific means for delivering that message be, with respect to technical assistance”. In the first Session of the Committee, a set of vehicles had been discussed, which did not seem to meet the same broad consensus. The Delegation was pleased about the revision of recommendation 1, it had been improved and had been refined to reflect the Committee’s thinking about the vehicles for delivering the message. That being said, the Delegation believed that certain vehicles could have benefited from further clarification. In particular, on page 2 of document CDIP/2/2, the vehicles discussed included an Office Instruction to all WIPO staff and consultants. The Delegation was certainly not quite familiar with what an Office Instruction looked like, or whether, in fact, it was the appropriate vehicle for discussing that message. The Delegation also noted that, in (a) and (c), they talked about a new guide or manual on technical assistance. The Delegation thought that the deliberative body would have something to say about the scope and nature of such an important document, but it looked like it was an issue for on-going discussions within the body. Likewise, in (b), there was a general discussion of future policy documents. It seemed appropriate yet the Delegation called for further discussion on what these vehicles were.

161. The Secretariat clarified that an Office Instruction was similar to what the UN system called an Administrative Instruction, issued by the Secretary General. In WIPO’s environment, the Director General was sending out Office Instructions to complete, for example, the staff rules and regulations. There was at the moment a document circulating in-house for comments from the Legal Office, and from the different units, asking the consultants or short-term contractors to have the obligation to abide with the staff rules and regulations, as follows: “All contracts of short-term employees including consultants and national experts shall contain the following provision on standards of conduct: the standard of conduct for the international civil service adopted by the International Civil Service Commission in 2001 and approved by the United Nations General Assembly and noted by the WIPO Coordination Committee in 2002, document reference WOCC/48-1, are expressly incorporated into this contract, as all the WIPO staff regulations and staff rules and policies relevant to conduct and obligations. Contracting employees are reminded of their obligations under WIPO Staff Regulation 16 on activities and interests outside the International Bureau. Copies of the text shall be provided to the employees.”

162. With regard to the second point of the intervention from the Delegation of the United States of America, dealing with the new guide on technical assistance, the Secretariat stated that the idea was simply to put together in the same document all the information pertaining to the procedures, processes and instructions, as well as all the different modalities of implementation of assistance that existed in the Organization. It highlighted that so far there had never been such a document. If somebody came to WIPO and tried to get information regarding the manner in which all the expertise that existed in-house was presented, the risk was that several kinds of documents would be put out. The idea was to have a compendium which would contain all the documents including, first and foremost, the very principles that had just been enunciated including the information contained in the so-called Office

Instructions. The Secretariat would attempt to go beyond that and try to be as descriptive as possible regarding the various modalities put together to implement technical assistance packages. That would cover all the different areas like, what was an evaluation, and there would be a lot of explanation regarding the evaluation, or evaluation with the support of a country, it would cover what were the different types of implementation regimes that existed. The intention was to have one single document which, when presented to all the various persons interested in the technical assistance work of WIPO, would become their reference material. Such guidelines existed in other UN Agencies, namely the United Nations Development Program (UNDP), the United Nations Children's Fund (UNICEF) and the Office of the UN High Commissioner for Refugees (UNHCR).

163. The Delegation of the United States of America wished to raise two additional questions, with the first one relating to the Office Instruction. There had been an exchange of views on the Office Instruction during the informal session and, in part to bring the benefit of that discussion into the room, the Delegation simply asked to confirm once more the question it had raised. As a matter of course it would have been important that the contract provision would be inserted into all contracts, whether the consultant was working on technical assistance proposal or something totally unrelated to technical assistance. The Delegation wished to confirm that uniform treatment. The second question related to the fact that any guide or manual might have been very important if they were to refer to general principles or core principles. In fact there had been no opportunity so far to abstract or to discuss any distillation of that agreed language, so that report language referring to "core principles" or "general principles" was rather loose and informal short-hand.

164. The Secretariat confirmed that it was its intention to put the said paragraph in all contracts.

165. The Chair called for some clarification by the Delegation of the United States of America on those texts. The text was based on what had been discussed in the previous formal session, and discussions were taking place in a formal session, with the expectation that the outcome of the discussion would lead them to formally adopt the text. The Chair declared that he had hesitated when hearing the word "informal" in the last intervention. He wondered if the Delegation of the United States of America would be happy with that, when agreement was reached on the text, it would become a formal text of the CDIP.

166. The Delegation of the United States of America agreed that it was a part of the process in which they were engaged, and that the recommendations were the mainstreaming principles. However, what it was questioning was the use of the phrase "general principles", "principles" and "core principles", which it considered ambiguous. Its suggestion was simply that in the proposed manual no further extraction of these principles be undertaken, but rather refer to the negotiated text in Item 1 in Cluster A. The Delegation believed it was the agreed adopted language and as such had to ensure that said language was included in the manual. Further, the Delegation said that, for the sake of advancing the discussion, the lack of clarity it was referring to in Item (a), (b) and (c) could be cleared up as follows: rather than referring in different senses, to different terms with no clear reference, "general principles", "core principles", so on and so forth, they could refer to those principles set forth in recommendation 1 of Cluster A to give it the kind of precision that was warranted. It hoped to stimulate some discussion on that point, but if they were looking for a vehicle for discussion, it would be a suggestion for giving the kind of precision that was needed and would capture the nature of the debate to that point of the discussion. It stated that they had not had a discussion about core principles. In other committees in which the Delegation had

worked in WIPO, many long sessions had been devoted to distill core principles. Here, there was a set of heavily negotiated recommendations that had been approved and adopted. The avenue for consensus was to point to the adopted language rather than to characterize it. To characterize it they would need to enter into a debate.

167. The Delegation of Brazil believed they had moved forward, but it seemed that they needed to get back to the recommendations, as far as that recommendation had been extensively discussed in the March meeting and also in the informal session. The way the Secretariat had reflected the activities to be carried out under that recommendation was satisfactory. With regard to the last intervention from the Delegation of the United States of America, it considered as very important to keep the word “principles” and the way the word “principles” showed up in that document was precise. There was another reference, in the last paragraph, to “the core principles contained therein.” The Delegation claimed that the word “principle” was not used in a vacuum; they were using it saying that they were principles derived from the Development Agenda. The Delegation said that it knew that the word “principle” came from Latin. It understood very well what the word meant and in this context, they were dealing with the first recommendation of the Development Agenda. “Principle” meant what was in the beginning, so the Delegation was satisfied with the word “principle.” The Delegation suggested that the language be left as it stood.

168. The Delegation of Argentina considered that the principles of technical assistance were in recommendations 1, 6 and 13.

169. The Chair stated that on the second page of the document, the word “principles” appeared four times with, at the bottom of the page, “principles” qualified with the adjective “core”. The Chair wanted to understand whether the word “principles” gave rise to a problem or if it was the “core” that described “principles” that gave rise to the problem. The recommendation had identified “principles”; certainly “principles” were to be development-oriented, demand-driven and transparent. So was it the adjective “core” that aggravated the problem or was it the use of the word “principles”?

170. The Delegation of the United States of America was happy to clarify their concern. It explained that its point was simply that without a discussion, it certainly would have been difficult to characterize “principles”, whether the characterization was “general principles” under (a), or “core principles” under (c). The characterization of principles without a discussion or consensus was a point of concern. The other point of concern was that there was not even consensus on where the core or general principles resided. Some delegations thought that they resided in recommendations 1, 6, and 13. Other delegations believed they resided in 1, 13 and 15, and still there might have been other interpretations. That lack of clarity was somewhat unsettling, but perhaps one that could be remedied. To sum up, the Delegation was concerned about a possible characterization without discussion and consensus, whether it was “general” or “core”, and it stood by its position that “principles” if they existed at all as documented, ought to point to agreed-upon language, and that one ought not move beyond that, unless there was consensus to do so.

171. The Delegation of Algeria said although it understood the point made by the Delegation of the United States of America, it did not agree with the said Delegation when it declared that the issue had not been discussed before, since it had been one of the main issues discussed during the entire process. Right from the beginning, during the deliberations and negotiations on the Development Agenda, a kind of methodology to distinguish the principle from the actionable recommendations or proposals had been sought. At some point, an

agreement had been reached to divide the model documents between “actionable” and “principles”. Following agreement on the different proposals, some actionable proposals and some principles had been put together, and it was agreed to put all the general principles on some recommendation, and one of them was recommendation 1. The issue of principles had already been truly discussed, and what was meant by “principles” had been agreed upon at the time. When the Delegation saw the use of “general principle” in the literature of the Secretariat, it knew what it meant because in its mind it had been agreed at one time to divide those recommendations and those proposals to “actionable” and “principles”.

172. The Delegation of South Africa stressed that providing the background as to where these principles were coming from, back to the PCDA, would indeed help characterization to avoid wasting time. The Delegation also suggested that maybe characterization of “core” could be avoided and just move with the general principle. It had been the general principles that had appeared in the previous working documents. They may not have found the core principles, but they could move forward.

173. The Delegation of Cuba supported the statement made by the Delegation of Brazil regarding recommendation 1 and considered that the document should remain as it stood.

174. The Chair asked if they could resolve the issue by agreeing that principles should point to the agreed language in the adopted recommendation. Any document, any paper, any instruction, any principle used in those documents should use the agreed language, which was the language of the adopted recommendation.

175. The Delegation of the United States of America believed that it was the way to consensus that principles not be qualified and that when the word “principles” appeared in the text, it would simply point to the agreed language. It considered that as being eminently reasonable and entirely consistent with the negotiating history for those recommendations.

176. The Delegation of Brazil indicated that it did not understand the proposal from the Chair, but could go along with it. It declared that the Chair had not qualified the word “principle” because it did not need qualification, yet when the word “principle” was used, it should point out to the agreed language. The Delegation wondered what the Chair was envisioning.

177. The Chair first suggested dropping the word “core”. Using as an example of recommendation 1, the principles in that recommendation would be development-oriented, demand-driven, and transparent. Looking at some other adopted recommendations one could see similar, different kinds of words that could have been interpreted as “principles”. Since he did not have recommendations 13 and 15 before him, and that the Delegation of Argentina had mentioned recommendation 6, it would not have been unsafe to say that any word used in the already approved and adopted recommendations that they wished to use elsewhere as “principle” would not serve the process that they were into, because they had agreed with that language before. He could only go back to that example, development-oriented, and it was a principle. Adopted recommendation 6 stated that “consultants shall continue to be neutral and accountable”. Those were two words that described principles that would apply to consultants. The other one was recommendation 13 that stated that “WIPO’s legislative assistance shall be development-oriented and demand-driven”. Going through the adopted recommendations, they could see the language that could be described as principles and his understanding was that the Delegation of the United States of America had called for the principles to be identified with the language that was already adopted.

178. The Delegation of Brazil agreed with the suggestion of the Chair, according to which whenever the word “principle” was used, it would point to that specific recommendation where those principles were contained. Yet the Delegation could not agree with going through the document and replacing the word “principle” whenever it appeared.

179. The Chair clarified that he did not think that there had been any call to change the language in adopted recommendation 1. There had been call for a discussion to bring clarity on what was meant by “principles”. The only change in the text would be a deletion of the adjective “core”, but the text would remain as it stood.

180. The Delegation of the United States of America said that the Chair had expressed the emerging consensus precisely. It pointed out that the qualification of the core principles existed in one other place. The word “general” was used in paragraph (a) and as the Chair had pointed out, the word “core” appeared in the second sentence of paragraph (c). With that minor clarification, the Delegation believed that the Chair had found the way forward and hoped that both would be removed.

181. The Chair confirmed that “core” and “general” would be removed.

182. The Delegation of Argentina requested some clarification. It wondered if, on recommendation 6, the examples were going to remain in the text, for example, if recommendations 13 and 15 and so on, were going to remain in light of what the Chair had declared earlier on recommendations 1, 6 and 13, where he had referred to the principles of technical assistance.

183. The Chair said that he did not anticipate any problems by including recommendation 6 as it dealt with neutrality and accountability in respect of consultants. They would retain recommendation 6 in the text if there was no objection to that. With that, the Chair said that the activities proposed for implementing recommendation 1 was accepted with the modifications. The Chair then turned the attention of the committee to recommendations 3, 4, 6, 7 and 11 in the list of 19, which were discussed in the informal sessions in April.

#### *Consideration of Recommendation 3 in the List of 19*

184. Initiating the discussion on recommendation 3 in the list of 19, the Secretariat recalled the need for promoting and developing an IP culture and generating greater awareness about IP among the public, objectives that could notably be achieved through a series of activities or awareness-raising events on the role that IP played in development, and through the promotion of a balanced dialogue and informed discussion on IP issues. In turn, those objectives could be achieved through an interaction with various national and sub-regional stakeholders, through various programs and activities. The Secretariat stressed that an indicative list of such stakeholders had already been made available, clarifying that the list was open-ended and merely an indicative list of public institutions, IP stakeholders, judiciary, journalists, creative industries, university and research centers, etc. It added that a second sub-element also had to do with the improvement of WIPO’s role as a primary source of IP information. In effect, WIPO could be repositioned as the main source of information pertaining to IP by having an innovative and differentiated information product that would be designed to meet the varying needs of a broader and diverse audience. The Secretariat pointed out that the text made reference to media communication strategies and country-specific products that might be designed in the languages of the relevant countries. It

also made reference to an outreach strategy that would make use of all the available means of information and communication, including audiovisual documentaries, that would help creators and inventors understand the economic value of their works. With regard to the second item on page 2, 'Introducing IP at different academic levels,' the Secretariat recalled that it had started dealing with universities because these were important academic institutions alongside with IP Offices. It noted that in most countries, universities had a very limited program, if any, on the general aspects of IP. The Secretariat further believed that before discussing the developmental aspects of IP, it was necessary first to teach the basics of IP, namely, what IP was all about, why it was important, and how it was used both in the civil society and in the business world. It added that the Secretariat was currently working with selected universities to offer joint degrees and diplomas, as specifically indicated in the document under consideration. Some examples included the joint project with the Turin University, in association with the International Labor Organization (ILO), which also received financial assistance from the Italian Government. Similarly, Lund University in Sweden had cooperated with WIPO for several years to offer a Master degree of IP. In the developing world, the Secretariat also mentioned the joint program of the University of South Africa and the Indira Gandhi National Open University in India. The Secretariat indicated that those were the initial and first examples of WIPO's cooperation at the university level, and mentioned that with additional funds and resources, both human and financial, the Academy planned to expand its activities within the framework of the Development Agenda in view of the enormous demands and requests from universities for advice on *curriculum*, pedagogy and teaching material. In order to provide more training and teaching materials, the Secretariat had developed, with the assistance of experts in IP teaching, "Teaching of Intellectual Property, Principles and Methods", published by the Cambridge University Press of which several copies were to be distributed to the delegations. The Secretariat clarified that it was just the initial step towards the customization of teaching materials in accordance with any particular needs and interests of different countries. It further indicated that WIPO was very much aware of the fact that there was neither a one-size-fits-all model, nor a one-size-fits-all standard text books, but at least there would be significant teaching material on the basis of which WIPO would elaborate and customize the content together with different countries.

185. Still concerning the second paragraph, in order to promote international cooperation among the IP academic institutions, and reaching out to different levels, WIPO had also established an international forum called the 'Global network of IP Academies', as the fruitful result of the conference which had taken place in Rio de Janeiro, Brazil, in March 2007. The Secretariat indicated that within such a framework, in a second conference held in Beijing, China, in June 2008, participants had agreed upon a very much action-oriented program in line with the recommendations of the Development Agenda, and that the proposed activities would be implemented one by one together with the members of the Global Network of IP Academies. The Secretariat further indicated that the last part of the second paragraph discussed dealt with the Distance Learning Program, a very successful program which had been designed for mass education. In the past two years, 40,000 students around the world had been trained in the different UN languages, namely the six official languages plus Portuguese, and WIPO planned to expand the distance learning courses to include specialized courses designed for the development of skills on IP management. Finally, still within the framework of the Distance Learning Program, the Secretariat indicated that WIPO had launched and had started to prepare a new distance learning course for school children called 'IP for Kids', an area of the distance learning course that was absolutely necessary to be able to complete the coverage of the different academic levels.

186. The Delegation of Argentina inquired about a possible letter containing the Committee's recommendations on the proposed activities that would be sent to the Chair of the PBC.

187. The Delegation of the United States of America wished to raise a general comment, which would maybe be covered at a later stage, since the question had arisen as to whether such a particular proposal would require a specific letter to the PBC. On the basis of the presentation made by the Secretariat earlier that week, its understanding was that the PBC review was required for all recommendations and the Delegation, therefore, called for some additional clarification on that point.

188. The Delegation of Brazil indicated that it fully supported the intervention made by the Delegation of Argentina and also thanked the Secretariat for having presented a very extensive list of activities that could be carried out under recommendation 3. In its opinion, the main thrust of the recommendations was that it was necessary to increase human and financial resources for development and related activities. The Delegation observed that the recommendation indeed read 'increase human and financial allocations for technical assistance programs in WIPO'. The Delegation referred back to the presentation made by the Secretariat on budgetary and procedural issues, and indicated that in its view the present Committee could be making a big confusion in relation to something that was well established. In its understanding, the proposal for the budget was prepared by the Secretariat and then submitted to the PBC, which in turn would then pass it on to the General Assembly. As it understood it, if the budget was approved by the General Assembly, and if such a budget recommended that five million Swiss francs be allocated to the implementation of the Development Agenda, the present Committee had the possibility of discussing how to 'sub-allocate' that money. The Delegation observed that they were already doing so with regard to the 26 agreed recommendations. Regarding the proposal that a letter of the Chair of the CDIP be sent to the Chair of the Budget Committee, the Delegation believed that such a letter would make the Chair of the PBC aware of those recommendations and also aware and sensitive to the need for increased human and financial allocations to the Development Agenda.

189. The Chair suggested avoiding the details of the PBC issue, but declared that due note was taken of the argument made by the Delegation of Brazil. In the Chair's view, the letter in itself was not a problem, it was rather the relevance of such a letter which was the issue. He recalled that in an earlier session, the Committee had gone through a provision involving a couple of million dollars in proposed funding and that no one had raised the question about a letter. He did not wish the Committee to be held up too long on the issue of sending a letter to the Chair of the PBC. He stated that although he could certainly send such a letter, he wondered about its relevance in the context of the whole picture. The Chair also pointed out that if he wanted to be credible he had to write a letter only when necessary, adding that if the first letter he wrote was seen as a "nuisance letter" rather than a "serious" one, he would lose all his credibility from day one. He therefore, wished to ensure that the CDIP was sending him in a direction that was for the benefit of the Committee in the long run. He questioned whether the Delegation of Argentina was satisfied with the idea that such letter might not be absolutely necessary.

190. The Delegation of Argentina indicated that it was not that such a letter was absolutely necessary, but that in its view the letter would nonetheless be important in order to raise awareness of this issue and to allow the PBC to take due account of all the decisions taken within the CDIP.

191. The Delegation of Brazil indicated that it was not its intention to request the Chair to write a “useless” letter, but should the Chair consider thinking the other way around he would understand what some delegations were trying to achieve through such a letter. The Delegation of Brazil clarified that it was simply to make the PBC aware of the need for increased human and financial allocations. The Delegation agreed with the Chair’s views that the Committee might step back to identify what other instruments could be used to make the PBC aware of the conclusions of the CDIP. The Delegation recognized that it was not an expert in WIPO procedures, but suggested that the Chair probably could, in his capacity, address the Chair of the General Assembly instead of the Chair of the PBC, as it was the Delegation’s understanding that the General Assembly had the role of overseeing the work of all the committees. The Delegation also admitted that the idea that the Chair of one of the permanent committees would address directly the Chair of another permanent committee could seem strange. Nonetheless, it believed the best way would be to go through the President of the General Assembly and if a letter was not the best way of communicating, then the Chair could orally address the Chair of the General Assembly, at their mutual convenience, to transmit the message that an increase in human and financial resources was much needed.

192. The Chair took due note of the suggestion made by the Delegation of Brazil.

193. The Delegation of India wished to leave the issue to the Chair’s judgment as to whether it would be appropriate to carry the recommendations forward or not. The Delegation also indicated that it needed to reflect on the question of whether a communication should go to the PBC or to the General Assembly, and recalled that all the recommendations of the Committee had to go to the General Assembly for approval and thereafter for implementation, and that even the PBC recommendations had to go to the General Assembly for further approval. The Delegation indicated that the other issue was not only related to the financial resources component of the recommendations, that what appeared to be more important was to reflect and devise a modality for putting into shape the final recommendations of the Committee. The Delegation went on to say that fortunately there would be a WIPO General Assembly before the PBC meeting, which also meant that the recommendations of the present Committee would go to the General Assembly before their submission to the PBC meeting for revision of the budget. In that case, the PBC would want to take note of the recommendations of the General Assembly that would have already adopted the recommendations of the CDIP by then. In a more general sense, the Delegation observed that the Committee had to devise a proper mechanism for the implementation of the recommendations, even for those cases where no financial or human resources were required.

194. The Chair wished to reflect on the proposal made by the Delegation of India, and declared that he would find an appropriate way of communicating with the Chair of the General Assembly. He nonetheless clarified that he would discuss all the issues broadly with him, and that he would not focus on a particular issue because he still did not see the advantage of addressing any specific issue either by letter or verbally. In his view there were other issues of wider relevance to the work of the Committee. The Chair then said that the committee had approved the revised text for implementing recommendation 3 and suggested moving on to the adopted recommendation 4.

*Consideration of Recommendation 4 in the List of 19*

195. Initiating the discussion on recommendation 4 in the list of 19, the Secretariat indicated that over the past eight years WIPO had focused on a strategy of creating content in a language and in a manner that was suitable to the needs of the enterprise sector. Such content had been gradually developed and made available first and foremost through its website and to the extent possible, made available in the six UN languages. The Secretariat indicated that given the nature of the SME Sector, there had been a need to translate such content with or without adaptation to the national context. The Secretariat added that a number of case studies and best practices which had been collected had also been archived on the website. It clarified that the case studies pertained to the actual use of the IP system by an enterprise in its business strategy, while the best practices pertained to what the SMEs support institutions were doing to create awareness and capacity of the enterprise sector to make an effective use of the tools of the IPRs system in their business strategies. The Secretariat added that a large number of workshops and seminars for awareness creation and capacity-building had also been also held, and that all the presentations made at such events had also been archived on the website. It also mentioned the monthly electronic newsletter which was sent out as much as possible in the six UN languages to a total of some 26,000 subscribers. The Secretariat pointed out that in addition to the content directly available on the website, there were also links to 10 external links carefully selected for their business relevance. The Secretariat also mentioned that it was in the process of adding further modules in the series, one on trademark licensing and the other on IP valuation. In the 'IP for Business' series of publications – also accessible on the website - four publications were already available and at least two additional publications would be added by the end of the year, one on trade secrets and the second on franchising. The Secretariat further indicated that, for WIPO, the key challenge was the access to such information in all countries, and more particularly in developing countries and LDCs which did not have access or adequate access to the Internet. Hence, it was necessary to make such information available either on CD-ROM or on paper. More importantly, if businesses and business support institutions in some countries were not aware of IP, then WIPO was required to team-up with partners in those countries to help the local SMEs support institutions in creating awareness amongst the enterprise sector on the possible use of the tools of the IPRs system in their business strategies. With reference to the item of recommendation 4, concerning 'WIPO's strategy for universities and research institutions', the Secretariat recalled that WIPO actually had a strategy and had undertaken numerous activities to enhance the IP creation, protection and commercialization within universities and research centers of developing countries and economies in transition. Research centers and universities were very important sources of knowledge creation in those countries and WIPO had been giving special attention to those kinds of institutions, it added, with WIPO receiving several requests from universities and R&D institutions to assist them in the development of their IP institutional policies. A guide on how to implement such institutional policies had been developed for that purpose and would probably be published early September. The Secretariat also stressed that, together with the guide, WIPO had already been implementing four-day workshops in different countries such as Nigeria and Hungary. It was also indicated that WIPO had just implemented a workshop that followed the guide and dealt with issues of ownership, benefit sharing, and how to structure technology transfer offices within universities and research centers. Other initiatives had to do with training programs for professionals that wished to work within technology transfer offices in universities and research centers, and specific training programs such as the licensing program, the patent drafting program and the IP evaluation on IP marketing program had also been designed for that purpose. The Secretariat also mentioned the pilot project that WIPO had developed in Colombia and Central Africa, which fundamentally consisted in organizing the implementation of IP institutional policies and the training of professionals who wished to work in technology transfer offices. The Secretariat further indicated that WIPO's program

for developing and supporting creative industries operated on two levels. The first level was to support research institutions and governments that wished to assess the potential of their creative sector, with such technical assistance based on the methodology that had been developed by WIPO six years before and which had been successfully implemented in 17 countries. The Secretariat mentioned that WIPO was at the time engaged in the preparation of nine additional surveys and that it had received over 10 requests for the conduct of new country surveys. It stressed that the result of those surveys was a quantification of the contribution of the creative sector to the national economy in terms of job creation, value added, and trade generation, and that such surveys were highly appreciated by the Member States as they could be immediately used for purposes of adjusting policies related to the development of the creative sector. The Secretariat also indicated that WIPO's work in that area would build upon the results that had already been achieved in such quantification exercises and that WIPO was also looking into developing new tools based on the feedback received on the country surveys. It added that those new tools would address issues such as appropriate data collection or assessing the impact of missed opportunities, in other words, the impact of piracy levels in those industries. The second level of WIPO's program for developing and supporting creative industries consisted in providing assistance to the specific individuals working in the creative industries through the preparation of various tools and guidelines. WIPO had received very positive feedback on such tools and several requests for the preparation of new products have been received, mainly from developing countries. In consequence, the Secretariat highlighted that WIPO would now try to design country-specific programs that would also be based on the empirical evidence collected in the course of quantification exercises in some of those countries.

196. The Delegation of the United States of America was pleased to support the activities proposed for the implementation of recommendation 4 which focused, among other things, on the important role that small and medium-sized business enterprises played in economic development, including their role in fostering local creative industries. The Delegation observed that in many countries the place to begin the job of national wealth creation was with creative and inventive individuals, and small and medium-sized businesses. The Delegation specified that in the local creative sector of developing countries, creative individuals and small and medium-sized companies were or had to be at the very center of local entrepreneurial activity. In the Delegation's view, such local creators and small companies had the potential, although they faced grave challenges, to generate revenue at home, create jobs where they were needed, and increase the tax base. The Delegation believed that many, if not all, of the activities set forth in the recommendation served that important objective.

197. The Delegation of China recalled that recommendation 4 suggested that more attention be given to SMEs and that additional assistance be provided to the Member States for purposes of developing an IP strategy. In the Delegation's view that was a very important activity that had to be strengthened by WIPO. The Delegation pointed out with regard to the creation, protection, and management of IP, that a distinction had to be made between different enterprises as it was commonly known that the big enterprises were doing very well in spite of IP. In other words, what seemed fundamental was to provide additional assistance to SMEs. The Delegation stressed the fact that a great deal of work in that field had already been achieved in China in cooperation with WIPO, however, the Delegation also mentioned that in China 98 per cent of the enterprises were SMEs which were not familiar with IP and, therefore, needed further guidance. The Delegation, therefore, believed that WIPO had to increase its financial resources in order to meet the increasing demands of the Member States and further support SMEs.

198. The Delegation of Japan also wished to support the direction given under recommendation 4 as it attached the utmost importance to the development of SMEs. The Delegation nonetheless requested additional information on the item dealing specifically with the ‘collection and sharing of best practices and case studies’.

199. The Secretariat indicated that as concerned best practices, these were available on the website. It underlined that almost every second year WIPO asked the national IP Offices to provide an update of what was happening on the field. Further, over the last six years, WIPO had been convening annual fora for the IP Offices and other SMEs support institutions and, in that regard, the Sixth Forum would take place in the middle of September. In the same manner, WIPO also requested its partner institutions, whether they were IP Offices or not, to provide the Secretariat with additional case studies. It also indicated that when it came to national strategies and studies, WIPO carried out studies in a few countries with a view to understanding the overall national SME development strategy in order to elaborate and propose a nationally focused action plan (NFAP) for the country, and that WIPO had already provided such assistance to Mongolia and Nepal, with the key challenge in those countries being to designate a person in each province who would be able to act as the institutional officer for supporting SMEs.

200. The Chair believed that agreement had been reached on the proposed activities as revised in the adopted recommendation 4, and asked the Secretariat to move to recommendation 6.

*Consideration of Recommendation 6 in the List of 19*

201. Introducing adopted recommendation 6 in the list of 19, the Secretariat informed the Committee that since its last report to the informal meetings held in April 2008, work on the improvement of the integrity and ethics framework in WIPO had considerably progressed. The review undertaken so far regarding the WIPO systems of procedures had led to the preparation of a draft report by the expert consultant hired to support the initiative. Although the review was not yet complete, some interesting comments and observations had been received and the review was now in the process of completion and was undergoing internal analysis. Work was also continuing on the financial declarations and disclosures policy. Moreover, design of forms for advisory notes on implementation of the Staff Regulation requirement for disclosures for Directors was being developed with terms of reference and a concept for an Ethics Officer or similar function in WIPO to be considered by Senior Management. The Secretariat also informed the meeting that a roster of consultants for technical assistance was under preparation.

202. The Delegation of Brazil wished to receive clarification on the code of conduct following the briefing of the Committee by the WIPO Internal Auditor on the same subject. The Delegation stated that it was maybe trying to navigate through all the papers it had been provided with and, therefore, had not listened to the Internal Auditor’s presentation quite well. The Delegation had read the part of the document dealing with the activities foreseen for this recommendation, but had not found any mention of the code of ethics as compared to recommendation 6 where there was a clear reference to it. The Delegation asked whether the code of ethics document existed in WIPO or not.

203. The Secretariat believed that what the Delegation of Brazil was referring to was what was required from WIPO to adopt a Code of Conduct that would meet the international

standards and provide guidance and advice for staff on ethical and integrity issues. The Secretariat stated that the formulation of such a WIPO Code of Conduct was under study and indeed looked at the UN practice in order to see how it would fit into the existing WIPO Staff Rules. The Secretariat confirmed that there was at the time no such Code of Conduct in WIPO, but that the plan was to prepare one and make it specific to the Organization.

204. The Chair said that the committee had approved the text for recommendation 6 and requested the Secretariat to initiate discussion on recommendation 7.

*Consideration of Recommendation 7 in the List of 19*

205. The Secretariat introduced recommendation 7 in the list of 19, relating to IP and competition policies, noting that it had been discussed at great length during the informal consultations in April 2008, during which a request for an information note to be prepared by the Secretariat had been made to elaborate, both in terms of technical assistance and legal advice, the different activities undertaken by the Secretariat in the field of IP and competition policies. The document was now available and provided extensive information on the subject of the interface between IPRs and competition policies, in the context of WIPO's technical and legal assistance activities. The Secretariat noted that the issue of competition was also addressed in other recommendations, notably in recommendations 22, 23 and 32, but that they were not related to the subject matter under discussion, namely technical assistance and legislative advice. The Secretariat emphasized the fact that the activities that were developed under the umbrella of technical assistance in this area were standing activities, but undertaken upon the request of Member States. The Member States were fully involved in the process of discussions taking place between WIPO experts and relevant authorities in the concerned countries, countries which decided the manner in which the legislative assistance should be framed and made part and parcel of the range of activities that were to be conducted within a given timeframe. The document provided an outline of a number of meetings which had taken place in the past in different parts of the world and which had, directly or indirectly, touched on issues of IP and competition policies. The Secretariat stressed that there had been very few requests made for assistance relating to issues of competition policies and interface with IPRs. It declared that this was likely not to remain the case in the future as more and more requests would be made for WIPO to provide assistance to interested Member States in this area. It, therefore, mentioned that a number of suggestions on possible initiatives for the implementation of the recommendation under review had been made by the Secretariat as it foresaw an increase of activities in the area of legislative assistance upon request by Member States, and by way of events which would be organized on a regional or inter-regional basis. The Secretariat further noted that it had been the common understanding that IP was an integral part of a sound competition policy which underscored the essential interrelation between IP and competition law. IP could effectively perform its function only in a competitive environment and competition thrived only where there was a functional IP regime, it believed. So far, in this context, no specific requests on assistance or advice on how to use competition law relative to IPRs had been received from Member States. An initiative to provide assistance and advice to Member States would be taken which included some of the issues outlined in the Informal Note on adopted recommendation 7, the Secretariat further indicated. It, therefore, suggested establishing an assistance program to address and fight anti-competitive practices by means of using IP mechanisms that were available in the Paris Convention as well as in the TRIPS Agreements, and also - very importantly - to undertake future activities to establish mechanisms for the monitoring of anti-competitive clauses in licensing agreements. The Secretariat highlighted that this could result in new burdens for some national administrations because many of the WIPO Member

States did not have in place national competition policy authorities needed to monitor anti-competitive practices and licensing agreements, both of which were either done by the national IP Office or by the competition authorities. WIPO would be engaged in consideration of these issues, it added. WIPO had already commissioned a study prepared by an expert from Brazil whose conclusion had thrown light on the interrelationships between IP and competition law. The study was expected to be published by the end of 2008. The Secretariat stressed that WIPO was also considering organizing meetings specifically on IP and competition policy, with the first of such meetings to be organized in cooperation with the TACB Sector and the Government of the Republic of Korea, in Daejeon, in October 2008.

206. The Delegation of Pakistan wanted to know if WIPO had any plans to convene discussions or hold seminars on the interface between IP and competition policies in Geneva. The Delegation noted that during different negotiations in WIPO, this interface had come up, citing as an example the last SCP meeting held in Geneva during which this issue was raised, and wondered if WIPO had any position regarding this matter. It believed a seminar should be held in Geneva for Diplomats dealing with these issues due to their cross-cutting and inter-related nature.

207. The Delegation of the United States of America noted that, to the best of its knowledge, it was the first time that the area of anti-competition policy and practice and their interface with IP was being discussed before the full Committee. In this context, the Delegation was aware that it would be the continuing responsibility of the Committee to assess, discuss and report on the implementation of all recommendations, including this important recommendation on anti-competitive practices. The Delegation noted that the recommendation dealt with the interface or relationship between IP and competition policies, and stressed that each policy area was extremely complex, with the inter-relationship between the two extraordinarily complex. It, therefore, believed that the discussion of this recommendation would likely continue for many years and wondered when the deliberative process on implementing it would begin; what were the questions that should be asked; what were the WIPO programs and activities already existing relevant to this recommendation; how were these programs being evaluated to determine whether they were meeting the IPR-related development needs of the Member States; and how could these programs and activities be improved to promote economic and cultural development. The Delegation believed that some of these questions were straightforward and that progress was being made in finding the answers to them. The Delegation noted that the Secretariat had provided a useful point of departure for discussing this complex area. For example, it indicated that it was already providing legislative and technical assistance upon request and as appropriate to Member States to assist them in preventing and/or resolving IP-related anti-competitive practices. The Delegation further noted that in the earlier explication of some of these activities there was an appropriate role for the Secretariat to provide appropriate advice. The Delegation stressed that it was focusing more on the word “monitoring” anti-competitive clauses that could be included in certain contracts. It recalled that a question had arisen whether acts of monitoring of private sector agreements would be an appropriate role to undertake and, therefore, requested some clarification. The Delegation also noted that the Secretariat had provided some details on the nature of that advice that had been presented, such as proper scope of exclusive IPRs including appropriate exceptions and limitations to those rights, other legal options such as compulsory licenses or other measures allowed under international norm and advice related to these restrictive norms. The Delegation again underscored the point of appropriate bounded advice for an international organization. Yet many more questions remained, the Delegation noted. IPR-related aspects of competition policy did not exist in a vacuum, it added. Rather, it was part of a complex web of trade and regulatory policies that had important consequences for promoting technology transfer and

Foreign Direct Investment (FDI). The Delegation, therefore, expressed its intention to raise questions within this Committee and hoped that other Member States would ask the same questions. For instance, the Delegation wondered whether these requests for assistance and responses of WIPO took this big picture into account. Member States should not lose sight of the goal which was to promote economic development, and to stimulate foreign direct investment and technology transfer and competition policy only sat within that framework or goal. Beyond the difficult substantive questions, there were hosts of equally difficult, but quite important organizational and financial resources questions that were embedded in this recommendation. First, there was the question of the relationship between the activities proposed to implement this recommendation with the on-going competition-related activities of other international organizations. For example, the Delegation highlighted that other specialized agencies within the UN family were already conducting technical assistance activities in this area. The Delegation hoped that, as always, the members of the Committee would remain alert and vigilant not to implement this recommendation in any way that would result in the waste or inefficient use of WIPO resources. The Delegation stated that these observations were still at an early stage, and formed part of the continuing conversation and it looked forward to further clarifications of the issues raised by the Secretariat, and to a sustained discussion within the Committee. The Delegation also hoped that the debate would address the boundaries not only of IPRs, but also the boundaries and appropriate role of competition policy in this area.

208. The Delegation of South Africa believed that the recommendation under review was one of the most relevant ones, especially for the developing countries. In most cases, the size of the markets in the developing countries, comparatively rather small sometimes encouraged anti-competition practices that led to high prices of products for the consumers and the general public. As indicated by the Secretariat, the Delegation agreed to the fact that there were a lot of difficulties in the developing countries which sometimes lacked institutions to deal with the real work of preventing these practices. The Delegation also shared the Secretariat's view that no request had been made for the provision of technical assistance in this particular area. With regard to recommendation 23, it believed that consideration should be given to stressing better promotion and understanding of the interface between IP and anti-competition policies. The Delegation, therefore, called for discussion on these issues and sharing of information on best practices obtained in other countries. The Delegation noted that the developed countries had more experience than most of the developing countries in such matters, and that they should, therefore, share their experiences with developing countries on how these problems had been dealt with, so as to enable the developing countries to determine the type of technical assistance needed from WIPO. In the absence of that particular discussion, countries found themselves in a very difficult position even to ask for that particular technical assistance. The Delegation, therefore, suggested a need for this kind of discussion to take place within the Committee in the near future in order for the information sharing to take place.

209. The Delegation of Benin noted that the relationship between the concepts of IP and anti-competitive policies were rather negatively perceived in the LDCs. It explained that the fact that some countries took a negative view of these concepts could explain why the authorities set high and sometimes impossible standards that often ended up confusing these models. The authorities sometimes considered IP as an arm-twisting measure aimed at creating hindrance to development, which was of course a wrong perception, it added. The Delegation further noted that the Committee's recommendations were proposed in order to stimulate better understanding of issues, as well as deepen positive relations between the two concepts. The Delegation, therefore, expressed its satisfaction at the explanations received so

far from the Secretariat and suggested that the activities slated in individual LDCs should not be limited only to the provision of advice, but extended to include sub-regional meetings as well. The Delegation noted, for example, that in certain parts of Africa, countries had formed economic groupings such as the Economic Community of West African States (ECOWAS) that provided the economic and political platform for using IP to spur social and economic development in the member countries. The Delegation, therefore, believed that the Committee should agree that within the framework of the implementation of this recommendation, WIPO should establish contacts with ECOWAS and other similar regional groupings to avail the member countries of these organizations the opportunity to better understand and appreciate the positive interaction between IP and competition policy, the impact that this would create. Understanding these concepts and applying them should spur the development of those countries, the Delegation concluded.

210. The Delegation of Colombia expressed concern at the way the implementation of recommendation 7 was explained in CDIP/1/3 Annex III, as it appeared on page 16 of the Spanish version. The Delegation was concerned since in making reference to anti-competition, it would appear as though reference was being made to the enjoyment of exclusive rights. The Delegation, therefore, disagreed with the proposed implementation of the recommendation, especially by way of examining exclusive rights and also imposing limitations and exceptions as a way of removing incentives from anti-competitive practices.

211. The Chair referred the Delegation of Colombia to the revised version of the document under consideration CDIP/2/INF/1 containing two paragraphs of revised activities and wondered whether these addressed its concerns or not. Thereafter, if necessary, the meeting could come back to deal with the Delegation's concerns.

212. The Delegation of Brazil commended the Secretariat for explaining the activities which had been carried out in order to implement recommendation 6 which, it believed, dealt with the very important subject of the relationship between IP and competition policies. It explained that developing countries were in the process of enhancing their market economies and that the accession of expertise in this field was a necessary precondition for promoting a 'vibrant' market economy in these countries. The Delegation agreed that competition was a complex issue, yet Member States should not be inhibited from understanding it, but rather, the complexity should stimulate developing countries to increase their capacity and strengthen their understanding of the relationship between IP and competition. The Delegation thereafter supported the call made by the Delegation of Pakistan for WIPO to hold a seminar for diplomats in Geneva on the issue of IP and competition.

213. The Delegation of Cuba considered the recommendation as being of great importance for the developing countries. It, therefore, urged WIPO to promote measures that would assist such countries to build their national capacity, and to deal with abusive licenses and clauses, especially when it came to providing technical assistance to the developing countries.

214. The Delegation of Costa Rica stressed that understanding the relationship between competition and IP was very important. It recalled that Costa Rica had adopted legislation on competition policy in 1994 and that a lot of research had been carried out in the area. The country had found out that a number of initiatives could be taken by way of addressing the relationship between IP and competition. However, due to lack of capacity or information regarding the various companies that were either studied or investigated, very little could be done in concrete terms to address the issue. The Delegation, therefore, wished to submit questions on the subject to WIPO to seek clarification and assist the country in conducting

investigation into the relevant issues. It stressed that it was in favor of any initiative whatsoever, such as seminars, conferences or workshops, that would be carried out to enhanced understanding of the relationship between IP and competition practices. The Delegation believed the issue was a very important theme for its country and it noted that the relationship between IP and competition was becoming more and more tangible since IPRs were not a monopoly, yet could give rise to abuse of dominant positions not only due to rights, but also due to other situations prevailing in the market place.

215. The Delegation of Sudan believed that recommendation 6 was extremely important as the interface between IPRs and competition policies was especially important, particularly for LDCs and SMEs within those countries. The Delegation, therefore, stressed the importance of enacting legislation addressing the issue of the interface between competition policies and IPRs. It also believed there was a need to study and investigate the issue in greater depth and to attempt to identify those enterprises and companies involved in anti-competitive practices, with additional information being required on this subject. The Delegation, therefore, suggested that a seminar or a workshop be organized in any of the LDCs or developing countries so that further information could be obtained on an issue which it believed was of vital importance.

216. The Delegation of Chile supported the statements made by the Delegations of Pakistan, Costa Rica, Sudan, Cuba and Colombia. The Delegation of Chile stated that it was very clear that for those countries the relationship between competitive policies and IPRs was very crucial. There could be no doubt that the developed countries were also very interested in this matter, and that they had strong institutions to deal with it. The Delegation stressed that other international organizations such as the OECD were looking at this matter. Notwithstanding that, WIPO should not be prevented or constrained from also looking into the matter since it had been agreed that it was a very complex matter that required analysis. The Delegation further noted that during previous meetings, some developed countries had offered to share their experiences with their developing counterparts, especially with regard to the outcomes of studies they had conducted in the area of competition and IPRs. The Delegation noted that about four studies were at the time underway and would be completed by the end of 2008, and it wished to see the outcomes of these initiatives which should throw positive light on the matter. The Delegation also supported the holding of a seminar or symposium on the subject so as to enable delegates to obtain more information.

217. The Delegation of Nepal was of the opinion that what was being discussed was of importance to all countries. Given the importance of the subject, the Delegation endorsed the call for holding a seminar that would help delegations understand the complex matters involved, which they were presently not fully aware of. The Delegation noted that given the abundance of biodiversity and TK in many countries, it was important for greater awareness to be created at the domestic level on the need and usefulness of the IPRs to LDCs like Nepal. The Delegation also observed that in such situations one-size did not fit all and wished to see the proposed discussions on the subject conducted within a regional or country-specific context. The Delegation also sought clarification on certain aspects of the recommendations made on page 6 such as requests for conduct of studies and engaging of external experts. The Delegation stressed the importance for certain issues, especially the modalities of making the requests and engaging of experts, to be made clear. The Delegation also suggested that local expertise be given consideration when commissioning such studies. The Delegation reiterated its belief that there was a need to protect IPRs by enacting appropriate national legislation and internationally registering them under the Geographical Indications.

218. The Delegation of El Salvador stressed the extreme importance of the recommendation under review to developing countries. For that reason, it aligned itself with the delegations which had spoken before and which had underscored the added value of these types of studies, seminars, workshops, etc., that could be organized by WIPO. The Delegation, therefore, called upon WIPO to provide on its website information on studies which had been conducted on the subject matter, either by WIPO itself or by other organizations. In this way, links would be forged with all organizations working in this area such as NGOs to carry out in-depth studies on the issues. The Delegation believed it would enhance the Committee's work and help flesh out many of the issues. The Delegation also suggested for the proposed seminars and symposium to include other IGOs and NGOs which had carried out extensive work in the area.

219. The Delegation of Uruguay stated that recommendation 7 was also very important for its country and therefore, supported those delegations that spoke previously in favor of the proposal to hold seminars and workshops that would look at the interface between intellectual property and competition policy. Furthermore, the Delegation stated that it would wait with great interest the publication that will be released the end of 2008 by WIPO on the subject.

220. The Delegation of Thailand also supported the proposal. The Delegation saw the need for the developing countries as well as the least developed countries to understand the balance between intellectual property and competition policy, and noted that it was a subject that had relevance not only to one specific industry per se, but also to many other industries that could facilitate the proper technology transfer amongst the countries. At the same time, the Delegation noted that the legal aspects of the relationship between intellectual property and competition policy should be made available to Member States by WIPO. The Delegation also supported the idea that WIPO should provide such information on its website.

221. The Delegation of France thought that the matter was both important and delicate. The Delegation, therefore, believed that it was appropriate to clarify it fully. The Delegation also believed that a nuanced approach should be taken in order to ensure that any problems that might arise can be properly thought through in an appropriate fashion, to ensure that the cart was not put before the horse and starting off by putting forward submissions that may appear satisfactory, but whose complexity may not have really been fully understood. This could complicate the whole issue. Therefore, the Delegation believed that before any solutions are put forward, all aspects of the problem should be clarified. Moving on to another point which concerned the way in which the CDIP was working, the Delegation suggested that it would appear to be important that the informal notes that had been circulated by the Secretariat be duly taken into account by the Committee, and in order to make that possible, such documents should be given a formal or official status of some kind in view of the fact that several of them have been put before delegations. The delegations needed to be absolutely clear about the status of the documents. They should therefore be categorized and the informal notes that had been circulated should be made into formal documents. That would also mean that they should be translated into the working languages of the Committee.

222. The Delegation of China asked how the developing countries and LDCs can better understand the relationship between IP rights and competition. The Delegation noted that it was important that more should be done by WIPO in its future work by way of activities such as the holding of seminars and workshops.

223. The Secretariat referred to the issues raised by the Delegation of France regarding the status of the informal notes that had been circulated to delegations, and clarified that some of

the documents that had been issued for the second session of the CDIP were formal documents for consideration by the Committee. Others were formal documents which had been submitted by way of information, namely the information (INF) documents 1, 2 and 3 and the two informal notes. The last two documents were categorized as informal notes because they were discussed during the informal consultations on 16 April, 2008. Since those documents had now been discussed in the formal session of the CDIP, they would become formal documents of the CDIP, translated into all the official languages and put on the WIPO website. The Secretariat further clarified that in the light of the discussions during that session and the various suggestions made by the different delegations, the documents circulated by the Secretariat, containing information for implementing the recommendations would be revised, in the same manner in which the earlier documents were revised, after the first meeting of the CDIP. The revised text in respect of all those recommendations would be added to document CDIP/2/2. Regarding the point made by the Delegation of Colombia, in respect of adopted recommendation 7, concerning the text which had appeared in the informal note, it was clarified that that text had been revised in the light of the discussions that took place in April 2008. The Secretariat, therefore, suggested that attention should be paid to the revised text which was contained in the Informal Note 1.

224. The Delegation of Tanzania expressed support for the recommendation. The Delegation also shared the experience of its country in the area of competition policies and IP issues. Tanzania had established the Fair Competition Commission, a Commercial Court and an IP Office. Providing further details of the existing system, the Delegation noted that there was a need for coordination and clear understanding of the parameters under which fair competition practices applied in those situations, and in determining the limits of the IP Office. The Delegation therefore, proposed the coordination of those activities, perhaps with the help of WIPO.

225. The Delegation of Nigeria indicated its support for the recommendation and noted that something important was missing. The Delegation said that the provision of technical assistance to remove anti-competitive practices and the enactment of laws or legislation presupposed a world free of guidelines and rules. The Delegation stressed that it was not only IP practices that related to competition, but the entire gamut of economic dynamics in a country, because restrictive practices that concerned IP could not be isolated from other rules and laws and guidelines that dictated how a country defined its economy. The Delegation added that it was not only developing countries that had those problems, as even developed countries, that were going to give that assistance, had a lot of rules that did not encourage competition. On the other hand, there was the issue of dumping, that would arise if, for example, all the restrictive and competitive practices were removed and countries that had the means of production of IP goods simply dumped them in countries in the developing world that did not even have the capacity to isolate the good ones from the bad ones. Therefore, it was not that technical advice was needed just to remove restrictive laws that discourage competition. Such advice had to address the economic strata, as it affected the entire economy of a country in order to deal and isolate those areas that concerned legislation that limited competition.

226. The Delegation of Trinidad and Tobago strongly supported the statements made by the Delegation of Nigeria. In Trinidad and Tobago, a fair amount of work had already been done with respect to dealing with the interface between intellectual property and competition policy, and that became very important because an attempt was made to develop competition policy legislation minus intellectual property. And therefore, the Delegation would strongly support any initiatives made by WIPO in the context of those recommendations to deal with the issue very effectively, in the context explained by the Delegation of Nigeria.

227. The Secretariat took note of the concerns and requests of Member States, and in particular of the request by the Delegation of Pakistan, supported by a number of other delegations, to organize a meeting in Geneva for Geneva-based diplomats. The Secretariat also referred to intervention made by the Delegation of the United States of America which had raised an important issue. The Secretariat said that it was not going to initiate a technical and complex discussion on the subject, but the question was whether it would be appropriate to monitor contracts between private parties. It was indeed a concern because the fine line between government interference and government monitoring was extremely thin, so there was a risk that excessive government interference may ultimately discourage the transfer of technology. That concern had been shared by the Secretariat, with those Member States for whom WIPO had provided legal advice on the issue.

228. The Chair noted that there was a need to treat the subject with circumspection and care because of the delicate and complex nature of the issues involved. He also noted that there was wide support for WIPO to assist developing countries and LDCs in that area because it was important to do so. He referred to the point made by the Delegation of Nigeria that it was not only important in itself, but also that the two areas impacted on the wider interest of the economy. The Chair was also satisfied that the Secretariat understood and accepted where the thin lines were, and the caution and care that the Delegation of France had asked to be exercised. The Chair concluded by noting that the recommendation and the activities proposed were acceptable to all Member States in the context of the discussion that had just taken place.

229. The Chair then requested the Secretariat to introduce recommendation 11 in the list of 19.

#### *Consideration of Recommendation 11 in the List of 19*

230. The Secretariat introduced recommendation 11, which dealt with strategies to strengthen the national capacities of countries in the areas of protection, invention, creation and innovation, and also, to support the development in those countries of national, scientific and technological infrastructure. It added that there was an overlap with recommendation 10. It said that for recommendation 11, it had attempted to provide an idea of the manner in which WIPO intended to implement its strategies in that regard. The first set of activities related to human resources development, to help the local scientists and research institutions in protecting their research results, and customize training programs. The second one related to the modernization and strengthening of institutional infrastructure through the establishment of technology transfer offices and also IP information centers as an advisory service.

231. The Delegation of Pakistan requested more information about technology transfer offices and the nature of WIPO support on these matters.

232. The Delegation of Brazil requested the Secretariat to elaborate on the concepts of IP valuation and IP hubs.

233. The Delegation of Nigeria requested for more explanation on the support that was to be provided for the establishment of Collective Management Organizations (CMOs).

234. The Delegation of Thailand asked for further clarifications on training programs on Patent drafting.

235. The Delegation of Tanzania said that if they really wanted to create an IP culture they should look at levels lower than diploma and degree level.

236. The Delegation of the United States of America supported the principle of strengthening national capacity for protection, creation, innovation, and invention as it was closely related to the mission of WIPO to promote the global intellectual property system within its mandate. It added that WIPO was already discharging that important responsibility and noted activities like the support for local scientists and research institutions to protect the fruits of their labor; assistance with patent drafting; valuation of IPR, and technology transfer offices.

237. Responding to the issues raised by Member States, the Secretariat said activities and programs available to support TTOs, related mainly to the development of skills and training programs for professionals working in such offices. The licensing program had a component of IP valuation within the four days training program. The patent drafting was a longer training program. The IP valuation program was a new program. Many countries had been requesting IP valuation specifically, so the plan was to send out letters to the main business schools throughout the world to call for proposals. The concept of IP hubs was to provide ways in which each country could organize the establishment of hubs which would provide services to more than one university or more than one research institution as was done in Colombia and Central Africa. Patent drafting material was prepared in English and had been translated into French, Spanish and Portuguese. Regarding CMOs, the Secretariat said that they played a crucial role in supporting the activities of creators in the field of copyright, and the areas in which WIPO provided support included advising them regarding the range of institutional arrangements that existed in that area. The second area of support was human resource development. Further, use was made of Information and Communication Technology to support the functioning of those entities to streamline operations and also to manage the distribution of royalties.

238. The Delegation of France highlighted the importance of that recommendation and encouraged the Secretariat to continue the activities in that field.

239. The Delegation of Thailand requested the Secretariat to provide further clarifications on the Patent drafting course and the DL 208 in Patent Drafting.

240. The Secretariat clarified that the course was first organized as a face-to-face session for seven days, followed by a distance learning program for two months. But WIPO could adapt the program to the needs of the countries. Regarding the DL, it was clarified that it was still being tested on a pilot basis, and presently it was not known as to when it would be launched.

241. The Chair expressed his satisfaction at the explanation provided by the Secretariat, and concluded that the list of activities proposed by the Secretariat had been accepted, with the proposed changes.

242. The Chair informed the meeting that he had held discussions with Regional Coordinators, which helped to remove some concerns which Members had, and to plan the way forward with the Report to the General Assembly. He recalled that normally the PBC meets before the General Assembly, but that year it was meeting after the General Assembly. He stressed, therefore, that the report to the General Assembly, as expressed in the Mandate of the CDIP, needed to take into consideration the normal processes that took place in the Organization for dealing with money-related issues, whilst at the same time trying to advance

the work of the Development Agenda. He explained that he had been requested to draft the Chair's Summary which would include some elements that would go towards the Report to the General Assembly, and that he would do so by the end of the Session. The Chair acknowledged that his next challenge was to use the language that addressed the issues in a way that advanced their work, whilst at the same time respecting the procedures that were relevant to the work of the Organization.

243. The Delegation of Switzerland stated that it was a bit confused on what would be considered next. It recalled that the Chair had previously mentioned that he would propose to hold inter-sessional meetings on a number of issues contained in Cluster A. The Delegation believed that a decision had not been taken on whether to have these inter-sessional meetings or not. The Delegation drew the attention of the Chair on pending issues in Cluster A, and wondered if he still wanted to begin with Cluster B. In particular, the Delegation wondered whether the Chair planned to discuss those issues at a later stage. It added that, if the Chair planned to have them in inter-sessionals, it would be appropriate to have a discussion on that matter among Member States.

244. The Chair replied that he preferred to proceed with Cluster B and leave the three pending recommendations in Cluster A until later. He clarified that he had withdrawn the proposal to hold inter-sessional meetings following consultations and suggested that they move to recommendation 20 in Cluster B.

#### *Consideration of Recommendation 20 in the List of 26*

245. The Secretariat explained that recommendation 20 in Cluster B, related to supporting a robust public domain. It explained that the information which had been provided in respect of the proposed activities concerned four different sectors in the Organization. It added that the first set related to trademarks, the second to copyright and related rights, the third to patents, and the fourth to issues related to TK and genetic resources, and that all these four aspects would be introduced by the staff members concerned.

246. The Secretariat introduced the first paragraph of document CDIP1/3 Annex V, page 10, dealing with the Sector of Trademarks, Industrial Designs and Geographical Indications. It explained that the IP system, in general, provided for certain mechanisms for the creation of property rights in distinctive signs, typically done through trademarks and geographical indications. It added that those systems allowed for the appropriation of certain signs that indicated origins, but also justified appropriation through other policy considerations, such as consumer protection, protection of investment or protection in certain communication functions, which were being fulfilled by brands. The Secretariat highlighted that not all signs could be appropriated and protected through the trademark system to become trademarks, explaining that certain signs were excluded from appropriation and that this fact was well recognized throughout the trademark system. Those signs concerned, for example, areas where signs were used to indicate certain product characteristics and qualities, and the geographical origin of products, or where signs were considered to be contrary to morality or public order. The Secretariat explained that there were already certain provisions in the existing legal framework that provided for the exclusion of protection or appropriation of certain signs, such as Article 6 *ter* of the Paris Convention. It added that there were nevertheless situations of abusive or bad faith registrations of signs, for example, in geographically-descriptive terms or sacred signs. The Secretariat said that, as pointed out in the proposed activity, there could be room to undertake some work or to further conduct work in the area of bad faith registrations of signs, such as descriptive terms or signs that were part

of a common heritage or patrimony. Work was currently being carried out within the framework of the WIPO Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), in which two areas could be mentioned. First, the exclusion from trademark protection or registration of state emblems and other official signs indicating control and warranty by State authorities, and signs that belonged to certain international IGOs that were being excluded from registration or use as trademarks under Article 6 *ter* of the Paris Convention. The other area in which work was currently underway within the SCT concerned the protection against misappropriation or misuse of international non-proprietary names for pharmaceutical substances, so called INNs, with work being conducted in cooperation with the WHO Secretariat.

247. From the Copyright and Related Rights Sector perspective, the issue of the public domain had drawn increasing attention and interest in recent years, as the worldwide copyright landscape had been changing in a fundamental way in terms of subject matter protection, scope and duration. The Secretariat added that it seemed appropriate, by virtue of the inclusion of recommendation 20, to look at some of the broader contexts and issues regarding copyright and the public domain, from a societal and cultural perspective as well as from the, perhaps, narrower, but equally important, duality of the balance between rights in and protection of works, on the one hand, and access to and use of works, on the other. The Secretariat stressed that a number of ways in which analysis and research in the Organization could proceed on the copyright front in relation to the public domain were put forward in the paper. It went on to say that a fundamental threshold issue was the definition of the public domain, which in a classic sense could be defined as what was not protected by copyright in terms of subject matter. That could be due to the fact that the term of protection had expired, the works involved were not deemed eligible for copyright protection because they did not have the requisite condition of originality in the national context concerned, or because for certain public policy reasons legislators had excluded certain categories of works, such as official acts and laws, from copyright protection. However, recently, issues had arisen regarding access to content, irrespective of whether the works involved were still under copyright, in the classic sense of subject matter protection. In this regard, there was a need to look at new ways in which copyright was being exercised and licensed, and how works were being made available, in the digital context. Many of the new approaches to licensing were inspired by the Internet and the resulting possibilities of broader dissemination and use of content that was created, perhaps collaboratively, but then made available using new communication technologies. The Secretariat said that the broader questions concerning access to content were perhaps more vernacular or general in relation to the public domain, not strictly rooted in classic copyright discourse, but were equally interesting, important and central to the notion of access to knowledge in the information society. It explained that while WIPO had not done work specifically focusing on the public domain in recent years, the Secretariat had been following the issue closely. It added that a survey had been published in 2005 on voluntary copyright registration systems, which was a document of the Standing Committee (SCCR) that looked at the role of public voluntary registration systems as repositories of cultural information, including information on works that entered the public domain. The Secretariat stated that in September 2007, a Seminar on Rights Management Information had been held in Geneva, which looked at the forms of digital identifiers which could be applied to identify creators, individual and collaborative works, and subject matter, and to express the access conditions that could be machine-readable, in terms of making the content legitimately available to users worldwide, according to the desires of the originators or authors of that content, and irrespective of whether it was copyright subject matter or not. It added that digital identifiers were relevant tools for maintaining the authenticity, security and viability of information, irrespective of whether the information was conveyed subject to

a copyright license or not. The Secretariat stressed that promising work was being done across the information, communication and technology sectors in developing very rich and granular tools for identifying content for the purposes of making it more broadly available. It went on to say that the aspect of access to the public domain was extremely important for the future work of the Organization and its stakeholders. The Secretariat suggested that a possible way forward would be to look at a way of analyzing and identifying problems in the field of copyright relating to identification of public domain material. It mentioned issues such as orphan works, the role of search engines and technologies for identifying and making content available, which could be assembled in a study that would have two parts. One part would refer to the classic copyright subject matter approach to the public domain, and the second part would address the more vernacular issues related to concerns that have been expressed about guaranteeing access to a rich public domain. The Secretariat went on to say that the first part of the study might provide a comparative analysis of legislative structures that had been adopted in different Member States to define the public domain, for example, examining how national legislation in different countries separated subject matter into protected and public domain categories based on their own national policies. The second part of the study could provide a descriptive examination of tools for identifying public domain subject matter, including subject matter that had been placed in the public domain by living creators, *inter alia* through use of new licensing tools. The Secretariat concluded by saying that the study would also examine how that mix of new tools could better serve the public interest in providing and enhancing access to the public domain using copyright structures.

248. On the patent-related issues that appeared in the first paragraph of page 11 of document CDIP/1/3, the Secretariat explained that like any other title of IP, the patent system also contained a number of issues or mechanisms related to safeguarding the public domain, and in the paper two issues were mentioned. One was a worldwide definition of prior art that would prevent encroachments on the public domain, such as TK. The second issue dealt with the adequate level of the inventive step under the patent system. The Secretariat stressed that the inventive step guaranteed the quality of the granted patent, so that the patent was indeed granted on the truly inventive inventions that should not encroach onto the inventions in the public domain. It stated that, in addition to the issues which were presented in the document, there had been a more recent development in the patent area which was the result of the SCP held from June 23 to 27, 2008. The Secretariat explained that the SCP still did not have its proper work program, but that during the session, members had agreed on a number of building blocks that would enable them to work towards the establishment of such a work program. It added that one of those building blocks was that the SCP asked the WIPO Secretariat to establish, for its next session, preliminary studies on four issues. The first one was the dissemination of patent information and the issue of a database on search and examination reports. The Secretariat stressed that it was a study with a fairly broad scope covering a number of aspects of the dissemination of the patent information, probably touching upon issues relating to the public domain. It added that some delegations had mentioned that the Secretariat should prepare the study from the point of view of the access to patent information by developing countries and SMEs, while other delegations had launched the idea of a database on the legal status of national patents, so that the public could access the data and could check whether the patent had already expired or was still valid, including all sorts of legal information related to patents.

249. Turning to Global IP Issues, the Secretariat explained that the assumption that certain TK, genetic resources or cultural expressions should be in the public domain had been challenged by the holders of the knowledge, the custodians, who asserted vigorously that they were not in the public domain. In the case of TK and genetic resources, unambiguously in the

public domain, widely diffused and published, there were concerns that they might be the subject of illegitimate patent claims, as pointed out more generally in the patent system. The Secretariat explained that, in the context of the Inter-Governmental Committee on TK, Genetic Resources and Folklore (IGC) and in the work program of WIPO, there had been a number of practical initiatives to put measures in place to ensure that patents were not erroneously granted on TK and genetic resources which were considered to be in the public domain and were not the subject matter of patents, by virtue of either not being novel or not being genuine inventions or indeed not being the inventions of the claimed inventor. Those measures were diverse in character, but broadly-speaking they intended to ensure that information about the relevant TK and genetic resources literally appeared on the screen of the patent examiner so that those materials were taken into account more systematically and at an earlier stage in patent procedures. The Secretariat added that, in such a way, any claims that took in disclosed TK or genetic resources would be either narrowed or refused to exclude such a matter. The practical work involved, for example, linking examination systems to a database known as SINGER, an international database of plant genetic resources held by the international centers dealing with plant genetic resources. It explained that these centers had encouraged cooperation with WIPO to clear up links with the patent examination system, in order to preclude patents over such plant genetic resources. It added that that work was underway and a pilot portal on TK databases, endorsed and developed under the aegis of the IGC, was moving towards a more operational stage in order for patent offices to more systematically refer to that material. It further mentioned that that work had also resulted in a draft set of examination guidelines for TK-related patent applications, which was at a rather mature stage in the work of the IGC, at the stage of “road testing in the field”, seeing if those guidelines were useful and if they provided what patent offices needed practically to take a more systematic account of TK and genetic resources in the patent examination process. The Secretariat stated that the practical tools presented were essentially referenced to existing databases of TK. It stressed that it did not involve encouraging people to move TK into the public domain, which was not the desire of many holders of TK, but rather turning the attention of patent examiners to the material that was already in the public domain, so that there was no inappropriate patenting on that basis. With respect to the development of those guidelines, the Secretariat added that they provided practical steps for patent offices to build into their procedures so as to ensure that every possibility was exhausted, so that TK was not erroneously the subject of patents. The Secretariat concluded by mentioning the work of the IGC on trademark issues and existing concerns about assertion of trademark rights over traditional cultural expressions, indigenous names and the like, as well as in the copyright domain.

250. The Delegation of France commented, on behalf of the EC and its 27 Member States, on the activities proposed under that particular recommendation. Concerning copyright, it believed that in the document there were one or two points which did not necessarily appear in the explanations they had just heard from the representatives of the Secretariat. As far as the idea of preparing a database containing those national works was concerned, there might be a difficulty inherent in copyright as such, which would imply a considerable amount of work, it added. It further expressed its doubts on whether it would not be better to have a discussion on the matter before proceeding, since at that stage it did not see how to launch oneself into accomplishing a task on such a scale. It noted the subjects for analysis mentioned by the Secretariat, and considered them indeed interesting. It stressed that it was a good idea to have a careful look at the results of the analysis, but at that stage it did not believe it possible to learn any lessons from what would be done with the analysis. The Delegation explained that the document had indicated some directions which could be taken in the use of the results of the analysis, but it believed it was necessary to know what the analysis would

contain before talking about any guidelines. Lastly, on TK and genetic resources, the work envisaged seemed to be going along the lines of what had been discussed in the IGC, although the expression “illegal patent” was not entirely clear to it. It added that it would be a good idea to consider very carefully the meaning of those words, to avoid any misunderstanding.

251. The Delegation of Colombia declared that it understood the concern related to access to databases on works in the public domain. It stressed, however, that those activities should be encouraged by the parties which were benefiting from the use of such databases. As it understood it, if WIPO or the governments were in charge of that work, it would be not only to the benefit of the communities, but also of many intermediaries among users of the works endorsed, representing their particular interests. The Delegation expressed its concerns with respect to the way in which they were thinking of regulating those activities to be undertaken under recommendation 20.

252. The Delegation of the United States of America wished to focus its remarks on the concept of public domain in recommendation 20, but also wished to mention recommendation 16. It stressed that both recommendations emphasized the importance of maintaining a robust public domain in WIPO Member States. It believed that recommendation 16 - which was proposed for immediate implementation - called for a near term research and analysis that deepened the understanding of Member States on the benefit of a rich and accessible public domain, while recommendation 20, for later implementation, called for the development of WIPO guidelines that would assist Member States to identify subject matter in the public domain. The Delegation believed that the public domain, which set forth a classical dividing line between protected and unprotected works, was an integral part of the IP system. It stressed that, at the most fundamental level, sustaining the IP system, which nourished the public domain, and preserving a rich and diverse public domain were interdependent goals, two sides of the same coin. It considered that deepening the understanding of the benefits of a rich and public domain was important to all WIPO Member States, since the public domain was the place from which authors and inventors around the world drew upon for further creative and inventive activities. The Delegation further expressed that the public domain was an important public policy consideration for every Member State. It believed that the work of the Committee in the area of the public domain should be focused on building a deeper understanding among Member States of the role of the public domain in national IP making. It added that that Committee might advance its work in that area by developing a deeper understanding of the new approaches, activities and technologies that were changing the landscape of the dissemination of creative works and inventions in the public domain. The Delegation supported the Secretariat’s proposal to initiate activities to promote a deeper understanding of problems related to the identification of public domain materials in the copyright area, through a comparative analysis of existing legislative approaches that defined the boundary between protected and unprotected works. It also noted that the concept of the public domain meant many things to many people and had different implications under different IP regimes. It, therefore, considered important, as the implementation of the recommendation advanced, to define with some precision the term ‘public domain’, as they greeted it in its many facets. It took note of the suggestion from the Secretariat to begin work on the development of a database that would, if understood correctly, identify works under copyright protection and in the public domain. It stressed that such an ambitious project might have some merit, but without greater detail on the scope of the project it was really difficult to comment at that point. The Delegation, therefore, requested further elaboration of that concept. It specifically wondered what would the database actually include, how would the database be maintained and updated and how would the accuracy of its contents be ensured, and called for an informal discussion of those issues within the CDIP. It went on to

say that it took note that those approaches differed with respective jurisdictions, and that copyright was territorial. It considered that that might be a forum where they could gain a deeper understanding of that boundary setting. The Delegation fully agreed with the observations made by the Delegation of France that the proposed database, with the information provided, was one of enormous scope, so needless to say that before such an ambitious project could go forward, in even a preliminary way, the Secretariat would need to prepare a detailed scoping document in due course on the activity, laying out the purpose, structure, function, data, costs and benefits of developing such a database. Finally, the Delegation wished to turn to the general area of promoting access to the public domain. It stressed that digital technology had already provided unprecedented access to public domain works and that harnessing new technology continued to hold great promise for facilitating even deeper and wider access to such works. It agreed with the observation that those developments were genuinely exciting. It wished to share a few examples with the Committee to begin that part of their work, with the hope that they would have much fuller exchanges as they went forward. The Delegation explained that, in 1994, with the initial support of the US Congress, the Library of Congress established an Internet-based archive of public domain resources, text, image, audio and video, known as the American Memory Project. It was a public/private partnership which, between 1994 and 2000, attracted more than 45 million United States dollars in private donations and exceeded its goal of making the 5 million items available. On the private side, the non-profit volunteer project 'Gutenberg' had the objective to digitize, archive and distribute full text public domain works. Founded in 1971, it had over 24,000 items in its collection with an average of over 15 new e-books being added every week. The Delegation underlined that the collection was produced by tens of thousands of volunteers, including hundreds of distributed proofreaders, although the project coordinators were still seeking donations. The Delegation stressed that those were some of the old projects, but that new projects were coming up on a regular basis. It wished to learn more about those projects and share national and international experiences within the Committee to gain a deeper understanding of how the public domain, which was really the product of the IP system, was then giving birth to a kind of second renaissance as the new digital technologies were being harnessed and those works were delivered back to the public. The Delegation concluded the discussion with the hope that that would be one of the interesting topics of discussion within the Committee, and that the delegations would be able to identify specific and discrete achievable outcomes that would advance that recommendation.

253. The Delegation of Switzerland thanked the Secretariat for providing the comprehensive background information and stated that it was in support of conducting a study on bad faith appropriation of distinctive signs and possibilities to prevent such practices, as well as the proposal to initiate activities to promote the understanding of the problems between copyright and the identification of public domain material. It, however, expressed caution on the issue of the database, particularly as to whether it was realistic and cost-effective, given that some countries had and others did not have a register of copyright. As to the proposal to conduct a comparative analysis of existing legislative approaches on patents adopted in Member States, although such an analysis would provide a good overview of the approaches adopted by different countries, it believed that such an activity should not result in dictating the agenda of work of the SCP. Moving on to TK, the Delegation referred to an earlier proposal it had made to establish an international gateway to TK, electronically linking existing databases and thus facilitating access to prior art which it thought could be a tool for preventing illegitimate TK patents. However, it doubted that such tools would be able to ensure that public domain TK was not subject to illegitimate or inaccurate patents, and as such doubted whether the word "ensure" could be used in that place. If the CDIP was to work in that area,

the Delegation stated that it should take into account and build on the work already done by the IGC, which already had a document with recommendations on how patent authorities were to take into account TK and its technical content in the process of granting patents.

254. The Delegation of Spain expressed its support with the statement made by the Delegation of France on behalf of the EC and stated that, particularly in the context of TK, note should be taken not only of the work being done in that committee, but also of other committees. On the issue of prior art, the Delegation wished to link it to other recommendations, citing recommendation 8 for example, so as to avoid duplication.

255. The Delegation of Brazil believed that safeguarding the public domain was among the main objectives of the Development Agenda as it promoted access to knowledge, particularly in the digital context. The Delegation went on to inform the meeting of its work to defend the names of its flora and fauna found in the Amazon against undue appropriation as trademarks. For example “Kokwaso”, the name of a fruit found in the Amazon, had recently been misappropriated as a trademark by a third party which could hurt or affect the well-being and the future possibilities for the people living in the Amazon region. Concerning the discussion on genetic resources and TK, the Delegation expressed its appreciation for the efforts made by WIPO to establish linkages between IP Offices and databases. However, it believed that the most effective solution to the problem of misappropriation of genetic resources and TK was the introduction of the compulsory disclosure requirement in the TRIPS Agreement. Regarding the discussion on patents, the Delegation expressed agreement with the statement made by the Delegation of Switzerland that the CDIP should not interfere with the agenda of work of other committees in WIPO, in that instance the SCP which was working on this area.

256. The Delegation of Chile stated that it believed very strongly in the issue of public domain and that it was one of the most important proposals in the Development Agenda. It thus welcomed the study on copyright and any effort made to make information available to the public, which in its view provided opportunities for business and trade to expand.

257. The Delegation of Indonesia requested the Secretariat to clarify what was meant by “illegitimate or inaccurately granted patents”. Referring to the sentence “once disclosed with the consent of its holders” the Delegation expressed its concern on the possible danger that the interests of the right-holders would not be taken into account. As to interfering with the work of other Committees in WIPO, the Delegation felt that there was no harm in informing other relevant committees of the development dimension arising from the CDIP.

258. The Delegation of Pakistan joined other delegations in affirming that the preservation of the public domain was a very important component of IPRs and that it supported the studies proposed to be conducted. It also believed that the work done in other committees should be properly cross-referenced in the work of this Committee.

259. The Delegation of Tanzania believed that there should be avenues to invalidate a patent that had been illegitimately obtained. Invalidation proceedings would be able to ascertain whether there had been some intellectual input on the part of the applicant, or if a patent had been simply acquired on the basis of information already in the public domain.

260. The Delegation of Tunisia asserted that in its view there was no issue of overlapping and interference with the work of other committees. The work of the different committees was linked, and recommendations 12 and 22 dealt with that concept of mainstreaming and integrating development issues into the work of WIPO. The Delegation thus believed that the

CDIP should recommend to the WIPO General Assembly its demand for the other committees to take into consideration the development dimension in their work.

261. The Delegation of Benin stated that in its view the public domain was a source of inspiration for young people and indeed for all inventors and creators irrespective of their age. The public domain could also, however, be a source of tension if the use of works in the public domain was not properly regulated. Only if access was properly regulated could there be proper access to works in the public domain. The Delegation concluded by expressing its support for the activities that had been listed under that recommendation.

262. In response to the request of some Member States, the Secretariat clarified that the proposed activity on database of works and protected subject matter, including those in the public domain, had been added in response to specific proposals made in the earlier sessions of the PCDA. It stressed that all the concerns that had been expressed about the scope and the magnitude and the implications of such a database by the Member States were valid and that the Secretariat would work together with the Member States to decide in what way it would be appropriate to work on this issue at the international level, given that the Berne Convention prohibited formalities as a condition for the exercise and enjoyment of rights, which was one of the reasons why all the countries in the world did not have copyright registration systems. There were, however, a number of extremely efficient and well-functioning voluntary registration systems which maintained useful, completely up-to-date automatic databases of protected subject matter presented for registration, it added. Moreover, on the private level, many collective management organizations in the world maintained databases of the repertoire of the works they managed. One possible initial approach, therefore, would simply be to survey such databases and make a comparison. The Secretariat assured the CDIP that it would not be embarking on the creation of an international database without more preparatory work and guidance from the Committee and its members.

263. Turning to the discussion on TK and genetic resources, the Secretariat clarified that when it stated that it sought “to ensure” that TK and genetic resources were fully taken into account, it was aspirational and did not suggest that these activities alone would deal with the problems involved, but rather that they could contribute towards addressing the problem. As to what was meant by ‘illegitimate or inaccurately granted patents’, the Secretariat clarified that an illegitimate patent would be granted if one went to a country and, following an interview with a TK holder, filed a patent on the basis of the knowledge gained from that interview, claiming that knowledge to be his own. A patent could also be erroneously or inaccurately granted when somebody working on natural products happened independently to come up with a medical use of natural plants that struck that person as being inventive and useful while, as it turned out, in a neighboring country, this use was already known. The act of filing a patent by the former could be in good faith, yet it would be inappropriate and would result in an inaccurately granted patent because this material was already in the public domain. There was a range of possible problems and this did not address all, but tried to categorize two main areas of concern. The Secretariat concluded by addressing the issue of consent of right-holders raised by the Delegation of Indonesia and clarified that this was one of the important principles that the Secretariat was working on in the context of the IGC.

264. The Delegation of Brazil reiterated its belief that development was a cross-cutting issue and that the development dimension permeated all areas of IP. As such, the development dimension should not be confined to the discussions of the CDIP.

265. Following the statement made by the Delegation of Brazil, the Chair said that development was a cross-cutting issue and, recalling the comment made by the Delegation of Pakistan that the work of all committees should be properly cross-referenced, stated that while it was indeed correct to say that the work of the CDIP should not interfere with the work of other committees, the thrust of the Development Agenda was indeed cross-cutting and, as such, elements of the Development Agenda would appear in the work of other committees. He stated that he did not see it as interfering and hoped that those other committees did not see it either as interfering. He believed that the mandate given to the CDIP went a long way towards clarifying that broad issue. The major issue he saw arising from the discussion was the concerns expressed with respect to the suggested database in the area of copyright. The Chair requested the Committee to decide whether this proposal should be denied because it was considered complicated, complex and costly, or whether the Committee wished to broadly agree to the proposal subject to the human and financial resources required.

266. The Delegation of France, on behalf of the EC and its 27 Member States, stated that it would broadly support the proposal of setting up a database as indicated, subject to more information as to its scope, direction, resources involved and how it could be set up.

267. In response, the Secretariat suggested that the proposal be appropriately reworded for the next session of the Committee to say that issues surrounding copyright documentation systems, existing documentation systems for protective works including those in the public domain - whether under public voluntary copyright registration systems or under private initiatives - would be studied. The Secretariat recalled that it had already done an initial survey of voluntary copyright registration systems in 2005, by using a questionnaire which was sent only to 11 countries. Given that there was a number of other countries that had registration systems, one possible way forward would be to expand and do a second phase of the survey of voluntary registration systems which not only contained copyright documentation, but possibly also do an initial survey of private or non-public copyright documentation systems, for example collective management systems, and others in terms of identifying content that was protected or in the public domain.

268. The Delegation of the United States of America did not think that that proposal was as yet an actionable activity. The Delegation believed that it needed more details before it ripened into an activity that the Committee could recommend.

269. The Chair recommended that the reference in the proposal to support the development of a database be replaced with a language that indicated that the issue would be further studied and that the human and financial implications of embarking on such a proposal be submitted to the Committee.

270. The Delegation of Brazil confirmed that it agreed in principle to the suggestion made by the Chair, but proposed instead simply studying the issue and for the Secretariat to submit a more detailed project for consideration by the Committee at its next session.

271. The Chair, therefore, suggested that the Secretariat submit an information note for the consideration of the Committee at its next meeting, which would refer to both sides of the debate and which would call for the Committee to make a decision on that point.

272. The Delegation of Switzerland stated that it was in agreement with the proposal of the Chair, but that it also shared the concerns expressed by the Delegations of France and of the United States of America. It pointed out that in the recommendation itself there was one

activity mentioned to prepare guidelines which could assist interested Member States in identifying such subject matter.

273. The Delegation of the United States of America referred to the paragraph dealing with the creation of practical tools to 'ensure' the public domain and believed that the word 'ensure' was a bit strong and that more appropriate language should be found.

274. The Delegation of France referred to the last paragraph and requested that the reference to "illegitimate patents" be reworded as it posed a problem to the EC and its Member States.

275. The Chair suggested that the word "illegitimate" be removed, leaving "inaccurately granted patents." As for the proposal from the Delegation of Brazil to delete the reference to 'worldwide definition of prior art and inventive step' found in the first paragraph of page 11, it wished to enquire whether this was of concern to other delegations.

276. The Secretariat clarified that CDIP/1/3 was prepared in March 2008, and that there had been developments in the SCP since then. As such, referring to the point made by the Delegation of Brazil, the Secretariat stated that it would insert some additional information, taking into account the development that had taken place at the last session of the SCP.

277. The Delegation of Brazil requested for the reference to prior art or to inventive step be deleted and was of the opinion that if the words "illegitimate" or "inaccurately" were to be deleted, the paragraph would not make sense and would need to be rephrased.

278. The Chair clarified that the word "illegitimate" would be removed and the word "ensure" would also be changed. It would then be left to the Secretariat to smooth the language out. Referring to the first paragraph on page 11, the Chair requested for the second sentence to be removed, as requested by the Delegation of Brazil.

279. The Delegation of Switzerland wished to know what would remain in the text with respect to the SCP. It wondered what would be the benefit or reason for mentioning the SCP when other committees were not being mentioned. The Delegation also confirmed that it was in agreement with the proposal from the Delegation of Brazil to delete the reference to the "worldwide definition of prior art."

280. The Chair stated that the way of dealing with the first paragraph on page 11 would be to: (a) remove the second sentence, and (b) review the first and the third sentences – which would remain - in the light of the other issues, with the Secretariat revising the first paragraph accordingly. The said revision would not include the second sentence. The Chair believed that the Committee would then be able to broadly adopt the recommendation, which would then go to the next step to assess human and financial resources.

281. Subsequently, the document was revised and circulated.

282. The Delegation of United States of America stressed that the end of the first sentence referred to a vast domain, the public domain, which included everything that was not subject to IP protection, and that some would argue that it included even much more. It wondered whether that was really the intention of the sentence or whether it had a more limited scope to refer back to the beginning of the sentence, where they were talking about patent information or information used for the patent system that had a public domain status. The Delegation underlined the need for a preliminary study on the dissemination of patent information that

would address *inter alia* access to and use of the public domain. It requested more clarification on what the end of the sentence seemed to be referring to.

283. Referring to the views of some delegations who had stated earlier on that the public domain and the patent protection were the two sides of the same coin, the Secretariat explained that, for example, once patent protection expired and unless there were other types of protection, those technologies that had been under patent protection fell into the public domain. In the case of the dissemination of patent information, it believed that the patent information had two roles: one was information on technology, if it was a technological document and it disclosed technical information. The other was more the aspect of the legal document where patent information provided information concerning the legal scope of protection, the duration of the protection of the specific technology and the geographical coverage of the protection. The term patent information included not only technical information or the technology which was disclosed in the patent information, but also all other information that touched upon the legal status of the patent protection. Consequently, the last word “the access to and use of public domain” could be read in the sense of whatever technology was available in the public domain.

284. The Delegation of the United States of America thanked the Secretariat for the very useful explanation and, based on it, offered a drafting suggestion, in line with its understanding. The sentence would read as follows: “to prepare a preliminary study on dissemination of patent information that addresses *inter alia* access to and use of related public domain material”. The Delegation explained that as the Secretariat had referred to legal and technological materials related to the innovation system, it simply suggested that rather than pointing to a vast undifferentiated public domain to focus on related public domain materials, it should focus on related public domain materials. The Delegation offered that up for consideration.

285. The Chair believed that it was a fairly “innocent and non-offensive adjustment”, and that it seemed that neither the Secretariat nor the Member States had a problem with it. He, therefore, requested full acceptance of the said recommendation. The Chair underlined that the language used in that sentence had been broadly agreed upon and that the meeting would therefore move to the next step.

286. The Delegation of Chile pointed out that it did not want to change anything in the proposal, but wished to express its satisfaction with the input at that point. The Delegation wished to put on record that it understood that all these actions were steps leading towards achieving the objectives of the recommendation, which was to promote normative activities supporting a strong public domain. It believed that the issues raised under recommendation 20 should be understood as actions which would lead towards taking into account the public domain in normative activities, which would in turn include the preparation of guidelines for the preservation of the public domain.

287. The Chair noted the comment made by the Delegation of Chile, and said that he did not think it changed the level of acceptance of the recommendation, but rather probably enhanced it. The Chair said that the Committee had broadly adopted the recommendation, and requested the Secretariat to assess the human and financial resources. He thanked the meeting for the interesting discussion on that item and moved to the adopted recommendation 22.

*Consideration of Recommendation 22 in the List of 26*

288. The Secretariat said that recommendation 22 in Cluster B was divided into two parts. Firstly, it concerned activities supportive of development goals, agreed upon within the UN System, and secondly it related to the working documents which were issued by the Secretariat, while carrying out norm-setting activities in different WIPO committees. The proposed activities suggested in the recommendation were also cutting across all the different norm-setting bodies of the WIPO, it added. The Secretariat recalled that it had earlier spoken on how some of these activities were carried out and the way in which that recommendation would be taken on board while implementing certain activities. To start with, the Secretariat would lay out certain general procedures that were followed by WIPO in norm-setting committees, after which specific details would be provided with regard to the Standing Committees on Copyright, Trademarks and Patents and also some IGC issues. The Secretariat further clarified that the last part of the text dealt with a series of studies on IP and competition issues, as well as with the holding of open IP events, which was discussed very comprehensively during the discussion on recommendation 7. In response to the suggestions made by the Delegations of Pakistan and Brazil, WIPO would organize such an event in Geneva in order to provide an opportunity for diplomats to also attend it. Further, the Secretariat suggested for the meeting to concentrate on the first part of the recommendation dealing with working documents which were prepared for norm-setting activities, as well as certain procedures related to those meetings in Geneva.

289. In continuation, the Secretariat explained that the Standing Committees were very much Member States' driven, as had been reiterated several times in the last few years. It explained how the committees decisions were normally made and decisions taken on what kind of materials to be prepared by the Secretariat. The Secretariat added that there were, however, some differences between the committees. Namely, in a number of the committees, which also used to be the case in the copyright area, documents had been and were still being prepared by the Secretariat following instructions by the committees and by the Member States, which had very different characters. In 1995, it had been decided that the continued work of the Committees preparing what eventually became the WCT and the WPPT should be based on government proposals in a treaty language and that method of work had been followed in the SCCR since then. In the early stages of the work on protection of audiovisual performances, non original databases and broadcasting organizations, the proposals were sometimes not made in a treaty language, but were more generally worded submissions. However, the bulk of the working material had been proposals from governments and the task of the Secretariat had mainly been to systematize and put it together in a document, giving an overview of the situation. Recently, new issues had been brought up on the agenda such as limitations and exceptions to copyright – mainly in respect to visually impaired persons, libraries and archives – and the education sector. In preparation of those discussions, the Secretariat had commissioned a number of studies by outside experts, mainly aimed at conveying factual information. The Secretariat stressed that evaluations and opinions which were expressed in such studies would be in the names of the experts who had undertaken them, and therefore also solely on their behalf. As far as the SCT was concerned, working documents were indeed prepared upon request by the Committee and within the mandate that was set by the Committee. Such preparation was an on-going process which meant that the Committee was immediately following in its next session and had an opportunity to look at the drafts and comment on them. The Secretariat further explained that that had been the practice for the last couple of years, and that the explicit form that an individual document followed depended very much on the purpose the document tried to fulfill. There were background information documents, and in the case of the SCT, rather extensive studies had been contracted by the use of questionnaires which, once compiled were put before the Committee for comments. There were also specific working documents which had been also

prepared upon the request and in conformity with the mandate given by the SCT, which were all recorded in reports with the whole process being completely transparent.

290. With regard to the work of the IGC, the Secretariat said that it was based originally on a series of consultations in the field, the so-called fact-finding missions, dating nearly 10 years ago. It specifically involved consulting with TK holders, where time and effort was invested in learning from TK holders about their specific concerns, needs and expectations. With the formation of the IGC as a policy level body by the Member States in the year 2000, the initial approach was to learn about different national experiences and there was a long period of fact-finding also at the national level, about national legal mechanisms and approaches. The Secretariat further explained that more recently the work of the Committee was similar to the procedures and processes of the Standing Committee, which had been described previously. It added that, as a consequence, there were working documents in the Committee which were commissioned by the Committee and developed by the Secretariat and consulted upon very extensively, both within the Committee itself and through a number of inter-session commentary processes, which were open to all Member States and all observers, including the important TK holders. In addition to that, and following the request from Member States, there had been a series of regional and national seminars whose large part of work had been reviewing the IGC materials, and developing an understanding about the implications of the materials and developing inputs into the inter-session and the IGC processes. The Secretariat pointed out that another important aspect for the IGC, given that its work overlapped with the work of other international bodies, such as the Convention on Biological Diversity (CBD), the Food and Agriculture Organization (FAO), and the United Nations Educational, Scientific and Cultural Organization (UNESCO), was consultation within those bodies where the IGC Secretariat had taken part in many events, held side events and encouraged dialogues with those organizations. The Secretariat further said that whatever had been indicated concerning other Standing Committees, could basically apply to the SCP. It explained that working documents of the SCP were prepared at the request and the guidance of the Member States, and that there were various mechanisms such as questionnaires or surveys to be completed by the Member States, or compilation done by the Secretariat to provide information, or update SCP documents.

291. The Delegation of Argentina wished to refer to the proposals from the “Friends of Development” which were originally submitted on recommendation 15, on principles for norm-setting activities, as well as on recommendations 16, 17, 19 and 21. The Delegation underlined that the Secretariat report on working documents did not take those recommendations into account and therefore requested the Secretariat to verify whether they were being implemented. It believed that the CDIP should send a letter to the Chairs of the relevant committees containing those recommendations. It also requested the CDIP to prepare a recommendation to the General Assembly in order to incorporate recommendations 15, 16, 17, 21 and 22 as annexed to the rules of procedure of the Committee.

292. The Delegation of the United States of America found it worrying that the CDIP would intrude itself at a fundamental level in the rules of procedures of other committees, in particular bearing in mind that the CDIP was newly established and just ‘finding its voice’. That year it was operating under the mandate of the General Assembly to coordinate its work with other committees, and there had already been extensive discussions in the First Session about the relationship of the Committee in a horizontal way with other committees. The Delegation stressed that it was troubled by the previous proposal, and that at that point in the discussion it found it unacceptable.

293. The Delegation of South Africa believed that it was indeed a very important recommendation, which in its view tried to bring some form of balance in the IP system by preserving the flexibilities that already existed in the TRIPS Agreement, or as creating some, also recognizing that countries were at different stages of development during the treaty-making procedures. From the Delegation's point of view, it was a recommendation which was the result of the proposals which had been submitted by the African Group and the "Friends of Development". The Delegation recalled that in the SCCR process, most of the issues that were brought forward as issues that needed to balance the basic proposal for a treaty were sidelined to the annex, and that it had taken long consultations for integrating the annex, which contained issues proposed by developing countries to form part of the treaty. The Delegation reaffirmed the importance it attached to the recommendation, which it did not consider intruding on the work of other committees. It believed that Member States had a right to propose whatever they wished to propose in the international agreements and that it should be accepted in the multilateral system. The Delegation stated that a typical example was the Trademark Conference in Singapore, where developing countries had faced a lot of resistance when they were proposing similar issues, and that then they risked a compromise. The Delegation strongly believed that it was in fact one of the most important recommendations and that, as such, it was for the benefit of all countries and of the multilateral system. In the understanding of the Delegation, the issues under discussion were not mandatory issues that needed to be integrated in the treaty-making processes, without a proposal from a Member State. In its view, it was up to Member States to propose whatever they wanted in the multilateral negotiations and it should be a subject of negotiation. That was how the Delegation understood that particular proposal, as a very important proposal for developing countries. It felt that it did not help to conclude treaties that were sometimes not really relevant for developing countries. It also believed that treaties should be balanced, taking into account the levels of development, and should assure that it benefited every Member State.

294. The Delegation of Brazil declared that, in its view, recommendation 22 was one of the most important, if not the most important recommendation of the Development Agenda. It represented a step to bring the IP Agenda back into the mainstream of the UN System, as it constructed some linkage between the UN Development Goals and WIPO's norm-setting activities. It believed the recommendation to be fundamentally important for both developing and developed countries. The Delegation underlined that Brazil deeply believed that development was a cross-cutting issue, as it cut across the whole IP Agenda and also skirted across the whole UN System. It stressed that one could not confine to the boundaries of the CDIP, the discussions on development-related concerns, nor should the CDIP aspire to monopolize the debate on development topics, as development was a cross-cutting subject. The Delegation underlined that in relation to norm-setting activities, an effective way of mainstreaming the development dimension into WIPO's activities was by following and adhering to the principles they had decided to reflect in recommendation 22. It stressed that the principles present in the recommendation were fundamentally important not only because they had an interface with development, but also because they were by themselves parts of the IP Agenda. As an example, the Delegation picked up the issue of flexibility, exceptions and limitations for Member States, and recognized that flexibility, exceptions and limitations had a wide interface with development, yet the discussion on flexibility, exceptions and limitations was part of the discussion on IP itself. Having said that, the Delegation fully supported and endorsed what had been said by the Delegations of Argentina and of South Africa.

295. The Delegation of Japan underlined that it could not support the proposal of the “Friends of Development” as it believed that, as described in recommendation 15, discussion on norm-setting activities had to be conducted in individual specialized committees. It further stated that the flexibility issue in recommendation 17 should be discussed or examined in the SCCR as the main norm-setting body in the area of copyright and related rights, at the request of a Member State. In its understanding, the CDIP was not in a position to give instructions to the thematic committees or to issue recommendations on their proceedings.

296. The Delegation of Algeria wished to join other delegations which had emphasized the importance of those recommendations. In its opinion, the content of the recommendations gave a clear idea of the essence of the Agenda on Development and the objectives that they all looked forward namely to, mainstreaming the development dimension within all the WIPO activities. The Delegation explained that when the African Group had supported that recommendation, it knew that as much as technical assistance was very important for the African continent, the issue of norm-setting and the transfer of technology - which was compulsory within that recommendation - would have high importance for the whole continent as well. The Delegation mentioned some elements that the African Group considered had to be acknowledged. The first one was that those recommendations had been adopted by the General Assembly, as a group of ideas and proposals for implementing the development dimension in WIPO. It continued in explaining that the fact that they were dealing with recommendations within that Committee was because they needed to find a forum where the issues could be discussed. The Delegation stressed that these recommendations of the Agenda on Development had been agreed upon right from the beginning and were related to all the activities of WIPO, all the different committees, and it was up to the CDIP to examine the way of implementing them. Consequently, by suggesting or recommending to the General Assembly that that recommendation had to be taken into account by the different committees of WIPO, they were not going beyond the mandate of the CDIP, but just working within that mandate as they were not giving any recommendation directly to any committee, but recommending to the General Assembly the need for the different divisions or different committees of WIPO to take into account the content of this recommendation. It further explained that the CDIP was not dealing with norm-setting, unless the mandate of that Committee was changed, but dealing with the means to implement these recommendations. The Delegation insisted that what had been proposed by the Delegations of South Africa, Brazil and Argentina had to be considered in the right way. The main issue was how to transmit to all the different WIPO committees the necessity that the development dimensions had to be taken within the norm-setting activities undertaken within their mandate. In concluding, the Delegation requested, on behalf of the African Group, that its convictions and ideas behind the adoption of that particular recommendation be reflected in the report. It also expressed its desire to see in the recommendation, or in any other form of communication the CDIP could send to the General Assembly, a clear message to all the committees on the necessity to implement that recommendation within their respective activities.

297. The Delegation of Tunisia reiterated what it had stated earlier on, namely that the meeting was in the process of implementation and not of review or revision of the recommendations. All 45 recommendations constituted a balance which had been delicately reached. It compared it to a construction where all blocks were mutually sustaining and if one block was to be removed, or touched, the whole construction could fall down. It hoped that that would not happen to the Committee. The Delegation underlined that mainstreaming and involving development considerations into WIPO’s substantive and technical activities and debates was a matter that needed the full involvement of and participation of all WIPO

organs, committees and working groups. However, it added that those organs might not be fully and systematically aware of the particular recommendations of the CDIP, and the role they should play in order to ensure the effective implementation of these recommendations. The Delegation recalled that it had previously proposed for the Committee to make recommendations to the General Assembly, requesting WIPO organs to take more into consideration the development aspect in their deliberations and activities, and that that proposal was echoed by the Delegation of Algeria. The Delegation stressed that, in its view, recommendation 22 was very relevant as stated by the Delegations of South Africa, Algeria and Brazil.

298. The Delegation of France, on behalf of the EC and its 27 Member States, declared that while taking into account the importance of the issues implied within that recommendation, one should not lose sight of what the mandate of the Committee actually was. It stressed the importance of respecting the terms of reference of the said Committee, as it feared there could be a risk of interference between the various committees existing within WIPO. The Delegation pointed out that it was important to continue the discussions on that matter in order to take into account the scope and the nature of recommendation 22.

299. The Delegation of Cuba considered recommendation 22 as crucial for developing countries. The essence of the Development Agenda was to include the development dimension in all the activities of WIPO. It was therefore a cross-cutting issue that should be involved in all the work of the Standing Committees of the Organization. It further fully supported the statements made by the Delegation of Argentina on behalf of the "Friends of Development".

300. The Delegation of China supported the proposal, agreeing with the African Group and the Delegation of Brazil. It stressed that development was indeed a major challenge developing countries were facing, and that it represented an importance for the international community as a whole. It believed that that was the reason why the UN and its agencies had to do everything they could to resolve the issue on how to work with development. The Delegation reminded that with 2015 in sight, date by which the UN Millennium Development Goals were to be fulfilled, the international community had to speed up its efforts. With regard to the norm-setting standards, the Delegation believed that the different development levels of the countries involved should be taken into account and that a balance satisfying all parties, and guaranteeing individual countries' development objectives, should be found. That would in turn bring the international community into a position to make available policy space for developing countries, which in its opinion was a matter that should be seriously tackled by all the WIPO bodies and committees. The Delegation underlined that, as a member of the developing countries group, it had attached a great deal of importance to the matter for numerous years. It further stated that in the area of IP, it had also carried out experiments which would make economic and social development in its country possible. The Delegation concluded that, in the area of economic development and IP, developing countries still had differences and lagged behind developed countries, and that in that process it should be assured that developing countries would have more margin for maneuver in terms of norm-setting and their implementation.

301. The Delegation of Jamaica declared that the CDIP was a unique body which was not examining one IP issue as other committees were, such as the SCCR, SCT, or SCP, but was rather looking at development in its broadest sense. In that context, the Delegation supported the point made by the Delegation of Brazil earlier on regarding the cross-cutting nature of development. It believed that the work of the CDIP would invariably touch on the activities

of other committees, and it did not consider it as being intrusive *per se*. It underlined that what the CDIP was seeking, by way of recommendation 22, was to promote a coherent approach to development, and to place it within the context of the UN development goals. The Delegation pointed out that since the primacy of development had been established, it should be recognized that it could not be implemented effectively if the CDIP activities did not address the activities of other bodies. In that context, the Delegation supported recommendation 22.

302. The Delegation of Chile stated that it shared the spirit of what had been declared by the “Friends of Development”, and by the Delegations of Brazil, South Africa and China, among others. It believed that those recommendations should reach the respective WIPO committees and that there should be consistency in the work that was carried out by the Organization. It supported the Development Agenda, and pointed out that the agreements reached were cross-cutting in nature. As voiced by some delegations, it seemed that the problem was that the Committee should not have a mandate to directly instruct other committees as to what they should do. It believed that the concern could be resolved in line with the views expressed by the Delegation of Tunisia on that matter. It underlined that the Member States should seek to find the best, or most appropriate, way to ensure that these recommendations would reach each and every one of the WIPO committees and the bodies of the Organization. It added that it could be done via recommendations which the CDIP would make to the General Assembly, to ensure that the General Assembly would in turn send those instructions to the relevant WIPO committees and bodies.

303. The Delegation of the United States of America wished to take the opportunity to perhaps clear up some confusion it heard listening to the interventions of other delegations. The Delegation believed that the work of the CDIP was to implement the 45 agreed recommendations and to consider activities for the same. In that regard, it did concur with the observations made by the Delegation of Tunisia. If there was an impression that it somehow disagreed with recommendation 22 or was revisiting that issue, it should be made clear that that was not the case. The Delegation explained that it rather wanted to continue the deliberation and the improvement of the activities proposed with respect to that given recommendation. It wanted to begin with respect to the first sentence, and stated that it fully supported the view that it was up to the competent Member States’ bodies to prepare the initial documents for norm-setting. It also declared that it had listened carefully to the presentations made by the Secretariat. It further said that it believed informed policy making was always to be preferred to uninformed, ill-informed, or misinformed policy making. In that context, and in that spirit, it supported in principle the proposed activity to hold colloquia and fora, with a view to building deeper understanding of the complex issues before the CDIP. The Delegation underlined that the global IP system in relation to the national IPRs, policy making, including its continuing and increasing rapid adjustments to technological, economical and social developments, was a difficult issue enough, even within WIPO as the specialized UN Agency that had developed the expertise in the global IP system. It added that developing a deeper understanding of the interface between global IP and economic development was an even more daunting task. The Delegation recalled that it had been proposed that one way would be to hold certain events, colloquia and fora. It confirmed its support for such events, yet with a few cautionary observations. Firstly, such programs had to be based on recent, sound and expert knowledge. Secondly, they should be balanced in relation to the relationship between the IP system and economic development, and thirdly, that such events had to be policy neutral, confined to inform about the policy-making process within the appropriate parts of WIPO in order to advance the broad objectives before the Committee. The Delegation also mentioned that it had been proposed that WIPO would

commission a series of studies on IP and competition issues, and requested that the same general principles of expertise, balanced approach and neutrality be applied to those studies.

304. The Delegation of (the Islamic Republic of) Iran believed that recommendation 22 was one of the most important ones. It stressed that there would be no results from the CDIP activities without their reflection on the activities of other WIPO committees, and therefore it fully supported the statements made by the Delegations of Argentina, Brazil, South Africa, Algeria and China.

305. The Delegation of Trinidad and Tobago believed that that recommendation was perhaps one of the main reasons why discussions on a Development Agenda had begun in the first place. In previous discussions, all delegations had agreed that the development dimension was cross-cutting. The Delegation did not believe that the intention of the CDIP was to direct the work of the other Committees in WIPO, but rather to try and find a way to incorporate the cross-cutting development dimension and the work of that Committee to other Committees. The Delegation supported the statements made by the Delegations of Brazil, Tunisia and China.

306. The Delegation of Thailand supported the statements previously made by different delegations from developing countries and LDCs and wished to reiterate the important point that the CDIP was not negotiating proposals, but rather implementing the 45 recommendations, including recommendation 22, which was in its opinion, one of the most important items on the list. The Delegation insisted that it wanted to see that recommendation fully implemented, and the development dimension taken up by all divisions of the Secretariat.

307. The Delegation of the Russian Federation pointed out that it attached considerable importance to the issues of development, as well as to the achievement of the UN Millennium Development Goals, set within the UN system. The Delegation believed that the indication of such importance was precisely the text agreed by everybody in recommendation 22, and the task the committee was facing was how to most appropriately and effectively implement it. The Delegation noted that one of the guarantees of its successful implementation was to act within the framework of the existing rules, and that meant, *inter alia*, observing the mandate or terms of reference of the Committee. The Delegation was naturally prepared to seek mutually acceptable solutions within the framework of that mandate and within the framework of existing rules. As far as the proposals were concerned, the Delegation was grateful to the Secretariat for the explanations provided and for the possible approach that could be adopted to implement the recommendation. The Delegation had listened very carefully to the very many useful points which had been made on the matter and it believed that not only norm-setting activities were extremely important, but that they were also the responsibility of Member States, since they were those responsible for directly dealing with norm-setting. The Delegation recalled that there were some very successful examples of dealing with development issues as part of norm-setting activities and as part of the development of relevant and appropriate international instruments. It was the feeling of the Delegation that, within the measures proposed to implement recommendation 22, there was one very interesting point, and that was the idea of holding appropriate Colloquia and Open Fora, which would make it possible to achieve a better and more detailed understanding and assessment of the various issues at stake. That would certainly help delegations to make better progress on the specific preparation of activities and to move steadily towards the successful implementation of the recommendation.

308. The Delegation of Nigeria wished to underscore the importance it attached to recommendation 22, and to the overall success of the Development Agenda. It also wished to emphasize the need for WIPO to recognize the importance of mainstreaming cross-cutting development issues into its activities. With reference to the mandate of the Committee, it strongly believed that it was the duty of the CDIP to sensitize all the other committees on the importance of development issues, and that should not amount to encroaching on their duties. Developing countries and LDCs probably looked up to that particular recommendation as a window through which development issues would be addressed, it added. Finally, it stated that it fully supported the position of the African Group as expressed in the statement made by the Delegation of Algeria.

309. The Delegation of Indonesia attached great importance to the discussions on implementation. It believed it to be essential for Member States to ensure and guarantee that the development dimension would not be set aside or marginalized from other committees in WIPO. In fact, the CDIP should play a significant role in covering the IP deliberations with developmental aspects in other committees, it added. It therefore stressed that it was high time for delegations to ensure that the developmental aspects were respected and implemented comprehensively in any deliberations at WIPO.

310. The Delegation of Norway wished to reiterate the importance of respecting the mandate of the CDIP as given by the General Assembly. It agreed with previous delegations that recommendation 22 was one of the most important recommendations of the Development Agenda. It had been carefully drafted and reflected the compromise reached by the members in the PCDA. The Delegation, therefore, believed that the proposed activities under item 22 should be cautiously kept within the framework of the recommendation. It supported the recommendations made by the Secretariat, and believed that an open debate, for example through open events or studies, would be useful in order to contribute to a better understanding of the issues at stake. That would help Member States in the open debate in the standing committees.

311. The Delegation of Uruguay also noted that recommendation 22 was one of the most important recommendations in the Development Agenda. It strongly believed that the text adopted by the General Assembly determined that the development aspect had to be taken into account when activities were carried out by the Organization. As a result, the Delegation supported the statements made the Delegations of Argentina, Brazil, South Africa and Algeria, among others.

312. The Delegation of Colombia considered that the implementation of the proposal should take place in a cautious manner, it being understood that the legislative body of each Member State should be able to make up its mind in the area of exceptions and limitations. In that respect, there were some instruments which had enabled the countries to make up their own mind taking into account the reality of the “three-steps-test” on exceptions and limitations that those instruments contained. Similarly, the Delegation wished to flag the point that the issue was a sensitive one in the context of the commitments undertaken at the WTO and other fora, and it drew the attention of the Committee to the fact that States must have some autonomy when it came to the limitations and exceptions to copyright.

313. The Delegation of Pakistan expressed its full support for the recommendation. It had repeatedly emphasized that development should be maintained in all the activities of WIPO and was of the opinion that the Committee should recommend the General Assembly to instruct other committees to mainstream development in all their work.

314. The Delegation of Madagascar also attached great importance to recommendation 22. It hoped that it would be implemented in order to meet its development objectives.

315. The Delegation of South Africa indicated that the African Group had requested the Secretariat to prepare a report on the contribution of WIPO to the achievement of the UN Millennium Development Goals, issue mentioned in the recommendation.

316. In summarizing the discussions, the Chair noted that adopted recommendation 22 had the support of the delegations, which all agreed on its importance. The delegations had looked at the proposed activities and the Secretariat had given extensive explanations as to how some of the activities could be undertaken. The Chair could not recall hearing any objections or any difficulties to the Secretariat's proposals on the implementation of the adopted recommendation, so the proposed activities seemed acceptable. The "Friends of Development" had suggested correspondence with the Chairs of the norm-setting committees but the Chair was not persuaded that that was necessary or desirable. Several delegations were of the opinion that the Committee should work within its mandate, and the Chair confirmed that he could only work within the said Mandate. Any time he stepped outside the mandate of the Committee, he was acting in his personal capacity. Acting on behalf of the Committee, for example by writing a letter, would be performing his functions within the mandate of the Committee. But he also needed to be sure that he was performing with the agreement of the members, and he was not sure that writing those letters was the right thing to do at that stage. However, the intention of the "Friends of Development" could be accommodated in the report to the General Assembly. In September, the decision of the General Assembly had mentioned that Member States called upon all "Member States, the Secretariat, and other relevant WIPO bodies, to ensure the immediate and effective implementation of the proposals". WIPO Member States, the Secretariat, and other relevant bodies could not effectively implement proposals unless they took them into consideration in their work. The Chair proposed that delegations proceed similarly in the report to the General Assembly of that year, that is, request the General Assembly to call upon all Member States, the Secretariat, and other bodies, to ensure the 'effective' implementation of those proposals- the Chair believed that there was no need to state 'immediate' since that referred to the 19 Recommendations. The Chair thought that that would achieve the objective of the proposal of the "Friends of Development". The Chair also added that one thing was to write a letter that others simply may or may not read, another was to recommend to the General Assembly something that the General Assembly would probably accept and if so communicate to the Secretariat and to all Member States and to all WIPO bodies that they should give effective implementation to the proposals. All of those things were fine. But the most important thing was getting it done. And it was up to the delegations that had to act constantly, persistently to get it done. No letter, no instruction through the General Assembly to those bodies would deliver on the Development Agenda, unless delegations as members who had agreed to those adopted Recommendations, who had agreed to those proposed activities, unless they acted, and in their interventions and in their discussions and participation in those bodies carried the spirit of the Development Agenda in those bodies. The Chair considered that the concern of instructing or interfering in the work of other bodies could be dismissed as unattainable. There was maybe a thin line, but it was a question of how Member States dealt with those issues, because they could be intrusive in their attitude or not. There was a responsibility on delegations in that respect. Finally, the Delegations had listened to Mr. Gurry who had declared himself committed to the success of the Development Agenda, and personally prepared to arrange that the work of the Committee operated under

his oversight. So the Chair believed that there was nothing to fear concerning the success of that adopted recommendation or of any other.

317. The Delegation of Tunisia indicated that it could go along with what had been suggested by the Chair, regarding the effective implementation of the recommendations, but insisted that in its previous intervention, as in the interventions of other delegations, it had mentioned the need to take into consideration the development dimension in the activities and work of other committees and bodies of WIPO. As a consequence, maybe the words “development dimension in the activities of other bodies” could be inserted. That would seem to be fairer for all delegations, it added.

318. The Delegation of Brazil noted that all delegations had agreed on the fundamental importance of adopted recommendation 22 and had reiterated their commitment to that recommendation. The recommendation called for a ‘coherent approach’ by WIPO with regards to the cost-cutting nature of the development dimension, as stated by the Delegation of Jamaica which had declared that delegations should try to build and develop that coherent approach. That was precisely what delegations should try and do, to seek a more coherent and enhanced coordination between WIPO’s Permanent Committees and the General Assembly. That was the reason why the group of “Friends of Development”, as expressed by the Delegation of Argentina, had proposed that the Committee devote itself to developing ways and tools for giving a complete expression to the cost-cutting nature of the development dimension. The Delegation of Brazil noted that, when reading the activities proposed by the Secretariat, its fear was that delegations would leave the room with their hands empty, because the proposal made by the Secretariat went in two directions, the first one was to conduct a series of studies, while the second was to hold open fora. Although there was merit in those proposed activities, they were reflected in a very vague and abstract manner. Taking into account what had been declared by the Delegation of South Africa, on behalf of the African Group, when it had requested the Secretariat to prepare a study on the contribution of WIPO to the achievement of the UN Millennium Development Goals, it believed that the Committee should try to follow that path, and agreed with the proposal made by the African Group for the Secretariat to prepare the study that should be delivered in the near future. The Delegation therefore stressed that the Committee should seek to reflect that African Group proposal in the document. The Delegation also wished to go a little bit further and say that the Secretariat should not only prepare a study on the UN Millennium Development Goals and IP, but should also consider the possibility of holding a Global Forum on IP and Development. This would maybe allow delegations to really try to give a complete expression to what they had been talking about on the cost-cutting nature of development. That would allow the delegations to leave the room knowing that the Secretariat would deliver a complete study and would hold a specific forum on something very relevant. The Delegation recalled that, in 2006, there had been a very relevant and very interesting event on the issue of patent harmonization which had been an open forum on patents, but those events happened only once in a while, and then what was said there was forgotten, and consideration should be given to having an annual event organized by WIPO.

319. The Chair stated that the intervention by the Delegation of South Africa, reporting on the African Group suggestion, was accepted by the Secretariat. With regard to the idea of holding a Global Forum on IP and Development, the Secretariat would come back with details of cost.

320. The Delegation of Argentina had no objections with the way the Chair had proposed to proceed, but wished to simply share a thought. The Committee was dealing with

cross-cutting issues, so there should necessarily be a way in which delegations could have a direct communication with the other committees of WIPO, through a note which the Chair could send, or other types of solutions which could be adopted, but some kind of direct communication needed to take place to enable the Committee to carry out its work.

Furthermore, the Delegation stated that it wished to include, or have included, among the activities, the issue of assessment or evaluation of how the recommendation was being implemented. The Secretariat of the CDIP could ask the Secretariat of the relevant committees how the recommendation was being implemented, and it would receive a report on the implementation of the recommendation in the CDIP meetings. The Delegation also supported the proposal made by the Delegation of Brazil.

321. The Delegation of France, on behalf of the EC and its 27 Member States, was perfectly willing to study the best way in which to implement that particular and very important recommendation. It had heard the proposals made which seemed to be worthy of consideration and interest. The Delegation, however, believed useful to be able to discuss more easily at a later stage if the proposals were reflected in a new version of the activities. That could perhaps include ideas that the Secretariat might have or which might emerge from the discussions on that point, and would be helpful in assisting the Committee in making headway, as well as assisting the Delegation's coordination with the EC.

322. The Delegation of Tanzania, although in agreement with the statement from the Chair, wished to emphasize its strong conviction and belief that the chances that the CDIP activities would encroach on the activities of other committees was minimal since, to its opinion, committees worked in a harmonious manner.

323. The Chair wished to make two points. The first one was to recognize the comment made by the Delegation of the United States of America on the programs and fora. Expecting that the discussions held under that Agenda Item should be balanced and take all viewpoints into consideration was a reasonable expectation. In other words, delegations wanted to hear both sides of the debate. With respect to the intervention made by the Delegation of France, if the Chair had understood correctly, the response was just to remind members that he was just seeking "broad agreement" on those proposed activities based on the discussions that had been held and, since it was a formal session, delegations would have the voluminous record of what everybody had declared. What would come back to the Committee would be the updated proposed activities with the human and financial resources for the Committee to have a final look at and, if acceptable, only then would the Committee go to the stage of agreement. At that stage, he was not seeking agreement, so there was still time for consultations with the delegations' constituencies. In line with the process that had been agreed upon in March, at that stage the aim was to reach broad agreement subject to the comments and the suggestions that everybody had heard and taken into consideration. The Chair noted that he was satisfied that the Committee could broadly agree to that recommendation and the Secretariat would come back to it with the information on additional resources.

324. The Delegation of South Africa believed that perhaps it would be good if the Secretariat indicated to delegations the internal mechanisms for coordination within the Organization for implementation. Also, to deal with the issue of reporting, perhaps the Chair could give an invitation every now and then to the Chairs of other committees just to give the CDIP a broad idea of what they were doing to implement.

325. The Chair pointed out that internal coordination by the Secretariat was not only physically evident by their participation, through the ladies and gentlemen who had been

speaking to the committee and who dealt with the other four committees, but could also be seen from the suggestions on implementation of the adopted Recommendations. The activities had come from different parts of the Organization and represented the different parts of the Secretariat who had come to speak to the Committee. Therefore, he considered internal collaboration to be very effective. With that, he said that the meeting had broadly agreed to the activities proposed for implementing recommendation 22 and requested the Secretariat to come back with an assessment of required human and financial resources. He then moved to a discussion on recommendation 23.

*Consideration of Recommendation 23 in the List of 26*

326. The Secretariat initiated the discussion on recommendation 23 in the list of 26 of Cluster B, stressing that there would be particular focus on pro-competitive IP licensing practices, licensing guides, technology transfer and franchising. With regard to the copyright area, the Secretariat recalled that in 2005 WIPO had published a licensing guide which would be a good basis from which to proceed towards identifying possible future activities relating to the different ways that copyright holders could exercise their rights through licensing. The publication was authored by a number of eminent experts in different fields, and looked at a variety of different forms of creativity recognized under the Berne Convention and other WIPO treaties. One possible way forward would be to convene a global meeting on emerging licensing issues in the copyright area, to build on the survey provided in the WIPO licensing guide. In addition, the Secretariat proposed to continue with on-going awareness-raising activities concerning the different approaches to copyright licensing that had come online in recent years, through market mechanisms, legislation, or through self-regulatory approaches. Examples of recently-developed forms of copyright licensing included the Creative Commons system and open source software, though both had been present in the market for some time and were not really a new phenomena. These forms of licensing did not involve renouncing or abandoning copyright, but were actually uses of the rights provided under copyright, the Secretariat added. As a way forward, it suggested to examine the compatibility between traditional copyright licenses and newer forms of licensing, in order to identify potential problem areas that could be the subject of future work by the committee. The Secretariat clarified that the open source and Creative Commons mechanisms were not necessarily perfect, or even stand-alone options. For example, mixed software platforms were increasingly common in the marketplace, where proprietary and open source software were combined in the same technology or application, with implications for the right-owners, the creators, programmers, and companies that commissioned or financed the creation of software in terms of marketing and making it available, maintaining and upgrading it. It further stated that multiple issues flowed from the different licensing practices, which would be useful to examine. For example, some of the new licenses were irrevocable, which gave rise to a variety of issues, such as the implications for further creativity. There was therefore useful work to be done in terms of collecting the facts concerning different copyright licensing practices, describing them and analyzing them in a manner useful to the Member States. Concluding the point, the Secretariat stated that the CDIP could move forward with that proposal on two fronts: one would be to organize a global meeting on emerging copyright licensing issues, and the other would be to continue raising awareness on new forms of copyright licensing, particularly in technological fields. It added that it was important to bear in mind that some copyright subject matter could also be licensed under other IPRs, in addition to copyright, for example software, which could involve patent rights as well as copyright. Where appropriate, licensing issues regarding such subject matter should not be examined from an overly-specific or narrow point of view focusing on one field of IP, when there could be several IPRs involved.

327. With regard to the subject of licensing guides, specifically on the proposed website for Successful Technology Licensing, referred to in page 14, the Secretariat explained that that website was dedicated to be used by technology managers and other stakeholders, and that it had arisen as a result of requests made by participants of licensing training which were organized in cooperation with Member States in more than 30 countries, benefiting approximately 1,500 people. The main purpose of the website would be to facilitate the exchange of information on issues related to licensing and technology transfer agreements, mainly involving patents. It would also serve as a forum for technology transfer managers to exchange experiences with each other about their work, particularly concerning the structure of technology transfer offices, negotiation of contracts, and development of skills among others. It would also provide the means for the dissemination of model licensing contracts. Moving on to Franchising, the Secretariat explained that there were two ways of going about creating a sustainable enterprise: one was to start a risky new business on the basis of a new idea, where the entrepreneur did everything himself, and the other way was to rely on a proven business model developed by another and made available, such as a franchise. Thus, instead of embarking on a risky venture of becoming a first-time entrepreneur, one could benefit from a proven business model with a successful brand name. The franchisor also had a full training program based on the operations manual which tells a would-be franchisee each and everything that is needed to run the business. A franchisee therefore had the possibility of leveraging someone else's brand which included, first and foremost, the trademark, but also other IPRs including trade secrets and know-how. In Africa, in particular, the African Development Bank had devoted a significant sum of money for promoting franchising in the region. However, it had not focused on IP while doing so. As there could be no franchising without licensing of IP, especially trademarks, this gap needed to be plugged for which a guide on IP issues in franchising needs to be prepared. That guide would not be oriented to legal practitioners, but to businessmen, keeping the practical aspects of business in mind.

328. The Delegation of Brazil stated that there was a misconception that open source software and creative commons were outside the IP system and requested the Secretariat to clarify the issue.

329. The Secretariat stated that rights involved in creative commons licenses and open source copyright licenses were rights provided for in the Berne Convention, in the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), the TRIPS Agreement, and in national laws. Some of their uses, at least initially, were non-commercial or not intended for remuneration. However, many of them were now moving into commercial exploitation. In the copyright system, authors had choices and whether their choice was exclusively non-commercial or exclusively commercial was an exercise of copyright.

330. The Delegation of Brazil stated that it was pleased to hear that open source software was within the IP system and that the many misconceptions could be laid to rest. It further stated that it had considered the proposed recommendations and agreed with all of them.

331. The Delegation of Chile commended the Secretariat for exploring issues such as making pharmaceuticals more affordable and improving accessibility to technology, knowledge and healthcare.

332. The Delegation of South Africa stated that it supported the specialized activities mentioned. It understood that franchising entailed IP aspects and that it was a very valuable contribution.

333. The Delegation of Indonesia requested that in paragraphs 2 and 5, the word “patent” be also included in order not to be confined to copyright licensing only.

334. The Chair confirmed that all areas of licensing would be considered.

335. The Delegation of Norway stated that it would support the proposals for activities under that item, but suggested for a distinction to be made between activities already carried out, like the licensing guide on copyright and related rights, and planned future activities which would be useful for the Secretariat’s indication of requirements for additional resources.

336. The Chair confirmed that that suggestion was acceptable.

337. The Delegation of China confirmed its acceptance of the proposed activities under recommendation 20 and joined the request made by the Delegation of Indonesia to include patents in the activities proposed on licensing.

338. With respect to the proposals made under recommendations 15, 16, 17, 19 and 21, the Delegation of Argentina requested the Secretariat to write an initial information document, exchange national experiences, and invite experts.

339. The Delegation of France requested the Secretariat to indicate which proposed activities were new and which were an extension of existing activities. As to the studies on IP and competition issues, it inquired as to whether there was a link between these studies and recommendation 7. The Delegation also stated that a number of subjects discussed, while of interest, did not in its view fall within the ambit of IP. In that regard, it cited the example of franchise. The Delegation pointed out that while some issues might be of interest to some countries, they were not of equal interest to all countries and the Secretariat, when making proposals, should adopt an approach compatible with the different national approaches and interests to all.

340. The Delegation of the United States of America stated that from the background information provided, it was clear that there were competing models and visions to exploit IPRs through licensing arrangements. All those competing models and visions were based on the fundamental principle that IPRs were a system of private rights that provided authors, inventors and trademark holders with a set of choices to exercise their rights in the market place which ultimately provided benefits to them and to the society at large. The activities to implement recommendation 23 should be looked at against that backdrop and based on recent and sound and expert scholarship, and be balanced taking all viewpoints into account. The Delegation pointed out that all studies, programs and activities in general should be public-policy neutral confined to informing the policy-making process within the appropriate bodies of WIPO, rather than dictating or even tilting in a particular policy direction. It also requested further clarification on what was meant by the proposal to provide legal and technical advice to promote pro-competitive provisions in IP licensing instruments, given that these were private negotiations in a market context. The Delegation concluded by generally endorsing the activities while requesting further clarification.

341. The Delegation of Switzerland joined a number of other delegations in generally endorsing the activities proposed under that recommendation. On the first proposed activity on a global meeting on emerging licensing issues and copyright, it stated that it would prefer to see a meeting that would not be limited to copyright, but would also include licensing

issues concerning patents and others. It added that it would support the proposal if the focus of the meeting could be made more precise and clear. It added that it would also not only support WIPO being more engaged in discussions on open software and creative commons and in implementing awareness-raising activities in these areas, but the commissioning of studies in the area of IP and competition too. As to the technology transfer database, the Delegation requested further clarification, particularly in terms of how much such a database would cost.

342. The Delegation of Botswana declared its general support for the proposals made for the implementation of the recommendation, but requested further clarification in the areas of franchising and technology transfer.

343. The Delegation of Colombia commented that, in its view, on the issue of copyright, the model to be established was a model that should be developed in a way that took into account the fact that it was not normal or reasonable to ask the authors of work to accept reduced control over their work.

344. The Secretariat clarified that IP was in itself pro-competitive unless unilateral or bilateral practices transformed it into an anti-competitive tool. The Secretariat would therefore not encourage interference in private businesses and private contracts. As a consequence, whether it was a reference to legal advice, on the promotion of pro-competitive practices, the advice of the Secretariat would simply reflect the provisions of Article 5, paragraph 8, paragraph 2 of the Paris Convention, as well as Articles 8.2 and 40 of the TRIPS Agreement.

345. Concerning the STL Fellowship website, the Secretariat clarified that the STL was a training program implemented by WIPO and that the website would serve as a forum to former participants of the training programs for exchanging experiences and speaking about the challenges they faced in their daily work, whether it would be on how to structure their offices, how to establish licensing programs, how to train their professionals, etc. The Secretariat declared that the word “database” could be rephrased as the intention was to include a number of model licensing contracts as a database for the benefit of the users of the website. With reference to IP licensing, and in response to a query, the Secretariat clarified that the licensing guides “Successful Technology Licensing and Exchanging Value” were downloadable from the WIPO website. The Secretariat further declared that the SMEs Division had helped four countries, all LDCs, to add a national chapter to the guides to ensure that government policies were also synchronized with what needed to be done to ensure successful technology transfer and licensing. During that exercise, there were provisions in the legislation, as well as in the implementing regulations, that were not conducive to technology transfer and to that extent called for policy advice to be given to the government. The Secretariat stressed that there was nonetheless no interference with the contractual intentions of two private parties. In the knowledge economy all that you license was IP and it may or may not be protected by a formal IPR and generally it was protected by a formal IPR. It could be copyright, it could be patents, and surprisingly it could even be trademarks. So, it was clear that trademark licensing and franchising were both integral parts of technology transfer. Referring to the proposed global meeting on emerging licensing issues, the Secretariat stated that flowing from the licensing guide that was produced, a useful way forward would be to look at subject matter, classifications, emerging trends, emerging forms of licensing, across the range of copyright subject matter - such as licensing issues in publishing, in the area of music both recorded music, and possibly even collective management with graphic and pictorial works, motion pictures, audio visual productions,

perhaps user-generated content which was a new vehicle for collaborative authorship and computer software.

346. The Delegation of Pakistan stated that it would support a global meeting on licensing, one that would not be confined to copyright, but rather expanded to include other forms of IPRs. As to technology transfer database, the Delegation wondered whether such a database also provided a list of the technologies for licensing. Finally, the Delegation requested the Secretariat to clarify what was meant by “partners” where it stated that the Secretariat would also establish ‘a technology transfer database and make available model licensing agreements relating to different technology transfer partners.’

347. The Delegation of Chile referred to the comment made by the Secretariat, namely that IP was by definition pro-competitive, and stated that while it did not necessarily disagree with that, it believed the objective of recommendation 23 to be different. In its opinion, it did not relate purely to Article 5 of the Paris Convention, or indeed to any other articles within the TRIPS Agreement on the abuse of rights through the misuse of contract licensing. As it understood it, the objective was to find new ways of using IP. The spirit of the recommendation was to try to see how best IP could be used in order to promote competition. In other words, the objective was not just to avoid uncompetitive practices, but also to promote competition through IP.

348. The Secretariat clarified that when it came to international exhaustion, it depended on how a country used it, but that they were not specifically IP licensing instruments. The Secretariat further clarified that it had recently received a report from a Member State that had adopted a completely different approach to international exhaustion. The law of that country stated that it abided by the principle of national exhaustion, but that in instances of abuses of rights or anti-competitive practices, or any other instance of public interest, the country could decide to consider the rights to be internationally exhausted. International exhaustion therefore appeared not as a compulsory license, but as a form of a sanction against abuses. That was a new and creative way of approaching international exhaustion, the Secretariat added. It also recognized that at the same time it had nothing to do with IP licensing agreements.

349. The Delegation of Chile reiterated its wish to focus on the spirit of the recommendation. If by definition IP was pro-competitive, there was no need for any recommendation whatsoever, since it would be sufficient to just increase the level of IP protection for a competitive environment to naturally follow. The Delegation agreed that in the case of parallel imports, there were some who considered it a pro-competitive practice.

350. The Secretariat stated that the question was whether that recommendation should be expanded to include areas outside licensing agreements. For example, in a compulsory license, there was an administrative act by a government and there was no technology transfer. Private property rights were pro-competitive by definition, but because they were private property rights, they could be abused. Pro-competitive measures were therefore measures that avoided private property rights being used against public policies and public interests. The question the Secretariat raised remained as to whether the recommendation should be narrowed or broadened to encompass other areas. Responding to the query on the website for technology transfer, the Secretariat replied that what was proposed was a site that would have useful information for technology transfer managers, to conduct their work on licensing and different technology transfer agreements, yet not a site that offered technologies for licensing. As to what was meant by technology transfer partners, the Secretariat clarified

that it referred to different actors such as universities, start-ups, industries and large and small companies.

351. In summing up the discussion, the Chair stated that it had been agreed that licensing would not be confined to copyright. As to some of the other concerns raised by certain delegations, mainly pertaining to human and financial resource requirements as well as to duplication of activities, the Chair requested the Secretariat to clarify, minimize duplication wherever possible, and develop new human and financial requirements according to the discussions. Further, the Chair stated that when principles were used, they should be used within the language of the adopted recommendation so that new principles were not drawn into activities that were not agreed upon in the adopted recommendations.

352. The Delegation of the United States of America believed that, should the word 'copyright' be taken out from the paragraph on licensing, that paragraph would not make much sense any longer and would need to be redrafted. The Delegation therefore requested the Secretariat to rewrite the paragraph accordingly.

353. The Chair clarified that the relevant changes would be made to paragraph 1 on page 13 so as to read that 'a global meeting would be organized on emerging licensing issues.'

354. The Delegation of Indonesia added that in its view paragraph 2 should also be changed. It believed awareness-raising activities concerning approaches to licensing should not be confined to the field of copyright, but expanded to include other IP areas.

355. The Delegation of the United States of America also requested the Secretariat to redraft paragraph 2 accordingly.

356. The Secretariat suggested that the paragraph may remain as it was, but that a new sentence be added to reflect that the awareness-raising activities would include other areas of IP and not only copyright.

357. The Delegation of Argentina recalled its earlier intervention and requested the Secretariat to incorporate in the revised document its recommendation to include the exchange of national experiences and to invite experts to discuss with the Committee.

358. The Delegation of Switzerland stated that the paragraph referring to the database on technology transfer should be redrafted, removing the word 'database' and replacing it with appropriate wording to reflect the focus on model licensing contracts.

359. With that, the Chair said that the meeting had broadly agreed with the activities subject to the proposed changes and that the Secretariat would be requested to assess the necessary requirements of human and financial resources to implement the recommendation. The Chair proposed that the meeting return to Cluster A in the list of 19 adopted recommendations, and discuss the last three recommendations, namely 12, 13 and 14, in document CDIP/1/3 page 19.

#### *Consideration of Recommendation 12 in the List of 19*

360. The Secretariat noted that recommendation 12 dealt with the issue of mainstreaming of the development dimension into WIPO's substantive work, including technical assistance activities, which also touched on a whole range of activities undertaken by the International

Bureau in support of developing countries, countries in transition, and LDCs. The principles that underpinned the re-orientation of WIPO's activities regarding the mainstreaming development were basically the same as those that had been spelt out earlier, namely that those activities should be development-oriented, demand-driven, executed in a transparent manner and that they should take into account the circumstances, and most importantly, the priorities defined by the concerned countries. That understanding stemmed from the idea that no 'one-size-fits-all', therefore programs had to be customized and their delivery made to suit the needs of the countries in accordance with the individual, national, and, where possible, regional development plans. Those programs were to be implemented within frameworks that would involve precise timeframes and with a number of parameters pertaining to the design, delivery and evaluation processes that should also be country-specific, the Secretariat added. Furthermore, those activities covered a wide range of assistance provided by WIPO, including legal assistance. The Secretariat recalled that a number of fora had been organized in order to discuss the new idea of mainstreaming development into the technical assistance activities of the organization, some of which were listed in the supplied text. The Secretariat further noted that legislative assistance had also been one of the issues considered in seminars organized by WIPO, the idea behind which was that legal options and flexibilities should be discussed in those fora at which specific public topics were considered. WIPO provided legal assistance not only in that context, but also in the context of a direct request received from countries, as clearly mentioned in recommendations 13 and 14. The Secretariat also stressed that in recommendation 12, there was one paragraph which addressed the organizing of strategic seminars by WIPO, which resulted from an initiative taken two years earlier in an attempt to mainstream development considerations into the debates organized by WIPO. The Secretariat underlined that WIPO had started the new format under which about ten seminars had been organized so far in different parts of the world. All those were five-day seminars which were attended by policy-makers from the countries of the region where they were organized, as well as diplomats based in Geneva. The attempt was to inject two elements into the same meeting: the national experiences of policy-makers and IP experts in the countries of the region, and to inject the dynamics of global IP negotiations taking place in Geneva, so that people in the regions became aware of how things were evolving and unfolding in various fora in Geneva. Likewise, in that way, people in Geneva would become aware of how industries and governments in various countries were making use of IP to leverage their competitiveness. Various public policy issues were also discussed in fairly great detail. WIPO also ensured that the meeting broke into smaller groups to talk about certain public policy issues, exchange experiences, and try to come up with certain policy prescriptions which the delegations could carry back with them. The Secretariat added that all these programs were organized on an interregional basis. It believed the programs were found to be fairly successful and there were at the time three pending requests for hosting those seminars later in 2008 or early 2009. The Secretariat also informed that in the last two years, WIPO had worked actively in the area of flexibilities and the idea, as contained in the mandate received through the Development Agenda, was to raise awareness. The purpose was clearly not to persuade countries to use or not to use flexibilities, but to create awareness and show the different modalities and flexibilities available under the different treaties of WIPO and the TRIPS Agreement. WIPO had worked on these three different areas and had provided legal advice in identifying flexibilities as regards to the acquisition of rights, such as those concerning the titles of industrial property. WIPO had also developed some modalities of flexibilities as to the dimension of the rights or the so-called "exceptions and limitations" on the one hand, and the TRIPS-plus options on the other. The Organization had also developed some modalities of flexibilities as to the use and enforcement of the rights. The second area of activities undertaken by WIPO had been the organization of meetings and seminars specifically focusing on flexibilities. One such meeting would be held in Singapore later on

that month - to be attended by some 10 Asian countries - during which a discussion paper giving some examples of different options and different flexibilities would be presented directly to the attending delegations for consideration. A national meeting would also be held in Tunis, Tunisia, in August 2008, followed by a sub-regional meeting in Muscat, Oman, in December 2008, with both meetings being specifically dedicated to the discussion of flexibilities. Finally, the Secretariat underlined that WIPO had also promoted the preparation of some studies. It said that the initial idea of those studies was not to commission them for publication, but to seek technical advice from experts for the Secretariat to receive inputs, suggestions and creative ideas on new flexibilities. However, because of requests that had been received, one of these studies that dealt with the interface between IP and competition policy would be published.

361. The Delegation of Tunisia thanked the Secretariat for the briefing and requested some clarification with regard to the further mainstreaming of development considerations into WIPO's substantive and technical assistance activities. The Delegation had noted that there were two types of activities taking place in WIPO, one being the substantive work and the other technical assistance. The Delegation had also noted that debates in WIPO were of two types – formal and informal – including technical assistance. It therefore wondered in what way the development consideration would be mainstreamed into the formal meetings of WIPO.

362. The Delegation of Brazil noted that the recommendation addressed the need for deepening the process of renewing and enriching WIPO's technical assistance activities. It observed that, for decades, WIPO had provided technical assistance to developing countries in a very efficient and competent manner. The Development Agenda, however, called for an extension of those technical assistance activities into non-traditional or new areas, it believed. The central message of the Development Agenda was that developing countries should be enabled to fully benefit from the IP system and an effective way of achieving that was by enhancing those countries' capacity to protect their own creations. The IP system, like any other legal system, was comprised of rules and exceptions to those rules and, in that sense, it was very good to learn from the Secretariat that the technical assistance it provided also promoted awareness in developing countries regarding exceptions, limitation and flexibilities that were integral part of the IP system. The Delegation indicated that it would go along with the proposed activities under the recommendation and stressed that it attached particular importance to paragraph 3 of the said recommendation. With regard to its first paragraph, the Delegation reiterated its belief that WIPO's seminar series and similar activities should lead towards a central forum, whereby all these seminars, symposia and colloquia should fit into a larger event such as a global forum on IP and development. The Delegation therefore called for this idea to be taken up and further developed.

363. The Delegation of India concurred with the Delegation of Brazil when it mentioned that the central message of the Development Agenda was to ensure the realization of the development aspirations of the developing countries. Recommendation 12, therefore, focused on the technical cooperation aspect which was just one dimension of the development aspiration and to the extent the activities listed therein were really very relevant. In that connection, the Delegation mentioned three issues pertaining to the realization of those development aspirations. Firstly, it noted that Member States were unable to understand the existing regimes in the area that they were supposed to comply with, and to which they were signatories to the applicable system which they were bound to respect, and to that extent of what were the flexibilities, obligations and policy spaces available which could be utilized to achieve the development aspirations. The Delegation noted that a process of education,

awareness creation, understanding and ability was required, therefore, the activities of the outreach efforts such as colloquia, seminars, events, formal and informal discussions both inside and outside Geneva became very relevant. Its second observation dealt with the issue of technical assistance which enabled those countries to build up their capacities and to that extent some of the activities were illustrative and, maybe with ingenuity, how these capacities could be built up and could be added to the list under consideration to illustrate what needed to be done in terms of capacity building. The third dimension mentioned was how WIPO as a body had enabled those activities to be done especially in terms of how the future instruments could be negotiated and those concerns of the developing countries could be taken into consideration. The Delegation, therefore, stated that to the extent that discussion was on that particular item and focusing on the proposal on technical cooperation, such activities listed therein were fairly illustrative and exhaustive and could be added to the list if the need arose.

364. The Delegation of the United States of America wished to make three general points and two specific points with respect to recommendation 12. The Delegation noted that a cautionary advice should be made in regards to said recommendation as well as on the implementation of other activities. It believed that all activities should be based on sound and expert opinions, be balanced, and take into account all points of view, as well as be public-policy neutral. With respect to the two specific points in paragraph 3 on legislative assistance, the Delegation believed that that particular proposed activity was misplaced. As it understood it, recommendation 13 dealt with legislative assistance, not 12 and, as phrased, paragraph 3 seemed to be out of balance since it called out for particular attention with respect to technical assistance focusing on flexibilities. The Delegation recognized the importance of flexibilities, but consistent with its general principle of a balanced approach in all its activities, it wondered whether in regards to technical or legislative assistance, the entire package of rights, obligations, and flexibilities needed to be taken into consideration, reiterating that this would be supported by the general principle of a balanced approach to all implementing activities. It further added that it just made common sense. Discussing flexibilities without the context of the underlying rights and obligations would probably not take the meeting very far.

365. The Delegation of South Africa, on behalf of the African Group, wished to support most of the activities in the recommendation 12, particularly those related to Africa and NEPAD, and which the Delegation considered as valuable contributions. The Delegation further added that some of those activities were efforts related to IP, in which a lot of assistance would be needed.

366. The Delegation of Thailand wished to make a point on the use of “technical assistance.” It pointed out that there was a very good reason why developing countries needed technical assistance, and that was to understand rights and obligations under various conventions and agreements. It therefore believed that the word “balance” would come to mind, which would in turn also bring up the issue of flexibility for discussion or debate among the Member States. The Delegation therefore supported the activities listed in recommendation 12 and called for their full implementation.

367. The Chair asked the Delegation of Thailand whether the point it made regarding the search for balance between rights and obligations and flexibilities pointed towards an agreement with what the Delegation of the United States of America had stressed in its earlier intervention, namely that those issues should be brought together in order to maintain that balance regarding the three issues in the debate.

368. The Delegation of Thailand said that it did not support the Delegation of the United States of America's position as such, but what it meant was that when debates and discussions on flexibilities were taking place for the developing countries and LDC members, implementation should be done in a fully balanced manner.

369. The Delegation of Argentina, speaking on behalf of the "Friends of Development", stated that the specific argumentation concerning mainstreaming development considerations into WIPO debates on technical assistance activities was essential. Therefore, it requested that paragraph 3 be retained.

370. The Chair stated that he did not think there was a suggestion that that particular paragraph should not remain. The Chair noted that his interpretation of the earlier intervention by the Delegation of the United States of America was about its actual location, not that it should be dropped completely. The two points made were therefore in regards to location and adjustment to the language, which the Chair wanted to open for response as well. The Chair therefore asked if the Delegation of Argentina was requesting that the paragraph stayed where it was.

371. In reply to the Chair's comments, the Delegation of Argentina declared that legislative assistance was part of technical assistance, and that the Delegation of the United States of America was talking about balance not only in flexibility, but in rights as well. With reference to that particular recommendation, the "Friends of Development" wanted to underscore flexibility. Technical assistance was something WIPO had been providing for a long time, but they wished to stress the significance of the development dimension for developing countries, for which flexibility was very important.

372. In relation to paragraph 3, the Delegation of Australia suggested that it could actually be extended to include capacity to analyze potential impacts on proposed norms on the economies and cultures of developing countries, so that those countries which needed assistance in that area were able to encourage further norm-setting activities more effectively and in their own interests.

373. The Delegation of Cuba endorsed the statement made by the Delegation of Argentina on behalf of the "Friends of Development", and suggested that the third paragraph be retained as it was, in view of the fact that it was considered very important to the developing countries.

374. The Chair then suspended the discussion on recommendation 12 and sought the views of the meeting on the draft Summary by the Chair that had been circulated by him.

*Preliminary discussion on Summary by the Chair*

375. The Delegation of France, speaking on behalf of the EC and its 27 Member States, expressed its disappointment with the summary as several proposals made by Group B did not appear to have been included in that document. It had some difficulties in respect of the fourth line of paragraph 8, where it was stated that "there has been an approval, an agreement on some human and financial resources." There was also a question mark on paragraph 12 for it referred to the report. The Delegation did not quite understand which report was being referred to in that paragraph, whether it was the same report as mentioned in paragraph 11 or whether it was a different report. Therefore, that needed to be cleared up. On paragraph 13, it found it difficult to understand the ideas behind its wording. The Delegation found interesting elements contained in that paragraph which needed to be discussed further, but at

the same time it believed that any matter concerning the approval by the General Assembly of financial elements and human and financial resources fell within the mandate of the PBC. That issue was specified in the current financial regulations now. Therefore, it felt that at least the end of paragraph 13 should be reworked. With regard to paragraph 14, it had difficulties in considering that the General Assembly had a magic wand that would enable it to extract resources out of thin air. The Delegation was very disappointed not to see in paragraph 14 any reference to the normal procedure. The Delegation had no time to discuss the specific procedure which should or could be followed in that matter nor had it, at that stage, any wording to propose, but it strongly believed there was the need for work to be done on paragraph 14. Finally, it wished to comment on the way in which that document would be transmitted to the General Assembly and imagined that there would be a covering document to go with it. Thus, it felt it would be important that the Committee should have a discussion on the operational paragraph that would go with that letter covering that summary by the Chair to the General Assembly. It noted, however, that those were the comments produced by the discussions within its group that morning, but they would not exhaust all observations they might still have.

376. The Delegation of Pakistan said that some of the members of the Asian Group had concerns on paragraphs 13 and 14. It emphasized that those consultations had been maintained by only some members of the Asian Group. Those members wanted the following language to be reflected: "In view of the cross-cutting nature of the CDIP recommendations, there is a concern on the following: (1) lack of clarity in the role and responsibilities of various committees and divisions of WIPO on recommendations of CDIP; (2) modality of implementation of the recommendations; (3) modality of monitoring, assessment and evaluations of the recommendations. The Committee urges the General Assembly to take necessary measures to ensure effective implementations of these recommendations." The Delegation felt that that language might be inserted after paragraph 13.

377. The Delegation of Argentina had a comment with regard to paragraph 13. It would prefer the last sentence to read: "the approval of the General Assembly for the work program in respect to the additional requirements of human and financial resources for implementing the recommendations." The text in the middle would be eliminated.

378. The Delegation of Algeria, speaking on behalf of the African Group, said that it had been briefed by the Delegation of South Africa on the discussions concerning the paper proposed by the Chair. Like the other regional groups, the African Group had examined that document deeply and it wished to express the Group's general idea on it. First, it would like to thank the Chair for all the efforts that he had undertaken to reach a consensus between the different groups. At the outset, the Group thought that the document reflected most of what had happened during the two sessions of the CDIP. But delegations knew that it contained two very sensitive paragraphs. It had informed other delegations of its view that those paragraphs were very fragile. It did not know whether it would be possible to work on that document at that time without entering the details in that document. The African Group believed that there were some elements which seemed to be making consensus: (1) recommendations of the Agenda for Development should be implemented as soon as possible; (2) the Committee should send a clear, understandable, and positive signal to the next General Assembly for starting the implementation of those recommendations; however, in the document there was not a clear signal asking the General Assembly to take a decision on such implementation; (3) human and financial resources should be found and made available for such implementation. The Group had some concerns regarding those resources and it

acknowledged that the Chair had tried to address that issue. It did not know if what it had proposed made the situation easier, but in any event it understood the Chair's point. The Delegation did not wish that the decisions of the Committee would be undermined by any recommendations. The African Group had made it clear, and it seemed there was a consensus on that, that the decisions of the Committee had not to be subjected to any decision of any other Committee, including the PBC. The African Group agreed with other delegations that the PBC was dealing with human and financial resources, but it also agreed that Members were in an exceptional situation because the PBC would meet after the General Assemblies. The Delegation had asked colleagues to understand the situation. Delegations were ready to work together to find the right way to overcome that exceptional situation. The Delegation was encouraged by the commitment it had seen of all the Groups and the Member States as regards the start of the implementation of the recommendations in the Agenda for Development as soon as possible. For the African Group that was a very good signal from all its partners on that issue.

379. The Delegation of the Russian Federation said that it had some problems with the content of that document. In fact, there were several areas that it had not fully understood, and perhaps later would get some further clarifications. However, there was one particular point that the Delegation had failed to understand in full, and that was what was intended to be submitted to the General Assembly. Nor had it understood which report was being referred to in paragraph 12. It wished to know whether that report was a third document that was still to be drafted or just a part of the report on the work of the Committee. It understood that, in the addition to the report of the Committee's session, there would be the Chair's document. But it did not know whether there would be something else as well. Moreover, it believed that, as already noted by the delegations of a number of regional groups, there was a need for further discussion on paragraphs 13 and 14 in the Chair's draft. Like other delegations, it was not entirely clear about those two paragraphs and did not fully understand how certain matters were to be resolved, in particular matters relating to compliance with the rules of the Organization, such as the tools and the practices concerning financial matters. It said that there was also a need for further discussion on a number of other points, particularly relating to the wording of paragraph 14.

380. The Delegation of China said that the Chair's summary objectively reflected the work of the Committee and the concerns of all parties and it could accept it. It had noted, however, that some Member States including some Regional Groups had concerns in respect of the summary. It would be reluctant in proposing any changes in the wording of the summary, English not being its mother tongue. However, it felt that, for instance, paragraph 8 mentioned the requirements in terms of financial and human resources, but it was not related to the program and budget itself. It believed it was within the mandate of the Committee to report to the General Assembly on its financial and human resource requirements. Of course, in order to make available a report that would be acceptable to all would require constructive cooperation and compromise from all sides. Those were the initial comments from the Delegation, which would continue to cooperate with all sides in order to reach a consensus on the summary of the Chair.

381. The Delegation of the United States of America said that it fully supported the statements made by the Delegation of the Russian Federation and that of France (on behalf of the European Communities). While the Chair's summary was a helpful step in the Committee's work, it was concerned about significant deficiencies that were contained in paragraphs 13 and 14 of that draft document. The Delegation thought it was critical that there was a reference to a regular WIPO program and budget procedure. As many delegations had

noted, that was an important element in moving forward and was an essential part of the effective implementation of the 45 recommendations under the CDIP. The United States was in the position of providing some useful text concerning those paragraphs that could capture the discussions the delegations had had on those issues. It wished to request that some time be given so that it could provide that text and those comments to delegations on a consensus basis.

382. On being requested by the Chair, the Delegation of the United States of America proposed the following language: “In order to ensure the effective implementation of the activities proposed to implement the recommendation adopted by the 2007 General Assembly at the earliest possible time, consistent with the regular WIPO program and budget procedures, the CDIP would urge the General Assembly to adopt the recommended activities and proposed work program set fourth in the annexes to this report, subject to the normal review by the Program and Budget Committee, and would urge other relevant WIPO bodies to continue their work to effectively implement these recommendations.”

383. The Delegation of Brazil wished to give its preliminary reactions to the proposed summary. The first issue related to the mandate that had been given to the Committee. It understood that in the decision of the General Assembly, which established the Committee, there was at least one additional element that was key to describing the mandate of the CDIP and that was element (f) of paragraph 5 in document A/43/13 Rev. It basically stated that the Committee would report and make recommendations annually to the General Assembly. It would like to see that included in the Chair’s summary because it was relevant for what came at the end. Regarding the status of Deputy Director General Francis Gurry, in paragraph 7, for the sake of accuracy, which seemed to be so important in the context of the work of the Committee, it would request that the report followed the phraseology that was used in paragraph 82 of the Coordination Committee’s report, document WO/CC/58/4. It believed that report had been adopted on June 28. It described Mr. Francis Gurry as having been nominated by the Coordination Committee as the candidate for appointment to the post of Director General of WIPO. It believed that was the correct term to use. And if there was any doubt on that point, perhaps the Chair could invite the Legal Counsel to assist the Committee. In paragraph 10, it had a concern with a conditionality that seemed to be attached to the implementation of activities relating to the list of the 26 adopted recommendations and continued in Annex II of that document. That conditionality was established by the word “after,” in the sentence “immediately after the requisite human and financial resources are allocated to it.” It believed that it would not be necessarily the case that requisite human and financial resources needed to be allocated for those activities to be implemented. It would like to remove that conditionality. Perhaps some other language could be used, or some other formulation or simply say “immediately.” With respect to additional financial resources, Members were discussing that matter in any case under paragraph 14. It was not sure whether the Committee had to deal with that matter. But it certainly would not support retaining the notion that the Committee would do that only “after” the requisite human financial resources are formally allocated to it. Paragraph 12 read that the CDIP had decided to send a report to the WIPO General Assembly and that it included factual information about the sessions. In paragraph 13, the Committee would say, in addition, that the CDIP would inform the General Assembly. The Delegation noted that there was much emphasis on the CDIP informing the General Assembly. But it was clear that the mandate that the General Assembly had given to the CDIP was in fact to make recommendations, so it believed that the document should clearly point out what recommendations was the Committee making to the General Assembly. The CDIP should not seek approval from the General Assembly. It thought that that was not the standard way in which committees of WIPO addressed the General Assembly. In fact, it

believed that the standard form was that committees made recommendations. So, it believed that if the CDIP had an important recommendation to make, that should be clearly laid out in that fashion. With regard to additional requirements of human and financial resources as needed, as mentioned by the Delegation of Argentina, it would also favor removing the link between the work program, the additional financial resources and the list of 26 recommendations because in the General Assembly decision, that discrimination did not exist. The work program was presented in general terms. It was a work program for the adopted recommendations, so it was for all 45 recommendations. It did not have the text read out by the Delegation of the United States of America, but it believed that, in general terms, it could go as far as agreeing with the fact that the CDIP recommended to the Assembly the adoption of the activities that were proposed in the Annex. As to the issue of whether or not that recommendation had to be consistent with regular PBC procedures, it thought that was an element for the General Assembly itself to evaluate. In its view, the CDIP would make recommendations to the General Assembly. If it believed that additional financial resources were required, it should say so. In the event that the General Assembly understood that those recommendations might have a budgetary implication that the PBC needs to look at, that issue should be brought up in the context of the General Assembly, not in the CDIP. All decisions of the General Assembly that had financial implications tended, in one way or another, to be referred to the PBC. Moreover, it saw a slight inconsistency in the proposal of the United States. The PBC was not supposed to review the activities as such, because its mandate was limited to the financial implications of the activities. The review of the activities as regards their opportunity, implementation and competence, belonged to the CDIP and not the PBC. That was also very explicitly laid out in the decision of the General Assembly insofar as it stated that one of the functions of that body was to monitor, assess and discuss implementation of recommendations adopted. The activities delegations were discussing referred to the ways of implementing the recommendations adopted. Therefore monitoring was with the CDIP, not with the PBC. In its view, the PBC should only look at the financial and accounting issues and make appropriate budgetary allocations as needed. The Delegation said that its final comment was on a reference contained in the United States' proposal to the continuation by other bodies of their work to effectively implement the activities. Considering that those activities were new, the Delegation of Brazil wondered how those bodies could continue their work to effectively implement activities that Member States had just adopted in the CDIP, and were never seen before. It therefore could not support the notion that all the activities that were contained in the Annex were already being implemented by other WIPO Committees, which was the implication in the United States' text. It believed that WIPO should start to implement those activities. That was why Members were recommending them for the adoption of the General Assembly. If they were already being implemented, the CDIP would not need to recommend them to the General Assembly, nor would additional financial resources be allocated. The Delegation believed that WIPO should start implementing the activities as soon as possible, and as directed by the General Assembly, with additional resources as provided by the PBC, if eventually needed.

384. The Delegation of Algeria asked whether the Delegation of the United States of America had proposed to amend paragraph 14 or to introduce a whole new paragraph. In that event, it wished to know where the new paragraph would be placed.

385. The Delegation of Switzerland said that it joined the Delegation of France in its disappointment with the content of the Chair's draft for it did not meet its expectations. It did share the concerns expressed by the European Union, the Russian Federation and the United States of America concerning the question of having a statement on following the normal and regular budget procedures of WIPO. That was an important issue for Switzerland and Group

B to have such a statement, because WIPO was going through an extraordinary year. It was the first time that the CDIP reported to the General Assembly. Moreover, the CDIP was the only committee that was sending a report to the General Assembly that contained a budget. Thus the CDIP had to make clear in its recommendations to the General Assembly that the budget it was sending contained indicative figures only, which were subject to review by the General Assembly and the Program and Budget Committee. The Delegation believed it had been constructively working, under the Chair's guidance, on the content of the work plan. The Delegation was ready to send that work plan to the General Assembly for adoption. As regards paragraph 13, the Delegation would like to have the role of the PBC mentioned in the context of the regular rules on budget issues in WIPO. The proposal put forward by the Delegation of the United States of America met its Delegation's concerns. The Delegation was ready to speak about the wording of such a proposal, because it believed that the Delegation of Brazil was right, the PBC should only look at the financial implications and not at the content. As regards the concerns mentioned by the Delegation of Brazil relating to the last sentence, which instead of referring to the continuation of the work, should mention the start of the work, that was fine with it. Concerning paragraph 14, if the CDIP should refer to additional resources or allocating resources by the General Assembly, it should be made clear that it was in accordance with the normal WIPO program and budget rules. It could not see any harm in mentioning that. It seemed Members had an agreement that the CDIP should follow regular WIPO procedures. Concerning paragraph 12, where the Chair's report mentioned another draft report that should be sent to the General Assembly, it wondered whether that meant that the Chair intended to send another document to the General Assembly. If so, it asked what was the content of that report. If the Chair envisaged to draft another report of the Committee, then that had to be consulted with Member States. Another issue that had been raised by the Delegation of Brazil concerned the second sentence of paragraph 10, where it read that the CDIP would also request the Secretariat to initiate implementation of activities relating to the list of 26 adopted recommendations and contained in Annex II of the document immediately after the required human and financial resources were allocated to it. It did not remember that the CDIP had requested the Secretariat to do so. Nor did it see how that sentence related to what was in paragraphs 13 and 14. It was also concerned with the word "immediately" because as long as the human and financial resources had to be allocated, Members had to go to the PBC. Concerning paragraph 8, it was mentioned that the Committee had approved the new human and financial resources requirements. But in its view that was not the role of the CDIP. Nor had the Committee approved the requested human and financial resources requirements. It had simply taken note of the numbers that had been provided by the Secretariat. Members had discussed those figures and they would send them as an indicative budget to the General Assembly, but the Committee had not approved such a budget. The Delegation said that the Committee did not have the mandate to approve any budget because that was the prerogative of the General Assembly. As a last point, after paragraph 7, it would like to see additional language. Earlier in the week, the Secretariat had explained to delegations the role of the PBC and the General Assembly. The Delegation would like to see the statement of the Secretariat reflected in that report after paragraph 7. Such a statement would appear in the Report of the meeting, and thus it would like to see it highlighted in that report so as to make it clear that the Committee had been working throughout the week, having that information as a background.

386. The Chair said that, from what he had heard, he understood that there were some issues to resolve, but he was satisfied that there was not a big problem. The Committee had to find an opportunity to resolve the differences. Some of them he thought were very clear and simple, such as the one related to whether the Committee should include the reference to the PBC. If it did, the most challenging issue that the Committee needed to address would be the

language that should be used. With regard to paragraph 11, the Chair clarified that the report mentioned there was the draft report of the second session of the CDIP, which was the normal report that the Secretariat prepared sometimes later and circulated. The critical report is in item 12. The report mentioned in paragraph 12 was different from paragraph 11. Paragraph 12 was the report that really would go to the General Assembly. That document would contain some factual information and also report on what Members had agreed in that meeting to send to the General Assembly in terms of recommendations, based on the Chair's summary. Members needed to find an opportunity to refine the language as well as the elements of paragraphs 12, 13 and 14 that would form the operative part of the report. The key element that would go to the General Assembly would be the recommendations, but the language in paragraphs 12, 13 and 14, as refined in some subsequent discussions, would be part of the report that would go to the General Assembly. The Chair hoped that his intervention clarified part of the issues. He would meet with the regional coordinators plus 2 or 3 Members in order to try to reach a resolution on the most difficult part, which, in his view, was the reference to the PBC.

387. The Delegation of Norway said that the most important issue was to state clearly in the document the budget allocations for the implementation of the CDIP recommendations should follow the regular institutional practice of WIPO, regardless of whether a reference to the Program and Budget Committee was made or not. The Delegation understood that the regular practice was that any budget allocation should go through the PBC, and that should be made clear, in order to avoid any misunderstandings at a later stage.

388. The Delegation of France said that, in spite of the clarification as regards to the report mentioned in paragraph 12, it would also be important, perhaps at a later stage, to be more specific in making reference to the content of the report. That was essential to make sure that Members would not be wasting any time in useless discussions. The Delegation did not want to miss anything relevant, but it wished to move ahead at the same time.

389. The Chair said that he would now like to complete recommendation 12 and requested members to continue their discussion on that item.

*Consideration of Recommendation 12 in the List of 19 (continued)*

390. The Delegation of Indonesia said that it needed some clarifications regarding recommendation 12, which it deemed as a very important recommendation. In previous discussions there had been references to several principles to be applied in the context of the implementation of the activities under that recommendation. As the Chair had already said, the principles were that the activities should be development-oriented, transparent and demand driven. Other delegations also mentioned the principles of balance, sound expertise, neutrality and the use of flexibilities. The Delegation asked whether the Chair or the Secretariat could clarify how those principles could be integrated and how would they apply to the different activities. For example, as regards recommendation 15, in Cluster B, its implementation should be inclusive, taking into account different levels of development, and considering a balance between costs and benefits. It seemed that its implementation would include all of the principles. Therefore, the Delegation would like a clarification on how those principles would apply in the context of each activity.

391. The Chair explained that the only clarification he could provide was based on what had been discussed so far. He believed the members had accepted that the principles were evident in the adopted recommendations. One intervention had stated that when the Committee

talked about principles, it should not qualify them. In future discussions, the Committee might agree that the given issue was an important issue or that it was an important idea that should be accepted as a principle, and should be used in some way, but the only principles the delegations had at that stage were those embedded in the adopted Recommendations.

392. The Delegation of Indonesia asked whether when implementing those activities, the main principles were development-oriented, transparent and demand-driven.

393. The Chair said that those may be some of them, but the “Friends of Development” had indicated that those were not the only ones and they had made reference to other adopted recommendations. He could only assume that if the principles in other adopted recommendations were relevant, those principles would be acceptable. So it would not just be the development considerations.

394. The Delegation of Brazil considered the third paragraph of the proposed activities as the main one and requested that it remained as it read. What it was trying to guarantee was that WIPO started to provide developing countries and LDCs with a non-traditional or new kind of technical assistance, with the focus on the new kind of technical assistance that should be on flexibilities, exceptions and limitations. As a consequence, the Delegation did not wish to include a mention of rights and obligations, which the Delegation understood were part of the traditional technical assistance, and it also considered that it was important to include awareness-raising on those new elements of technical assistance. That was the reason why the Delegation believed that that paragraph should remain as it was, and that the paragraph fitted into recommendation 12, because legislative assistance was one of the aspects or one of the dimensions of technical assistance.

395. The Delegation of South Africa supported the suggestion made by the Delegation of Australia on paragraph 3 regarding capacity-building and the impact studies. It also wished to include within the said paragraph, in the part dealing with the encouragement of small and incremental inventions, and even though it might have seemed clear to some, language that referred to the utility models system, which would make it a little bit clearer in its opinion. The Delegation underscored that the paragraph, as it stood, was a bit too general, focusing on the utility models system would bring clarity to the issue.

396. The Delegation of the United States of America pointed to two issues. The first was of location, since recommendation 13 dealt with legislative assistance and with legislative assistance on flexibilities, that paragraph was more appropriate there, it believed. The Delegation of Argentina had rightly pointed out that legislative assistance of that type was technical assistance, which was what 12 dealt with. The idea of locating that paragraph under 13 was more to avoid duplication and put it in a spot that was most relevant, however, that was something the Delegation was flexible about. If it needed to appear in both, it was not ‘pretty drafting’, but that was acceptable. However, the second point was about the balance of that paragraph and it was clear that the value in legislative assistance on the use of flexibilities or on flexibilities in general was in relation to those flexibilities with regards to rights and obligations. They had no value in and of themselves without that element. Thus, and for that paragraph to read correctly and to have that balance, it should reflect rights, obligations and flexibilities.

397. The Delegation of France wished to indicate that that paragraph could indeed refer to legislative activities, activities that may be referred to several other recommendations, but what was important was that Delegations knew who was doing what, and that duplication and

overlap were avoided. The Delegation wanted to ensure that the Committee did not end up doing the same thing twice in two different places, and it was sure that the Secretariat would be able to give clear indications on that point. On the content and, more specifically, on the issue of flexibility and a proper balance being struck in the language, the Delegation thought that a pragmatic approach was required. Flexibility was only meaningful in a given context and the whole picture had to be looked at in order to understand what the meaning of flexibility would be in a particular context. The Delegation did not think there should be too much focus on that, and that the holistic approach was the appropriate one, an approach that would make it possible to understand the whole context in which flexibilities existed.

398. The Delegation of Jamaica understood the concerns of the Delegation of Brazil. The thrust of paragraph 3 was on flexibilities since, as with rights and obligations, they were an inherent part of the IP agreements, and the thrust of that paragraph, in the context of mainstreaming development, was flexibilities. Many countries, like Jamaica, in implementing IP agreements, had not incorporated flexibilities in legislation and now had to take steps to correct that anomaly. It needed to make legislative changes to reflect the flexibilities which were an inherent part of the IP agreements. So it agreed with the Delegation of Brazil that the thrust was on flexibilities, not right and obligations *per se*, particularly since countries had in many cases, as in the case of Jamaica, not incorporated flexibilities in legislation. Yet one aspect that it believed should be captured as well, was not only to implement public policies but also to ‘develop’ the policies, because if the policies were not developed they could not be implemented. So it believed that that aspect also had to be captured.

399. The Delegation of Chile merely wished to point out, as others had done, that paragraph 3 was a paragraph that should indeed lay stress on the aspects of flexibility. A few months before, the WHO had adopted a global strategy and a plan of action related to public health, IP and innovation. And whenever delegations referred to “flexibilities” in the context of IP then, generally speaking, the WHO would be invited to jointly undertake activities with WIPO in that area. For that reason, the Delegation believed that flexibilities should be highlighted and not merely refer to rights and obligations whenever the issue of flexibilities came up.

400. The Secretariat noted that there were different approaches to the word ‘flexibilities’ and, as the Delegation of France had stated, the word flexibilities had to be placed within that context. The word was being used in different contexts, and of course if the same word was used in different contexts without clarifying the meaning, there would be different results. In the first session of the Committee, the Delegation of Brazil had very clearly stated that flexibilities for that Delegation meant exceptions and limitations and nothing else. The Delegation of the United States of America had previously declared that there were rights, there were obligations and there was a third set of legal institutions, namely the flexibilities. While the TRIPS Agreement referred to flexibilities in the context of transitional period, it was a completely different context here. The Doha Declaration also referred to flexibilities in paragraphs 4 and 5, and it gave four examples of flexibilities. The first example referred to the possibility of interpreting international law according to its objectives and purpose. So it was a completely different context. The Delegation believed that it would be possible to come out with an approach that encompassed all the other approaches. It was different, but it was not incompatible with other approaches and that was the approach used by the Secretariat which considered the term flexibilities as the ultimate way through which the TRIPS obligations could be transposed into national law, so that national interests were accommodated and yet the TRIPS provisions and principles were complied with. So it was not proposing a third set of legal institutions. It was just proposing the qualification of the

flexibilities, of the rights and obligations that national lawmakers might follow. The comment made by the Delegation of Australia was true in that sometimes society provided for legal experiments without exactly knowing the impact of those legal measures, and in the TRIPS Agreement there was the example of a *sui generis* regime for layout designs that many countries had introduced in their laws that they had not used frequently, because it came out that it was not as useful as believed in the beginning, other legal regimes already available could also be used for that purpose. However, there was another recommendation that talked about studies of impact, so probably that was the kind of measure that the Delegation of Australia was referring to.

401. The Chair suggested that they attempt to resolve paragraph 3. He added that rights and obligations were fundamental issues in WIPO's work that were already being discussed in technical assistance programs with developing countries. Developing countries were saying that legislative assistance relevant to flexibilities was a particular issue that they would like to see addressed. He added that if they put flexibilities, rights and obligations in that paragraph and still leave it to the developing countries to seek the legislative assistance that they wanted, they would ask for legislative assistance in the area of flexibilities.

402. The Delegation of the United States of America agreed with the Chair and said that it was its understanding that technical assistance was demand driven and so the type of requests that may come in may very well include specific requests on flexibilities. The balance was being sought by Member States, who wanted to preserve the basic notion that that did not exist in a vacuum and that there was no value to flexibilities without rights and obligations. The Delegation added that the view of the Secretariat was important because when they were talking about legislative assistance, that would develop, amend or put into place, systems to enact intellectual property rights in Member States, those systems would be implemented and drafted within the flexibilities allowed under the international system. It was important to reflect that over here to give a holistic picture of what was being discussed.

403. The Delegation of South Africa said that it did not believe that paragraph 3 was inconsistent with recommendation 14.

404. The Delegation of France suggested that they keep the beginning of the sentence "and legislative assistance on the use of elements of flexibility existing in the international context of" as the wording was quite flexible.

405. The Delegation of Norway said that it would request the Secretariat to explain, in an objective way, to Member States how to implement international agreements, including obligations and possible exceptions, while leaving it to them to find appropriate balance within their own legal and economic systems. It added that guidance could be given to members on different possibilities in implementing international agreements, including obligations and possible exceptions, but then put a full stop in order to avoid any interference from the Secretariat and how different Member States would find a balance within their own system.

406. The Delegation of the United States of America thought that the suggestion of the Delegation of France was helpful, as it took them a step closer. However, as it was still quite vague in the international context, it suggested that they draw from an activity to implement recommendation 13, which refers to making informed decisions on the use of legal options and flexibilities, available in the international legal framework. It added that the language identified appeared in the second sentence in the first paragraph of activities - "such

assistance enables”. The Delegation thought it was fairly empowering as it focused on the national policy making level.

407. The Delegation of Cuba said that the suggestion of the Delegation of France gave rise to some concerns, in so far as accepting the words “flexibilities existing in the international context” was concerned. It could be that other flexibilities arose over time and so reference should be made to the flexibilities that exist at that time of the drafting of the document.

408. The Delegation of France said that it was best to use the word “framework” and added that it had drawn inspiration from paragraph 13.

409. The Chair agreed with the proposal and said that they could use the phrase from the activities for recommendation 13, the first paragraph in the middle of the second sentence which said “to make informed decisions on the use of legal options and flexibilities available in the international legal framework”. That phrase could be inserted appropriately in recommendation 12, paragraph 3.

410. The Delegation of Brazil agreed with the suggestion of the Chair, but added that the point made by the paragraph was an important one, i.e., the issue of legislative assistance which was a specific activity provided by the Secretariat to Member States. It added that they could perhaps keep it like that, “legislative assistance on legal options and flexibilities available in the international framework to implement public policies, etc” and then to continue as it was.

411. The Chair said that the paragraph would begin with “legislative assistance on the use of flexibilities to help developing countries to make informed decisions”, etc., the rest of paragraph 3 remaining the same.

412. The Delegation of Jamaica wondered whether with the inclusion of the word “including” or “particularly” after “legislative assistance” including “on the use of flexibilities” would be a simpler way of capturing the concerns. It added that if they said “within the context of international legal framework” if that was excluding any flexibilities, would it be within the context of the international legal framework. For example, the TRIPS Agreement allowed a flexibility for Member States to enact *sui generis* systems, for example, for the protection of plant varieties. UPOV was an international legal framework, but what if countries wished to use tailor-made frameworks? What would it imply? It requested the Secretariat for an explanation.

413. The Secretariat said that the TRIPS Agreement permitted that kind of flexibility, so if a country did not want to follow the patent system for plant varieties, it could adopt a *sui generis* system for plant varieties, or an effective combination of both. It also recalled that, as surmised by the Delegation of Jamaica, the flexibilities available to Member States were not confined to those explicitly mentioned in international agreements. Most flexibilities in fact remained within the realm of national sovereignty which applied wherever it was not limited by an international treaty. Therefore, caution should be applied with regard to language that could be interpreted as confining a recommendation to flexibilities “existing in the international context”, since that could leave out other flexibilities available under national sovereignty.

414. The Chair thought that they were close to concluding the item. As stated by the Delegation of Jamaica, the use of the phrase “international legal framework” did not exclude

the possibility of using any flexibility and so if that language “international legal framework” was accepted as not excluding any *sui generis*, they should be able to reach agreement.

415. The Delegation of Jamaica said that if the word “including” was added, making it “including in the international context” so that it did not exclude any flexibilities, that should give them a sufficient space to look at other flexibilities which were not found within that context.

416. The Delegation of Chile asked the Secretariat to explain the difference between ‘legal options’ and ‘flexibilities’, as it felt that they were not distinguishing between the two. It added that the Secretariat was interpreting ‘flexibilities’ as being one of the various options, including the possibility to use *sui generis* standards as well. The Delegation said that when they negotiated the Doha Agreement on TRIPS and Public Health, it did not think that they interpreted flexibilities as options, options for *sui generis* standards or the global strategies on public health and intellectual property.

417. The Secretariat said that when it referred to the term ‘flexibilities’ it was quoting from the intervention of the Delegation of France, and meant the different ways for national governments to seek different mechanisms to implement international obligations so that they could pursue national interests. On the other hand ‘legal options’, are used to pursue national interests and public policy interests. However, if it was thought that they were not ‘flexibilities’ the Secretariat would be failing in its duty to explain to some Member States that wanted to have higher protection and implications of that higher dimension. It added that probably the best solution would be to leave each Member State to have its own interpretation of the language.

418. The Delegation of the United States of America said that ‘flexibility’ to its mind was the scope available within which legal options existed. Therefore, they would be two different things and countries would need to know about the full scope of flexibilities available to them.

419. The Delegation of Chile said that according to its understanding, when a reference was made to the use of flexibilities, it meant using exceptions and limitations, and thought that that was the meaning that had been adopted in many organizations. It added that they had to adopt a broader view point to see what was the spirit of the recommendation passed onto them by the General Assembly, and that there were only some people who thought that when WIPO would be providing technical and legislative assistance on ‘flexibilities’, it would be a question of standards.

420. The Delegation of Brazil agreed with the intervention made by the Delegation of Chile, with respect to what was understood by the term ‘flexibilities’. It said that it was not a legal term as such, and was tempted to propose that they reflected on the other alternative that was given by the Delegation of the United States of America, which was to make it clear that there were flexibilities with respect to rights and obligations, and not in the abstract. Therefore, it meant that the international system either did not regulate a particular area, or that there was an area that was left open for countries to define for themselves, in accordance with their national policies. It could also mean that international treaties provided legal options. The Delegation added that for it, legal options and flexibilities were not the same thing. It thought that there were provisions that provided legal options to Member States, and they had the option of drafting one standard of protection or another, or in different provisions have different levels. The Delegation said that ‘flexibility’ for it was a more abstract word,

including the fact that something was not under an international standard, and, therefore, there was a flexibility for countries to regulate it in several different ways as they saw fit. The Delegation added that 'flexibility' did stem from what was and what was not defined by the international system and it was basically with regard to rights and obligations.

421. The Chair explained that the paragraph speaking about flexibilities could include, "within rights and obligation" between commas, and somewhere afterwards, the proposal of the Delegation of Australia would be inserted. He considered that with those amendments and the others that had been agreed upon, the Committee could broadly agree on the proposed activities for implementation of the adopted recommendation 12. The Secretariat would, of course, update and refine the language, which would then come back to the Committee for approval. The Chair then said that he would meet with the Group Coordinators and interested Member States informally, and come to the plenary later in the afternoon after the consultations.

#### Agenda Item 5: Future Work

422. The Delegation of India thanked the Chair and observed that in view of the cross cutting nature of various recommendations, the Delegation felt that there was a need to discuss the respective roles and responsibilities of the committees in implementation of the adopted recommendation, and also on the modalities of monitoring, assessing and evaluating implementation of the accepted recommendations. It said that the thrust was on evolving a consensus approach on roles and possibilities of various committees vis-à-vis the expected recommendations and also on exploring an approach on modalities of evaluating and assessing the implementation of these recommendations, so that the institutional mechanisms were set in place and the Committee did not lose time discussing its roles and responsibilities.

423. The Delegation of Pakistan agreed with the Delegation of India and said that it was essentially the suggestion made by the Asian Group that morning. It added that there was a need to look at the modalities for the implementation of the recommendations made by that Committee and the other Committees

424. The Chair thanked the delegations and said that they would discuss the matter again while adopting the Summary.

425. The Chair stated that the Committee's future work will be guided by its work program and would also center on continuing consideration of the outstanding adopted recommendations, as well as considering the reports from the Secretariat on the list of 19 recommendations that had already been discussed. He explained that the Committee would have received the decision of the General Assembly by the next session, which would at least indicate how the future work could proceed, as far as the requirements of human and financial resources were concerned. There would be two sessions of the CDIP in 2009 and the Secretariat would propose dates for those sessions in due course. Regarding general statements, he submitted that the Committee should decide whether it wanted to continue with them and also assess whether they added any value to the deliberations in considering the work program on the adopted recommendations. The Chair said that he would not like to express any views on general statements, but observed that there were two options. One was to eliminate general statements for the time being, or to agree to make brief statements in two or three minutes and to submit the full text to the Secretariat for recording and publication. His only interest was in encouraging the Committee to consider making the best use of the available hours during the week.

426. The Delegation of South Africa agreed with the Chair that that was an important aspect and thought that perhaps the meeting could do away with individual statements initially, and discuss the development of the work program. When that item was done with, they could come back to the individual statements where Member States could also make suggestions for agenda items to be discussed in the future.

427. The Chair said that he was not in a position to make any ruling on that issue and could only encourage delegations to do what he had noted, in terms of making productive use of the time at their disposal.

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

428. The Chair then invited comments on the draft Summary, copies of which had been made available.

429. The Delegation of Indonesia requested the Chair's clarification on paragraph 10 observing that the committee had "noted that there was a need to discuss..." and so on and in the last sentence that the committee therefore decided to have discussion on these issues in the third session of the CDIP. It asked whether a time frame had been determined for such discussions. It was necessary to have a time frame on this implementation. The other point was on the last page (para 12d) asking the General Assembly to make such resources available to the Secretariat in a manner, consistent with WIPO's program and budgetary processes. It asked if there was any manner inconsistent with WIPO's program and budgetary process that could be urged of the General Assembly to make such resources available to the Secretariat. Because there was no such manner, it wanted to know as to why that was mentioned.

430. The Chair responded on the second point saying that sometimes in international discourse it was necessary to state the obvious. He explained that when the obvious was the result of the compromise in differences between groups or between parties it becomes even more important to state the obvious. He agreed with the Delegation that while the Committee could never urge the General Assembly to do anything that was inconsistent with the program, he urged it to take it as a necessary compromise for which the Committee had stated the obvious. On the other issue raised by the Delegation he said that he would only say that the time should be managed efficiently to have the issue discussed and the modalities decided upon at the earliest.

431. The Delegation of France wondered whether the Chair could confirm that the listed documents mentioned in paragraph 8, the information documents, circulated at the beginning of the meeting, would include the financial summary document. The Delegation also wanted to remind the meeting that it was particularly keen to see that documents were made available in the appropriate language versions, to enable them to take their decisions properly and in the correct fashion. It explained that that would then avoid some of the misunderstandings which crop up as a result of the sometimes rather cavalier attitude towards languages, in which some delegates were not necessarily 100% at ease. The Delegation was happy to see that they had managed to do some important work on the Summary. The Delegation felt that the result achieved was welcomed, and hoped that in order to facilitate the work in future, they might be able to have discussions on the conclusive paragraphs in the summaries, in all the working languages, as that would definitely make everybody's participation easier.

432. The Chair thanked the Delegation of France and said that the official documents that were being prepared in advance of that meeting, were prepared in all the languages, but the Chair's summary which had just been finalized was available only in English for the present and unfortunately they would have to look at that text. He said that he could only ask the Secretariat to continue doing their best in terms of making documents available in the different languages. With respect to the information documents on page 8, the Chair recalled that there was a couple of information documents that the Committee had suggested should be made into formal documents and the Committee had agreed and that that would be done.

433. The Delegation of Algeria thanked the Chair for his leadership and the success to produce the document with his guidance and wisdom. It was not going, as usual, to ask its colleagues from the African Group to intervene and to make a comment or intervention on that issue. The Delegation asked them to refrain from intervening on that document, because they had discussed it for the past three hours. It was not the best one, but it thought that it was what they could achieve in a negotiation where they respected each other and the interest of all the different groups and partners.

434. The Delegation of Brazil thanked the Chair and referred to a few editorial elements in paragraph 8, second line. Instead of "list of 26", it should be "**in** the list of 26". Further in paragraph 9 which read, "Accordingly the committee agreed that the proposed activities, as suitably modified following discussions would be sent to the Secretariat to assess the human and financial resource requirements and would be communicated to the Member States before the third session of the CDIP", it was not sure as to what was stated there, but it was just an issue of precision. It thanked the Chair very much for his efforts in conducting the meeting and the informals. It was a significant first step towards implementation of the recommendation.

435. The Delegation of Indonesia thought that since they wanted to see the implementation of the development agenda not only in CDIP, but also in the other committees it was keen to have some time frames mentioned in paragraph 10 of the summary.

436. The Chair said that they could amend the final sentence to say that the discussions on those issues be commenced in the third session and a report sent to the 2009 General Assembly.

437. The Delegation of France wanted to know if there was any difficulty in circulating the document with the summary of required financial resources.

438. The Chair confirmed that the few copies that were available would be circulated before the delegations left the meeting.

439. The Delegation of the United States of America thanked the Chair for his leadership throughout that week and for his strenuous efforts in reaching the results. It added that it found the phrase in paragraph 12, backward looking rather than forward looking. Clarifying further it said that in paragraph 12(d) instead of referring to the WIPO development agenda the sentence be revised towards the end to read as follows: "...to ensure speedy and robust implementation of the work program".

440. The Delegation of Chile wished to acknowledge the contributions of the Delegations of Algeria, Brazil, India and the United States of America, namely Messrs. Mahi, Patriota, Grover, and Morfesi, respectively, who would be leaving Geneva shortly, who had taken an

active role in the discussions of the Development Agenda and, within their regional groups, had played a great role of leadership and made contributions that had enabled the delegations to have a substantive Development agenda.

441. The Chair said that they had indeed considerably contributed to the work of the CDIP and of the PCDA. The Chair also considered that there were others who had made valuable contributions, but those four were amongst the top contributors since he had been involved. He expressed his sadness for those who would leave, but he could see that, from the Delegation of Brazil, Mr. Cristiano Franco Berbert had taken up the ball quite nicely, as well as Ms. Lashley-Johnson from the Delegation of the United States of America, and he looked forward to meeting the new representatives from the Delegations of Algeria and India.

442. The Delegation of Portugal wished to take the opportunity to include the name of their colleague from the Delegation of France, Mr. Barrier, who was leaving the following week, as one of the persons who had contributed to the success of, not only that session, but also of the PCDA process.

443. The Chair said it was amazing what responsibility did for some people. He said that the contributions of Mr. Barrier had risen “n” times since France had taken on the leadership of the European Union. He said that he did not mean that he had not been a contributor in the past, but that in that meeting he had stepped up his performance considerably. The Chair considered that he seemed to have one of those eyes that spotted things that many others did not; something similar to Mr. Patriota from the Delegation of Brazil, who saw things that nobody else saw. He commended him, and added that he believed that Mr. Qobo from the Delegation of South Africa was also leaving.

444. The Delegation of Egypt referred to their colleague Mr. El-Etreby, who had been covering WIPO matters for the past four years, and the contribution that he had made. It said that it appreciated his contribution and was sure that the rest of the Committee also shared its vision.

445. The Delegation of Pakistan, on behalf of the Asian Group, wished to thank the Chair for his guidance and leadership in taking the process forward. It expressed its feeling that the Development Agenda had made a lot of progress and the real test was in the early implementation. It added, on behalf of the Asian Group, that it wished all the best for the colleagues who were leaving and best of luck for all their future endeavors.

446. The Delegation of Brazil thanked all other delegations which had mentioned Mr. Patriota. Regarding the last amendment by the Delegation of the United States of America, it suggested the text to read slightly differently, as “implementation of the WIPO Development Agenda work program”, adding that there was a full stop missing at the end of the paragraph.

447. The Delegation of the United States of America stated that it wanted the formulation to read as “the WIPO Committee on Development and Intellectual Property work program”. It stressed that they had moved beyond the PCDA and its formulations, and were in the new era of implementing activities as the Committee on Development and IP.

448. The Delegation of India, represented by Mr. Grover, wished first to thank the Delegation of Chile for its very kind words and the Chair for the very kind sentiments he had expressed. It also wished all the best for the other departing colleagues from the Delegations

of Brazil, United States of America, Portugal, France and Egypt. It had already expressed its deep appreciation to the Chair and personal gratitude to his magnanimity, generosity, dignity and the wisdom he brought to the deliberations of the PCDA ever since he had taken over. It added that the Chair had given them a professional outlook and enabled them to maneuver and move into the successful outcomes. It wished the Chair great success in his endeavors, in guiding the deliberations of the Committee and also on his well-being in the years to come. The Delegation said that it looked forward to meeting them again in different locations wherever it might be.

449. The Delegation of the United States of America, represented by Mr. Morfesi, stressed that they had built a strong foundation, but that they had only carried the bricks, whereas the Chair had been the architect. It added that his work was invaluable, and they could not have done it without him. It greatly appreciated all the efforts the Chair and the Secretariat had put into that process. The Delegation stressed that they were losing some talent in the Committee, but that they were not losing friends, so it looked forward to seeing them all again soon.

450. The Delegation of Algeria, represented by Mr. Mahi, expressed its best wishes to the other colleagues, and thanked them for all the nice words. It thanked the Delegation of Chile for its very kind words, as well as the words of the Chair. It stressed that, despite all the negotiations and the time spent, they had really built a forum or club where they were all going in the same direction. The Chair had contributed to build the trust and to the results they had achieved within the Committee. The Delegation thanked the African Group for the warm support it had always shown during its work, as well as other colleagues from the developing countries, mainly Mr. Santa Cruz from the Delegation of Chile, and Mr. Patriota from the Delegation of Brazil, for their valuable and wonderful advice which it had always learnt from. The Delegation of Algeria was also grateful to Mr. Morfesi from the Delegation of the United States of America, the Secretariat and many others whose names it did not recall at that moment.

451. The Delegation of France, represented by Mr. Barrier, wished to warmly commend the Chair for the way in which he had guided their work. It stressed that the sense of balance of the Chair, his insight into things, as well as his capacity to establish an atmosphere of trust, sometimes appealing to that trust when he had run out of arguments, had been essential. It added that the good faith of the Chair had been recognized by the delegations when they had reached the extreme limit of the discussion, so that if the good faith was put into question, they could no longer work. The Delegation believed the Chair to be the driving force behind their work and that the progress they had made was very much due to his good self. Mr. Barrier thanked the delegates for their very kind words, although it did not believe that he was worthy of those comments.

452. The Delegation of Nigeria commended Mr. Mahi from the Delegation of Algeria for reflecting the opinion of Africa throughout the meeting. It stressed that those leaving had done a good work that other members would appreciate. It expressed that the landmark they had left could not go away, because the high standards they had set were a target for those who stayed. It stressed that the work plan of the Development Agenda could not be lost by those who came behind. It went on to say that, due to their experience, they would meet them again either in that forum or in another. It also thanked the Chair for his wisdom and kindness that created an environment which made them feel like a family. The Delegation expected that the Secretariat would continue to support the Chair silently. It expressed again its gratitude to Mr. Mahi from the Delegation of Algeria.

453. The Delegation of Brazil, represented by Mr. Patriota, said that in its last intervention it would not insist on anything that might cause a disruption of consensus. It thanked all the colleagues for a ‘wonderful three and half years’ working with WIPO and its multitude of issues and committees. It made a special reference to Mr. Saadallah and to Mr. Rai, as well as to the other members of the WIPO Secretariat, for their hard work, as he had come to realize, especially from his Chairmanship of the PBC, how hard it was to please such a broad constituency of members. The Delegation wished to pay tribute to all the other colleagues who were departing. It also made a tribute to all of the friends in GRULAC, Ms. Fastame from the Delegation of Argentina, Mr. Santa Cruz from the Delegation of Chile, and everybody else, as well as to all the friends from developing countries and regional groups, in particular, Mr. Mahi from the Delegation of Algeria who was a wonderful coordinator for the African Group and represented the region with honor, dignity and a lot of efficiency. The Delegation also thanked Group B as well as Mr. Augusto, a very important coordinator in the context of the Development Agenda, and in general all the colleagues who had shared the room for such a long time. The Delegation concluded with hopes of good work in the Organization for the following year.

454. The Chair confirmed that the Chair’s summary was fit for adoption. He recalled that an amendment made by the Delegation of Brazil in the second line had been accepted, with the insertion of the word “in the” before “list of 26”. He added that there was an amendment to paragraph 10, suggested by the Delegation of Indonesia, saying that the Committee would start that work in the third session and report to the General Assembly in 2009, giving the timeline it was looking for. The Chair further stated that paragraph 12(d), as a result of the interaction between the Delegations of the United States of America and Brazil, would end with the words “implementation of the CDIP work program.” He said that with those amendments and the approval of the delegations, the Chair’s summary could be adopted (reproduced in paragraph 456).

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

455. Moving to the final item of the agenda, the Chair thanked the Secretariat for its support and guidance to the Committee through those activities, as well as the general staff who had supported the Committee in the room and outside. He expressed his gratitude to the interpreters on behalf of the Committee and hoped that they could look forward to working with them in the following year. He also thanked the Member States, as well as the IGOs and NGOs, for their contributions to the effort during that week. The Chair said that he would come up for re-election in the following year and that if Member States needed time to think about it, he was in their hands. He looked forward to seeing them the following year either from the podium or from the floor. With that he declared the session closed.

456. The following Summary by the Chair was agreed by the Meeting:

“1. The WIPO General Assembly, in its session held in September-October 2007, decided to adopt the recommendations for action on the 45 agreed proposals, and to immediately implement the 19 proposals identified by the Chair of the PCDA, in consultation with Member States and the Secretariat. The General Assembly also decided to establish a Committee on Development and Intellectual Property (CDIP) to:

- develop a work-program for implementation of the adopted recommendations;

- monitor, assess, discuss and report on the implementation of all recommendations adopted, and for that purpose it shall coordinate with relevant WIPO bodies; and
- discuss intellectual property and development related issues as agreed by the Committee, as well as those decided by the General Assembly.

It was also decided that the Committee would report and may make recommendations annually to the General Assembly.

“2. The First Session of the CDIP was held from March 3 to 7, 2008. The CDIP adopted the Rules of Procedure included in document CDIP/1/2 and discussed the initial working document prepared by the Chair of the PCDA, in consultation with Member States and the Secretariat, and decided to use it as a working document of the CDIP (CDIP/1/3). The delegations discussed activities to implement adopted recommendations 2, 5, 8, 9 and 10 in the list of 26 and agreed that the proposed activities, as suitably modified following discussions, would be sent to the Secretariat to assess the human and financial resource requirements, before the July 2008 session. In addition, the CDIP reviewed and commented on activities being implemented under adopted recommendation 1 in the list of 19, suggested changes and considered new activities. It was agreed that the Secretariat would make the necessary modification and furnish a progress report on the adopted recommendations in the list of 19 for the July 2008 session of the Committee. The Committee also agreed that the Chair would organize informal consultations between the first and second sessions to continue consideration of the work program for implementation of the adopted recommendations.

“3. The Second Session of the CDIP was held from July 7 to 11, 2008. 101 Member States, 8 inter-governmental organizations (IGOs) and 37 non-governmental organizations (NGOs) participated in the session.

“4. The CDIP decided to admit, on an *ad hoc* basis, one NGO, namely, the International Committee for the Indigenous Peoples of the Americas (INCOMINDIOS), without implications as to their status for future WIPO meetings.

“5. The CDIP adopted the draft agenda as proposed in document CDIP/2/1 Prov.

“6. The CDIP adopted the Report of the First Session, contained in document CDIP/1/4 Prov.

“7. The Chair of the CDIP, Ambassador C. Trevor Clarke, invited Mr. Francis Gurry, who has been nominated by the Coordination Committee of WIPO as the candidate for appointment to the post of Director General of WIPO, to address the Committee. Mr. Gurry emphasized his commitment to the effective implementation of the WIPO Development Agenda, pledging to personally supervise this important initiative in the future. He also added that the development dimension must be taken into account horizontally across the Organization and concluded that the Development Agenda represented a major opportunity to address the role of intellectual property in development and the contribution of intellectual property to narrowing the knowledge gap and the digital divide. He assured delegations that the appropriate budgetary resources would be made available to support the implementation of proposals contained in the Development Agenda.

“8. The CDIP discussed document CDIP/2/2, which included revised text on the proposed activities for the implementation of adopted recommendations 2, 5, 8, 9 and 10 in the list of 26 and additional human and financial resource requirements relating to those recommendations. The Committee agreed with the revised text with some modifications and also agreed on the indicative figures on the respective human and financial resource requirements proposed by the Secretariat for implementing the recommendations, as contained in Annex II of this document. In respect of these recommendations, the Committee also took note of the information contained in documents CDIP/2/INF/1, CDIP/2/INF/2 and CDIP/2/INF/3. The Committee also discussed adopted recommendation 1 in the list of 19 recommendations, and agreed to the proposed activities included in document CDIP/2/2 with some modifications, as included in Annex I of this document. Further, the Committee discussed activities for the implementation of adopted recommendations 3,4,6,7 and 11 and agreed to the proposed activities, as contained in Annex I. These recommendations had also been discussed in the informal consultations organized by the Chair on April 16 and 17, 2008.

“9. The Committee discussed the activities for implementation of adopted recommendations 20, 22 and 23 in Cluster B, in the list of 26, following the same procedure as had been established during the first session of the CDIP. Accordingly, the Committee agreed that the proposed activities, as suitably modified following discussions, would be sent to the Secretariat to assess the human and financial resource requirements, and would be communicated to the Member States before the third session of the CDIP. The CDIP also reviewed and commented on activities being implemented under adopted recommendation 12 in the list of 19, suggested changes and considered new activities. It was agreed that the Secretariat would make the necessary modifications and furnish a progress report on the adopted recommendation in the list of 19 for the third session of the Committee.

“10. The Committee noted that there was a need to discuss the necessary mechanisms for its coordination with other relevant WIPO bodies in implementing the adopted recommendations, and also the modalities for monitoring, assessing and reporting on the implementation of recommendations. The Committee therefore decided to start discussions on these issues at the third session of the CDIP and to report to the 2009 WIPO General Assembly.

“11. The CDIP noted that the Draft Report of the Second Session will be prepared by the Secretariat and communicated to the Permanent Missions of the Member States, and will also be made available to Member States, IGOs and NGOs, in electronic form, on the WIPO website. Comments on the Draft Report should be communicated in writing to the Secretariat within three weeks of its issue. The revised Draft Report would then be considered for adoption at the beginning of the third session of the CDIP.

“12. In line with its mandate, the CDIP decided to submit a report, with recommendations, to the 2008 WIPO General Assembly, containing the following elements:

(a) Information about the first and second sessions of the CDIP (held in March 2008 and July 2008 respectively); the informal consultations (held in April 2008); and the documents considered in those meetings, including the adopted Rules of Procedure of the Committee.

(b) Report on the activities for implementation by WIPO in respect of the work program for the adopted recommendations contained in Annex 1 of this document. These recommendations belong to the list of 19 and were discussed in the first and second sessions

of the CDIP. Implementation of activities relating to the remaining recommendations in the list of 19 has been initiated by WIPO and will be reviewed in the third session of the CDIP.

(c) Recommend the work program in respect of the adopted recommendations, contained in Annex II of this document, with the necessary adjustments to the revised program and budget for 2009, for the additional requirements of human and financial resources for implementing these recommendations.

(d) Urge the General Assembly to make such resources available to the Secretariat, in a manner consistent with WIPO's program and budgetary processes, to ensure speedy and robust implementation of the CDIP work program.

(e) Urge the General Assembly to encourage all Member States, the Secretariat and other relevant WIPO bodies to effectively implement the adopted recommendations.

[Annexes follow]

ANNEX I

**WIPO Development Agenda  
Information on Activities in Respect of 19 Adopted Recommendations<sup>1</sup>**

	<p><b><u>CLUSTER A:</u></b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b></p>	<p>INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS</p>
<p>1.</p>	<p>WIPO technical assistance shall be, <i>inter alia</i>, development-oriented, demand-driven and transparent, taking into account the priorities and the special needs of developing countries, especially LDCs, as well as the different levels of development of Member States and activities should include time frames for completion. In this regard, design, delivery mechanisms and evaluation processes of technical assistance programs should be country specific</p>	<p><u>Overall Strategy</u></p> <p>WIPO’s technical assistance programs and activities are undertaken at the request of Member States and are designed, formulated and implemented in close consultation and cooperation with the countries concerned in order to respond to their specific needs, and dovetailed with their development priorities.</p> <p>WIPO has been reorienting its programs and activities by consistently and comprehensively taking into account country specific needs, priorities and the level of development, particularly the special needs of Least Developed Countries (LDCs). In line with the Program and Budget document for 2008/09, this is increasingly done by assisting countries to formulate nationally focused intellectual property plans and strategies, after a careful assessment of their specific needs and taking into account the particular development requirements of each country and involving all stakeholders. The assessment of needs and country demands will be reviewed with the country and the plan updated every biennium. Mechanisms will be developed to dovetail and integrate them with national plans. Over time, project design frameworks will be standardized for WIPO to ensure full project definition and description, quality control and approval processes, objective setting and monitoring activities, risk identification and management, performance and results definition and appraisal. Program evaluation will be undertaken in line with the recently approved WIPO Evaluation Policy (presented at the 2007 session of the WIPO General Assembly).</p> <p>In order to ensure greater transparency in the field of technical assistance, the organization would work on making more information on technical assistance activities readily available to Member States. This would be done, <i>inter alia</i>, through the database described under recommendation 5.</p>

<sup>1</sup> Recommendations adopted by the General Assembly for immediate implementation

	<p><b><u>CLUSTER A:</u></b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b></p>	<p>INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS</p>
		<p><u>Mainstreaming principles</u></p> <p>In order to ensure that the principles contained under this and other recommendations (e.g. recommendations 6, 13 and 15) are adequately mainstreamed into the activities of the organization, it is proposed:</p> <p>(a) To issue an office instruction to all WIPO staff and consultants advising them to adhere to the principles contained in this and other similar recommendations;</p> <p>(b) To ensure that adequate consideration is given to the introduction of these principles into future policy documents designed to establish the strategic direction of the organization in the short, medium and long term (e.g., program and budget document, vision and strategic direction papers, etc.); and</p> <p>(c) To ensure that any new guide or manual on technical assistance that may be developed in the future will also incorporate the principles contained in this recommendation.</p> <p>The Secretariat will also endeavor to include information on the Development Agenda and the principles contained therein (including under this recommendation) in other publications and information materials describing the work of the organization (e.g., the next edition of publication No. 1007E “WIPO: An Overview”).</p>
<p>3.</p>	<p>Increase human and financial allocation for technical assistance programs in WIPO for promoting a, <i>inter alia</i>, development-oriented IP culture, with an emphasis on introducing intellectual property at different academic levels and on generating greater public awareness on IP.</p>	<p><u>Promoting a Development-oriented IP Culture and Generating Greater Public Awareness about IP</u></p> <p>Raising awareness among all sectors of the society regarding the important role that intellectual property plays in national development, and promoting an informed and balanced discussion and dialogue about IP issues, continue to be an integral part of WIPO program and activities. As part of the process of imparting a development-oriented IP culture, WIPO promotes involvement of all national stakeholders through various programs and activities. Specific programs are tailored for public institutions, IP stakeholders and users, and target different sectors of society, including universities and research centers, SMEs, creative industries, the judiciary, journalists and civil society. It is proposed that the Development Agenda itself would also become a component of programs for greater public awareness on IP.</p>

	<p><b><u>CLUSTER A:</u></b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b></p>	<p>INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS</p>
		<p>In order to better inform the widening debate on IP and to further promote the Organization’s role as the primary source of IP information, new, innovative, and more differentiated information products will be created to meet the needs of a wider audience. A key challenge will be to more fully exploit the WIPO website, which is the Organization’s most cost-effective means of disseminating information worldwide. New and increasingly sophisticated information products focusing on specific issues – or for specific target audiences – will need to be produced, using a variety of communications tools. An intensified media communications strategy will also be necessary to expand links with the media and further inform the public and target audiences. Close cooperation with Member States in using WIPO’s information tools and in creating country-specific outreach campaigns and products will be further developed.</p> <p>Some examples of activities include development of the WIPO Public Outreach guides with examples from countries around the world; new design for the WIPO magazine and recent inclusion of articles on key development issues; production of audiovisual documentaries to communicate real-life stories on IP, foster greater respect and encouragement for creators/inventors by increasing understanding of their work and its value to society, and to increase awareness of the IP system as an essential component of human development. Furthermore, while implementing Nationally Focused Action Plans (NFAPs) customized outreach materials are created in the shape of country oriented WIPO publications in local languages, country specific studies, guides, manuals and CD-ROMs. These efforts will be further reinforced taking into account country specific IP needs. The scope of beneficiaries will be further expanded to reach out to all sections of society keeping in view their specific needs and interests.</p> <p><u>Introducing IP at Different Academic Levels</u></p> <p>As outlined by the Program and Budget document for 2008/09, to promote the teaching of IP in universities and strengthen human resources in this field, WIPO will offer and develop joint programs with academic institutions leading to the award of degrees/diplomas. It will continue to develop strategic partnerships with academic institutions, in particular in developing countries and countries with economies in transition. Partnerships with academic institutions will also involve the development of teaching and training materials and curricula on IP. A special emphasis will be given to further including development-oriented aspects of the IP system in such programs.</p>

	<p><b><u>CLUSTER A:</u></b></p> <p><b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b></p>	<p>INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS</p>
		<p>In addition, as part of its strategy to enhance IP teaching and training, WIPO will organize national symposia on IP education and research in a number of countries; provide expert advice to IP offices, universities and ministries of education; organize annual meetings of the IP academies; offer a number of executive programs in and outside Geneva; and establish a network of professors of IP management from business schools, industry and management consultancy firms. Examples of activities recently undertaken include, a WIPO Sub-regional Colloquium on IP education, training and research; a Joint LL.M. program with the University of Turin to increase human resources capacity in IP in developing countries, countries in transition and LDCs; distance learning courses for university professors under a Training of Trainer's Program which will be supported by face-to-face training; and Colloquia on Intellectual Property, jointly with the World Trade Organization (WTO) for professors and teachers from developing countries and countries with economies in transition.</p>
<p>4.</p>	<p>Place particular emphasis on the needs of SMEs and institutions dealing with scientific research and cultural industries and assist Member States, at their request, in setting-up appropriate national strategies in the field of IP.</p>	<p>Supporting SMEs, research institutions, creative industries and the development of national IP strategies are some of the main areas of work outlined in the adopted Program and Budget for 2008/09. These areas have also witnessed an increase in financial resources in order to meet fast-growing demand from Member States. The main strategies for these four areas of activities are as follows:</p> <p><u>WIPO Strategy for SMEs</u></p> <p>WIPO has been extending technical assistance to enhance the capacity of SMEs and SME-support institutions in various regions and countries and will continue to focus on concrete and practical activities involving the enterprise sectors, particularly SMEs with high potential for generating and exploiting intellectual property assets. Partnerships will continue to be developed with national IP offices and SME support institutions in order to create or strengthen their capacity to deliver IP-related services to SMEs. In addition, WIPO will partner with financial institutions to enhance their ability to take IP assets into account while appraising business plans by entrepreneurs and SMEs. Original content on IP for business will continue to be developed and disseminated through the SMEs web site, the monthly e-newsletter as well as via customized publications on IP for SMEs, including sector-specific publications. As part of a capacity-building strategy for business students, entrepreneurs, SMEs and SME support institutions, the development of training material and the collection and sharing of best practices and case studies will also continue. Some examples of activities initiated recently include agreements concluded to translate and/or customize IP for Business guides; workshops organized on the Role of Intangibles as a Tool for</p>

	<p><b><u>CLUSTER A:</u></b></p> <p><b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b></p>	<p>INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS</p>
		<p>Raising Financing, and on Accessing Capital Markets; national project launched to support the use of distinctive signs by SMEs in the agro-food industry.</p> <p><u>WIPO Strategy for Cultural/Creative Industries</u></p> <p>A key element of WIPO’s strategy relating to creative industries is to examine the contribution of the creative sector, as well as underscore its potential as an important constituent in support of policy making. To this effect, WIPO will build on the results achieved in the 2006/07 biennium, and launch new projects based on the feedback from users of the various tools developed. Partnerships with interested governments and international organizations will be sought and strengthened and products developed will be tested before widespread national implementation. Practical tools for selected creative sectors will also be developed to meet sector-specific needs. Some examples of recent activities include studies on the Economic Contribution of Copyright-Based Industries; and a practical tool on Managing IP in the Book Publishing Industry.</p> <p><u>WIPO Strategy for Universities and Research Institutions</u></p> <p>WIPO’s activities in support of scientific research institutions (including universities) has intensified significantly as a result of increasing requests from Member States. Support will continue to focus on three main types of activities. First, R&amp;D institutions and universities will be supported to develop institutional IP policies to facilitate IP asset management in line with their missions and mandates. Second, WIPO will support the creation of networks of R&amp;D institutions with IP hubs (or IP shared services) as a means for Member States to build cost-effective innovation infrastructure. This is considered to be a way of optimizing the use of scarce professional and financial resources for the provision of specialized services on protection and commercialization of IP. Third, WIPO will provide practical and customized training programs in technology licensing, patent valuation, patent drafting, and technology management and marketing to R&amp;D institutions and universities, upon request from Member States. Some examples of activities are training programs for universities and research institutions in one of the four areas described above; and support in the development of IP policies for universities and R&amp;D institutions.</p>

	<p><b><u>CLUSTER A:</u></b></p> <p><b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b></p>	<p>INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS</p>
		<p><u>WIPO Strategy for Supporting the Development of National IP Strategies</u></p> <p>Member States will continue to be supported in integrating IP strategies into national economic development planning. This will involve the development of practical tools that stress the importance of national choices in the development and implementation of IP strategies. One important methodology which has already been applied as a first step in the process of constructing strategies is the IP Audit Tool. The development of national IP strategies has generally entailed integrating intellectual property into the context of national policies in several areas such as education, health, agriculture, science and technology, innovation, financing, international trade, among others. Strategies focus on the definition of goals, mechanisms, policies and actions to facilitate the creation of and access to knowledge and technology, enhancing the ability of domestic enterprises and institutions to protect IP rights and promoting commercialization and broad dissemination of technology and creative works. Upon request, WIPO could intensify such activities and support Member States during consultations among various sectors and institutions in the development of national IP strategies. Examples of recent activities are supporting the development of national IP strategies, starting with a national IP audit and continuing with a series of internal consultations with the participation of a wide range of institutions and stakeholders.</p>
<p>6.</p>	<p>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. WIPO shall draw up and make widely known to the Member States a roster of consultants for technical assistance available with WIPO.</p>	<p>The UN Standards of Conduct for the International Civil Service (available at: <a href="http://icsc.un.org/csd.asp">http://icsc.un.org/csd.asp</a>) were adopted by the Member States and incorporated in the WIPO Staff Regulations and Staff Rules, and are considered binding on all WIPO employees. In order to ensure that the same standards also apply to consultants hired by WIPO, a specific provision referring to the UN Standards of Conduct will be included in the Special Service Agreements (SSAs) issued by WIPO for the engagement of consultants.</p> <p>Work on strengthening Ethics and Integrity Systems has also been incorporated into the Organizational Improvement Project in order for it to be well coordinated with linked developments relating to human resources management and other organizational performance related issues. WIPO will regularly update Member States on these issues in the relevant fora.</p> <p>Consultants engaged for technical assistance activities are recruited as and when specific needs arise in order to respond to technical assistance requests by Member States. They are selected on the basis of their proven expertise and experience in the field required and are closely evaluated with regard to their performance and the results of their assignments.</p>

	<p><b><u>CLUSTER A:</u></b></p> <p><b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b></p>	<p>INFORMATION ON ACTIVITIES FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS</p>
		<p>The roster of consultants referred to under this recommendation is currently under preparation.</p>
<p>7.</p>	<p>Promote measures that will help countries deal with IP related anti-competitive practices, by providing technical cooperation to developing countries, especially LDCs, at their request, in order to better understand the interface between intellectual property rights and competition policies.</p>	<p>WIPO provides, on request, legislative assistance and advice aimed at preventing and/or resolving IP-related anti-competitive practices, within its mandate and field of expertise. This comprises consideration of the proper scope of exclusive IP rights, including appropriate exceptions and limitations to those rights, as well as the use of legal options such as compulsory licenses and other measure allowed under international norms. Advice is also provided, on request, on matters related to business-restrictive clauses and other contents of IP licensing contracts that may have an adverse effect on competition. This will be continued on request. In undertaking such activities, WIPO will consider whether there is a need to engage external experts to respond to specific requests from Member States on a case by case basis.</p> <p>An information note containing additional information on the activities that WIPO has already carried out in this field in the past, as well as possible initiatives that could be initiated in the future, upon the request of Member States, will be prepared for the July session of the CDIP.</p>
<p>11.</p>	<p>To assist Member States to strengthen national capacity for protection of domestic creations, innovations and inventions and to support development of national scientific and technological infrastructure, where appropriate, in accordance with WIPO's mandate.</p>	<p>WIPO supports developing countries to help their local scientists and research institutions in protecting their research results through customized training programs, such as patent drafting, Successful Technology Licensing (STL), IP marketing and IP valuation. It also supports the structuring of technology transfer offices. WIPO's experience with the establishment of IP Hubs demonstrates that the different modalities of IP training and IP management may be highly optimized if the use and implementation of strategies are organized following the collaborative model of IP Networks. The range of possible strategies/programs/activities for the implementation of this recommendation are mentioned in the information note for recommendation 10/26 as well as in the text provided for recommendation 4/19, above.</p> <p>WIPO also provides technical assistance for the promotion and protection of local creations in the digital environment. Support is also provided for the establishment of collective management organizations so that the domestic creators can obtain their legitimate benefits.</p>

[Annex II follows]

## ANNEX II

## Work Program for Implementation of Adopted Recommendations

No.	<b>CLUSTER A:</b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b>	<b>PROPOSED ACTIVITIES</b>	<b>ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY</b>	
			<b>HUMAN</b>	<b>FINANCIAL</b>
2.	Provide additional assistance to WIPO through donor funding, and establish Trust-Funds or other voluntary funds within WIPO specifically for LDCs, while continuing to accord high priority to finance activities in Africa through budgetary and extra-budgetary resources, to promote, <i>inter alia</i> , the legal, commercial, cultural, and economic exploitation of intellectual property in these countries	<p>Some developed and developing countries have already made voluntary financial contributions to WIPO to administer programs for the benefit of developing and least developed countries (LDCs). WIPO would welcome additional donor funding for this purpose, including trust funds or other voluntary funds specifically for LDCs, while according high priority to finance activities in Africa, in order to enhance the level of assistance provided.</p> <p>As a first step towards implementing this recommendation, and following discussions during the first session of the CDIP, the Secretariat will prepare a paper for the second session of the CDIP providing additional information and exploring options. The paper will be divided into three sections. The first section will update and enhance the information available in the Program and Budget document for 2008/09 on existing voluntary funds and FITs and the manner in which the Secretariat currently manages extra-budgetary resources. The second section of the paper will report on existing efforts to coordinate WIPO's work in this area and to mobilize further voluntary resources through discussions with bilateral donors, multilateral donors and charitable foundations. The third section of the paper will elaborate on proposals for future activities aimed at increasing the availability of voluntary funding.</p> <p>The paper will also consider the possible scope and format of a donor conference, which would be organized in 2008-2009 in Geneva and</p>		<p>Missions to donor countries and organizations CHF 50,000 (one-time expenditure)</p> <p>Donor Conference: CHF 140,000</p>

<sup>1</sup> Recommendations adopted by the General Assembly for immediate implementation

No.	<b>CLUSTER A:</b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b>	<b>PROPOSED ACTIVITIES</b>	<b>ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY</b>	
			<b>HUMAN</b>	<b>FINANCIAL</b>
		<p>represent an opportunity to apprise donors about the adopted recommendations under the WIPO Development Agenda. It will also analyze current consultation mechanisms with donor agencies to discuss funding and formulate programs and projects on a regional, sub-regional or national level, and consider ways of improving them, if necessary. The paper will consider the possible establishment of monitoring mechanisms for the management of voluntary funds, bearing in mind that such mechanisms and principles do not themselves deter donor funding.</p> <p>The focus of the paper will not only be on the possibility of creating new voluntary funds at WIPO, but also working with current donors, partner countries and international and regional organizations, as well as the World Bank and regional banks to implement special technical assistance and capacity building projects for Member States, in line with the principles adopted under the WIPO Development Agenda.</p> <p>A detailed proposal on the donor conference would be presented to the General Assembly</p>		(which includes financing the participation of a number of developing country representatives (see CDIP/2/INF/2) (one-time expenditure)
5.	WIPO shall display general information on all technical assistance activities on its website, and shall provide, on request from Member States, details of specific activities, with the consent	It is proposed to initiate work on a project to design and develop a consolidated database for all such activities and to update the same regularly. General information will be available on the WIPO website, while more detailed information will be made available on specific activities, based on appropriate authorizations. The new database will build on the existing information already provided by WIPO ( <a href="http://www.wipo.int/export/sites/www/ip-">http://www.wipo.int/export/sites/www/ip-</a>	2 consultants to undertake the project  1 Professional to	CHF 300,000 (one time expenditure)  Standard cost*

\* Calculated at an average cost of CHF 178,000 per annum.

No.	<b>CLUSTER A:</b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b>	<b>PROPOSED ACTIVITIES</b>	<b>ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY</b>	
			<b>HUMAN</b>	<b>FINANCIAL</b>
	of the Member State(s) and other recipients concerned, for which the activity was implemented	<a href="#">development/en/pdf/wipo_edu_inf_1_rev.pdf</a> ) on its development cooperation activities. Information will be available on names of donors, consultants and project costs (with the appropriate authorizations). The project will be guided by the principle of transparency and donors and recipients will be encouraged to authorize WIPO to provide as much information as possible on technical assistance activities.	maintain and update the database	
8.	Request WIPO to develop agreements with research institutions and with private enterprises with a view to facilitating the national offices of developing countries, especially LDCs, as well as their regional and sub-regional IP organizations to access specialized databases for the purposes of patent searches	<p><u>Conduct of a Study for Implementation of the recommendation</u></p> <p>Presently, WIPO provides patent information through PATENTSCOPE®, which is a fully searchable database of international patent applications, as well as through WIPO's Patent Information Services for Developing Countries and LDCs. In order to explore the different options available for implementation of this recommendation, it is proposed to initiate a study to identify the relevant databases and other resources, consider the property rights associated with specialized databases and propose options for licensing or otherwise providing access to those databases for IP offices and/or for the general public, particularly in developing countries.</p> <p>Other issues to be considered by the study include the possibility of developing model contracts for access to patent databases by IP offices, ways of making the WIPO databases more broadly available (including through the inclusion in popular Internet portals), organizing a forum with database owners and enhancing PATENTSCOPE® to include further information on PCT applications in the national phase. The study would also include an assessment of the potential human and financial resource implications of the different options for access to public and private specialized patent databases by IP offices, paying particular attention to copyright issues. The Secretariat will prepare the terms of reference of the study for the July 2008 Session.</p>	<p><u>Patent Information and IP Statistics Service</u></p> <p>Consultant to prepare the paper</p>	<p>CHF 40,000 (one-time expenditure)</p> <p>Travel budget to prepare the paper CHF 50,000 (See CDIP/2/INF/3) (one-time expenditure)</p>

No.	<b>CLUSTER A:</b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b>	<b>PROPOSED ACTIVITIES</b>	<b>ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY</b>	
			<b>HUMAN</b>	<b>FINANCIAL</b>
		<p><u>Strategies to Enhance Access to and Use of Patent Databases</u></p> <p>It is also proposed to enhance and develop new approaches for spreading the use of IP information, in particular patent information and documentation, for the benefit of the creative sector, R&amp;D and academic institutions and SMEs. Some of the key strategies being considered in this regard are:</p> <p>(a) Undertake pilot initiatives to enhance access to, and sharing of patent and other IP commercial and technical information by research institutions and industry groups. For example, such a project is currently undertaken in selected OAPI Member states and could also be developed in other regions;</p> <p>(b) Envisage the possibility of launching pilot project(s) in selected country(ies) with the aim of fostering the establishment of IP information centers in their scientific and research institutions, for better protecting the results of their research and benefiting from their commercial income;</p> <p>(c) Promote the establishment of sub-regional, regional or inter-regional IP Search Databases. This would facilitate the search and examination process of granting of IP rights and improve regional, sub-regional and national capacity building;</p>	<p><u>Technical Assistance and Capacity Building Sector</u></p> <p>1 Professional 1 General Service Staff 1 Consultant</p>	<p>Standard cost Standard cost**</p> <p>CHF 150,000 (one-time expenditure)</p> <p>Activities: CHF 700,000</p>

\*\* Calculated at an average cost of CHF 116,000 per annum

No.	<b>CLUSTER A:</b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b>	<b>PROPOSED ACTIVITIES</b>	<b>ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY</b>	
			<b>HUMAN</b>	<b>FINANCIAL</b>
		<p>(d) Provide necessary specialized training, through regional, sub-regional and national workshops on the use and search strategies of patent databases in developing countries and LDCs; and</p> <p>(e) Establish mechanisms for sharing access and search results from the use of patent databases, particularly for LDCs.</p> <p>To establish IP Advisory Services and Information Centers, particularly in LDCs.</p>		
9.	Request WIPO to create, in coordination with Member States, a database to match specific IP-related development needs with available resources, thereby expanding the scope of its technical assistance programs, aimed at bridging the digital divide	It is proposed to establish an effective interactive process for assessing the IP-related development needs of countries, in conformity with the Development Agenda proposals, and setting up match-making and clearing house mechanisms. It is also proposed to establish collaborative mechanisms for regular collection of information on potential donors and partners, as well as their available funds and expertise for WIPO to match with specific needs. This would also include the establishment of a system to monitor and assess progress.	Coordinator / Consultant (12 months)  1 Professional	CHF 190,000 (one time expenditure)  Standard cost
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 IP institutions more efficient and promote fair balance	In continuing to strengthen national IP institutional capacity, WIPO will focus on improving efficiency through specific training in corporate governance, streamlining of administrative procedures and business tools in industrial property and collective management organizations as well as office automation through the use of AFRICOS software, for copyright collective management and IPAS software for industrial property administration. In future, WIPO activities in this area shall pay greater heed to the need to take into account the interests of the general public.		

No.	<b><u>CLUSTER A:</u></b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b>	<b>PROPOSED ACTIVITIES</b>	<b>ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY</b>	
			<b>HUMAN</b>	<b>FINANCIAL</b>
	between IP protection and the public interest. This technical assistance should also be extended to sub-regional and regional organizations dealing with IP			
		<p>WIPO will also continue to provide specialized training to staff of IP offices in order to enhance their ability to perform their tasks, through intermediate and advanced training programs of the WIPO Academy. In particular, training courses for patent and trademark examiners include practical training sessions in national and regional IP offices with a view to improving the quality of patent and trademark examination. WIPO will also continue to promote the teaching and training of IP at universities and other relevant institutions.</p> <p>In addition, WIPO will continue to provide sustained support to national IP offices, as well as regional and sub-regional IP Organizations, in the provision of value-added services to users, including efficient services relating to grant of IP rights, creation and commercial exploitation of IP assets, including the development of on-line transaction systems for patented inventions, IP information, resource networks, consulting services, outreach programs and training programs, invention fairs for women and students, and forging links with the user and professional community.</p>	<p><u>WIPO Academy</u></p> <p>3 Professionals 2 General Service staff</p>	<p>Standard Cost Standard Cost</p> <p>Activities CHF 800,000</p>
			<p><u>Technical Assistance and Capacity Building Sector</u></p> <p>3 Professionals 3 General Service staff</p> <p>1 Consultant</p>	<p>Standard Cost Standard Cost</p> <p>CHF 150,000</p> <p>Activities CHF 1,500,000</p>

No.	<b>CLUSTER A:</b> <b>TECHNICAL ASSISTANCE AND CAPACITY BUILDING</b>	<b>PROPOSED ACTIVITIES</b>	<b>ADDITIONAL REQUIREMENTS OF RESOURCES, IF ANY</b>	
			<b>HUMAN</b>	<b>FINANCIAL</b>
		<p>WIPO's institutional support will be extended not only to national IP offices, but also to other institutions that promote innovative and creative activities such as technology licensing offices in universities, technology promotion institutes, collective management societies and creative industries support institutions. In addition, activities are also aimed at strengthening the capacity of SME support institutions on IP (such as innovation center networks, business incubators, universities R&amp;D institutions, professional associations, chambers of commerce, financial institutions and business angels and IP offices) through, in particular: (1) the creation of local awareness-raising and training materials and (2) human resource and capacity development (workshops, training).</p> <p>As requested in the March session of the CDIP, the Secretariat has compiled further information relating to this recommendation in document CDIP/2/INF/1 which provides additional information in the form of a "menu of options" of programs/activities that may be requested by Member States for the implementation of this recommendation.</p>	<p><u>Patent drafting, valuation, national IP strategies, licensing, marketing and IP policies for universities</u></p> <p>1 IT specialist (consultant, one time expenditure)</p>	<p>CHF 84,000</p> <p>Activities CHF 518,000</p>
			<p><u>Creative Industries</u></p> <p>1 General Service staff</p>	<p>Standard Cost</p> <p>Activities CHF 240,000</p>
			<p><u>SMEs:</u></p> <p>1 Professional 1 General Service staff</p>	<p>Standard Cost Standard Cost</p> <p>Activities CHF 400,000</p>

[Annex III follows]

ANNEX III

I. ÉTATS/STATES

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

AFGHANISTAN

Abdullah FROGH, General Director, Legal and Regulatory Department, Ministry of Commerce and Industry, Kabul

Akhshid JAVID, Third Secretary, Permanent Mission, Geneva

AFRIQUE DU SUD/SOUTH AFRICA

Weaver Simpiwe NCWANA, Deputy Director, Intellectual Property, Department of Trade and Industry (DTI), Pretoria

Johan VAN WYK, Counsellor, Permanent Mission, Geneva

Simon QOBO, First Secretary, Permanent Mission, Geneva

ALBANIE/ALBANIA

Miranda PISTOLI (Miss), Second Secretary, Permanent Mission, Geneva

ALGÉRIE/ALGERIA

Belkacem ZIANI, directeur général, Institut national algérien de propriété industrielle (INAPI), Alger

Mustapha BERREKIA, chef de département, Institut national algérien de propriété industrielle (INAPI), Alger

Boumédiene MAHI, premier secrétaire, Mission permanente, Genève

ALLEMAGNE/GERMANY

Li-Feng SCHROCK, Head of Division, Trade Mark and Unfair Competition, Federal Ministry of Justice, Berlin

Udo FENCHEL, Counsellor, Permanent Mission, Geneva

ARABIE SAOUDITE/SAUDI ARABIA

Sami Ali ALSODAIS, Patent Specialist, Director General Assistant for the Technical Affairs, General Directorate of Industrial Property, King Abdulaziz City for Science and Technology, Riyadh

ARGENTINE/ARGENTINA

Alberto J. DUMONT, Embajador, Representante Permanente, Misión Permanente, Ginebra

Ernesto MARTÍNEZ GONDRA, Ministro, Representante Permanente Alterno, Misión Permanente, Ginebra

Inés Gabriela FASTAME (Srta.), Primer Secretario, Misión Permanente, Ginebra

ARMÉNIE/ARMENIA

Andranik KHACHIKYAN, Deputy Head, Intellectual Property Agency, Yerevan

AUSTRALIE/AUSTRALIA

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Edwina LEWIS (Ms.), Assistant Director, International Policy Section, IP Australia, Woden ACT

Tegan BRINK (Ms.), Second Secretary, Permanent Mission, Geneva

AUTRICHE/AUSTRIA

Johannes WERNER, Deputy Head, Department of International Relations, Austrian Patent Office, Vienna

Markus WEIDINGER, Second Secretary, Permanent Mission, Geneva

BANGLADESH

Debapriya BHATTACHARYA, Ambassador and Permanent Representative, Permanent Mission, Geneva

Mustafizur RAHMAN, Minister, Permanent Mission, Geneva

Muhammed Enayet MOWLA, Counsellor, Permanent Mission, Geneva

Andalib ELIAS, First Secretary, Permanent Mission, Geneva

BARBADE/BARBADOS

C. Trevor CLARKE, Ambassador, Permanent Representative, Permanent Mission, Geneva

Corlita BABB-SCHAEFER, Counsellor, Permanent Mission, Geneva

BÉLARUS/BELARUS

Siarhei SHABEKA, Deputy Head, Department of Law and International Treaties, National Center of Intellectual Property, Minsk

BELGIQUE/BELGIUM

Mélanie GUERREIRO RAMALHEIRA (Mlle), attaché, Office de la propriété intellectuelle, SPF économie, P.M.E., classes moyennes et énergie, Bruxelles

BÉNIN/BENIN

Samuel AHOKPA, directeur, Bureau béninois du droit d'auteur (BUBEDRA), Ministère de la culture, de l'artisanat et du tourisme, Cotonou

François Miton ADANDE, directeur, Centre national de la propriété industrielle (CENAPI), Ministère de l'industrie et du commerce et des petites et moyennes entreprises, Cotonou

BHOUTAN/BHUTAN

Chhimi LHAZIN (Miss), Trademark Examiner, Intellectual Property Division, Ministry of Economic Affairs, Thimphu

BOSNIE-HERZÉGOVINE/BOSNIA AND HERZEGOVINA

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BOTSWANA

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BRÉSIL/BRAZIL

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Cristiano FRANCO BERBERT, Second Secretary, Permanent Mission, Geneva

BULGARIE/BULGARIA

Petko DRAGANOV, Ambassador, Permanent Representative, Permanent Mission, Geneva

Panteley SPASSOV, Ambassador, Head of Department, Ministry of Foreign Affairs, Sofia

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DENG Yuhua (Ms.), National Copyright Administration of China (NCAC), Beijing

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CHYPRE/CYPRUS

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Ahmed AL-NAKASH, Third Secretary, Permanent Mission, Geneva

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Atsushi SHIOMI, Deputy Director, International Affairs Division, General Affairs  
Department, Japan Patent Office (JPO), Tokyo

Kenichiro NATSUME, First Secretary, Permanent Mission, Geneva

Kiyoshi SAITO, First Secretary, Permanent Mission, Geneva

KENYA

Nilly KANANA, First Secretary, Permanent Mission, Geneva

KIRGHIZISTAN/KYRGYZSTAN

Muratbek AZYMBAKIEV, Deputy Permanent Representative, Permanent Mission, Geneva

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LETTONIE/LATVIA

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Guntis RAMĀNS, Deputy Director, Patent Office of the Republic of Latvia, Riga

Ieva DREIMANE (Mrs.), First Secretary, Permanent Mission, Geneva

LITUANIE/LITHUANIA

Paulius GRICIŪNAS, State Secretary, Ministry of Justice, Vilnius

LUXEMBOURG

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permanente, Genève

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Jocellin ANDRIANIRIANAZAKA, directeur général, Office malgache de la propriété  
industrielle (OMAPI), Ministère de l'économie, du plan, du secteur privé et du commerce,  
Antananarivo

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MEXIQUE/MEXICO

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MYANMAR

Myo Min HTWE, Assistant Director, Intellectual Property Section, Ministry of Science and Technology, Yangon

NÉPAL/NEPAL

Dinesh BHATTARAI, Ambassador, Permanent Representative, Permanent Mission, Geneva

Ravi BHATTARAI, Deputy Permanent Representative, Permanent Mission, Geneva

NIGÉRIA/NIGERIA

Adebambo ADEWOPO, Director-General, Nigerian Copyright Commission, Abuja

Olusegun Adeyemi ADEKUNLE, Director, Nigerian Copyright Commission, Abuja

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O. ANEADU, Minister, Permanent Mission, Geneva

Ola KUNLE, Personal Assistant to the Director-General, Legal Matters, Nigerian Copyright Commission, Abuja

G. BUBA, Counsellor, Permanent Mission, Geneva

NORVÈGE/NORWAY

Gry Karen WAAGE (Mrs.), Counsellor, Permanent Mission, Geneva

OMAN

Fatima AL-GHAZALI (Mrs.), Counsellor (Economic Affairs), Permanent Mission, Geneva

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PAYS-BAS/NETHERLANDS

Frank VAN DER ZWAN, Senior Policy Advisor, Ministry of Economic Affairs, The Hague

Jeroen RIJNIERS, Senior Policy Advisor, Ministry of Foreign Affairs, The Hague

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PHILIPPINES

Maria Teresa C. LEPATAN (Mrs.), Minister, Permanent Mission, Geneva

PORTUGAL

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RÉPUBLIQUE ARABE SYRIENNE/SYRIAN ARAB REPUBLIC

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RÉPUBLIQUE DÉMOCRATIQUE DU CONGO/DEMOCRATIC REPUBLIC OF THE CONGO

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RÉPUBLIQUE-UNIE DE TANZANIE/UNITED REPUBLIC OF TANZANIA

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ROUMANIE/ROMANIA

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ROYAUME-UNI/UNITED KINGDOM

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Andrew FELDON, Intellectual Property Policy Directorate, The UK Intellectual Property Office, Newport

RWANDA

Cynthia Liliane KAMIKAZI (Ms.), Multilateral Officer, Permanent Mission, Geneva

SAINT-SIÈGE/HOLY SEE

Silvano M. TOMASI, nonce apostolique, observateur permanent, Mission permanente d'observation, Genève

Anne-Marie COLANDRÉA (Mlle), membre, Mission permanente d'observation, Genève

SINGAPOUR/SINGAPORE

Jaya RATNAM, Deputy Permanent Representative, Permanent Mission, Geneva

LIEW Li Lin (Ms.), Second Secretary, Permanent Mission, Geneva

SLOVAQUIE/SLOVAKIA

Anton FRIC, First Secretary, Permanent Mission, Geneva

SLOVÉNIE/SLOVENIA

Boštjan RAČIČ, Senior Adviser, Legal Department, Slovenian Intellectual Property Office (SIPO), Ministry of Economy, Ljubljana

Andrej PIANO, Counsellor, Permanent Mission, Geneva

SOUDAN/SUDAN

Omer Mohamed Khir MOHAMED, Director, Literary and Artistic Works, Office of Nile State, Khartoum

Yasser MUSA ADAM KABBASHI, Coordinator of the states council, Federal Council for Literary and Artistic Work, Ministry of Culture, Youth and Sports, Khartoum

Ebtisam Awad AHMED IDRIS, Legal Advisor, Trademarks Division – Intellectual Property Office, Registrar General of Intellectual Property, Ministry of Justice, Attorney General's Chambers, Khartoum

Osman Abdel RAHMAN OSMAN, Copyright Advisor, Ministry of Culture, Youth and Sports, Khartoum

Mohamed Hassan KHAIR, First Secretary, Permanent Mission, Geneva

SRI LANKA

Manori K. MALLIKARATCHY (Mrs.), Second Secretary, Permanent Mission, Geneva

SUÈDE/SWEDEN

Maria WESTMAN-CLÉMENT (Ms.), Special Advisor, Division for Intellectual Property and Transport Law, Ministry of Justice, Stockholm

Henry OLSSON, Special Government Advisor, Division for Intellectual Property and Transport Law, Ministry of Justice, Stockholm

SUISSE/SWITZERLAND

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Alexandra GRAZIOLI (Mme), conseillère juridique, Division droit et affaires internationales, Institut fédéral de la propriété intellectuelle (IPI), Berne

Kathrin WILI (Miss), Legal Advisor, Institut fédéral de la propriété intellectuelle (IPI), Berne

THAÏLANDE/THAILAND

Sahasak PHUANGKETKEOW, Ambassador, Permanent Representative, Permanent Mission, Geneva

Vijavat ISARABHAKDI, Ambassador, Deputy Permanent Representative, Permanent Mission, Geneva

Kajit SUKHUM, Director, Promotion and Development of Intellectual Property, Department of Intellectual Property, Ministry of Commerce, Bangkok

Supavadee CHOTIKAJAN (Ms.), First Secretary, Permanent Mission, Geneva

Vowpailin CHOVICHEN (Miss), Third Secretary, Division of International Economic Policy, Department of International Economic Affairs, Ministry of Foreign Affairs, Bangkok

TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO

Mazina KADIR (Ms.), Controller, Intellectual Property Office, Ministry of Legal Affairs, Port of Spain

Myrna HUGGINS (Ms.), First Secretary, Permanent Mission, Geneva

Simone YOUNG (Mrs.), First Secretary, Permanent Mission, Geneva

TUNISIE/TUNISIA

Mokhtar HAMDY, sous-directeur, Département de la propriété industrielle, Institut national de la normalisation et de la propriété industrielle (INNORPI), Tunis

Mohamed Abderraouf BDIOUI, conseiller, Mission permanente, Genève

TURQUIE/TURKEY

Füsun ATASAY (Ms.), Director, International Affairs Department, Turkish Patent Institute, Ankara

Yeşim BAYKAL, Legal Advisor, Permanent Mission, Geneva

UKRAINE

Olena SHCHERBAKOVA (Mrs.), Head, European Integration and International Cooperation Division, State Department of Intellectual Property (SDIP), Ministry of Education and Science, Kyiv

Natalya UDOVYTSKA (Mrs.), Head, Financial-Administrative Division, State Department of Intellectual Property (SDIP), Ministry of Education and Science, Kyiv

Roksolyana GUDZOVATA (Ms.), Chief Specialist, European Integration and International Cooperation Division, State Department of Intellectual Property (SDIP), Ministry of Education and Science, Kyiv

URUGUAY

Lucia TRUCILLO (Sra.), Representante Permanente Adjunto, Misión Permanente, Ginebra

Alfredo José SCAFATI FALDUTI, Presidente, Consejo de Derecho de Autor, Ministerio Educación y Cultura, Montevideo

Luis Alberto GESTAL, Encargado de División de Marcas, Dirección Nacional de la Propiedad Industrial (DNPI), Montevideo

YÉMEN/YEMEN

Fawaz AL-RASSAS, Third Secretary, Permanent Mission, Geneva

II. ORGANISATIONS INTERNATIONALESINTERGOUVERNEMENTALES/  
INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

ORGANISATION DES NATIONS UNIES (ONU)/UNITED NATIONS (UN)

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

Kiyoshi ADACHI, Legal Officer, IP-Team, Policy Implementation Section, Geneva

Christine HOHL (Miss), Intern, IP-Team, Policy Implementation Section, Geneva

COMMISSION EUROPÉENNE (CE)/EUROPEAN COMMISSION (EC)

Sergio BALIBREA SANCHO, Counsellor, European Communities Delegation, Geneva

Claudia COLLA (Ms.), Legal and Policy Affairs Officer, Industrial Property, Internal Market and Services Directorate General, Brussel

Mariane LAMBERT (Miss), Advisor, European Communities Delegation, Geneva

ORGANISATION DE LA CONFÉRENCE ISLAMIQUE (OCI)/ORGANIZATION OF THE  
ISLAMIC CONFERENCE (OIC)

Babacar BA, Ambassador, Permanent Observer, Geneva

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

Konstantinos KARACHALIOS, Director, Relations with International Intergovernmental Organisations and Institutions, Munich

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

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

Josefita PARDO DE LEÓN (Mrs.), Legal Affairs Officer, Intellectual Property Division, Geneva

SOUTH CENTRE

Viviana Munoz Tellez (Ms.), Programme Officer, Innovation and Access to Knowledge

Nneka Linda IKELIONWU (Miss), Intern, Geneva

Yogesh Anand PAI, Intern, Geneva

UNION AFRICAINE (UA)/AFRICAN UNION (AU)

Georges-Rémi NAMEKONG, conseiller, Délégation permanente, Genève

ORGANISATION ISLAMIQUE POUR L'ÉDUCATION, LES SCIENCES ET LA  
CULTURE (ISESCO)/ISLAMIC EDUCATIONAL, SCIENTIFIC AND CULTURAL  
ORGANIZATION (ISESCO)

Mohamed GHEMARI, Director, External Relations and Cooperation, Rabat

Ahmed Saïd OULD BAH, Head of the Cabinet of the Director General, Rabat

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

Association international du barreau (IBA)/International Bar Association (IBA)

Thomas LEGLER (WIPO Liaison Officer, IBA Intellectual Property and Entertainment Law Committee, Geneva); Nicolas CANDAU (Representative, Geneva)

Association internationale pour la promotion de l'enseignement et de la recherche en propriété intellectuelle (ATRIP)/International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP)

François CURCHOD (représentant permanent auprès de l'OMPI, Genolier)

Association latino-américaine des industries pharmaceutiques (ALIFAR)/Latin American Association of Pharmaceutical Industries (ALIFAR)

Mirta LEVIS (Sra.), Directora Ejecutiva, Buenos Aires

Association littéraire et artistique internationale (ALAI)/International Literary and Artistic Association (ALAI)

Victor NABHAN (président, Ferney-Voltaire)

Centre d'études internationales de la propriété industrielle (CEIPI)/Centre for International Industrial Property Studies (CEIPI)

François CURCHOD (représentant permanent auprès de l'OMPI, Genolier)

Centre de recherche en droit international de l'environnement (IELRC)/International Environmental Law Research Centre (IELRC)

Alexandre DUFRESNE (Programme Associate, Geneva)

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

Pedro ROFFE (Senior Fellow, Geneva); David VIVAS (Deputy Programmes Director, Geneva); Ahmed ABDEL LATIF (IPRs and Technology Programme Manager); Fleur CLAESSENS (Ms.) (IPRs Programme Officer, Geneva); Margaret CHON (Ms.) (Adviser, Geneva); Camille Latoya RUSSEL (Ms.) (Representative, Geneva)

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

Dalindybo SHABALALA (Director, Project on Intellectual Property and Sustainable Development, Geneva); Caroline TWISS (Ms.) (Intern, Geneva); René URUENA (Fellow, Geneva)

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

Ivan HJERTMAN (European Patent Attorney, IP Interface AB, Stockholm); Richard WILDER (Associate General Counsel for Intellectual Property Policy, Microsoft, Washington, D.C.); Daphne YONG-D'HERVÉ (Mrs.) (Senior Policy Manager, Intellectual Property and Competition, International Chamber of Commerce (ICC), Paris); Jacqueline COTÉ (Mrs.) (Permanent Representative, Geneva)

Civil Society Coalition (CSC)

Nick ASHTON-HART (Adviser, Geneva)

Comité “acteurs, interprètes” (CSAI)/Actors, Interpreting Artists Committee (CSAI)

Abel MARTIN VILLAREJO (Director General, Madrid)

CropLife International

Michelle M. DAVEY (Ms.), (Representative, Geneva); Tatjana SACHSE (Ms.) (Representative, Geneva); Justine BLANCHET (Ms.) (Representative, Geneva)

Fédération ibéro-latino-américaine des artistes interprètes ou exécutants (FILAIE)/  
Ibero-Latin-American Federation of Performers (FLAIE)

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

Fédération internationale des associations de bibliothécaires et des bibliothèques (FIAB)/  
International Federation of Library Associations and Institutions (IFLA)

Victoria OWEN (Ms.) (Representative, Toronto)

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

Antoine VIRENQUE (secrétaire général, Paris)

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

Bertrand MOULLIER (Representative, Paris)

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

Eva LEHNERT (Ms.) (Legal Adviser, Global Legal Policy, London)

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

Scott M. MARTIN (Representative, Hollywood)

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

Richard KJELDGAARD (Representative, Washington, D.C.); Madeleine ERIKSSON (Ms.) (Policy Analyst, Geneva); Guilherme CINTRA (Research Assistant, Geneva)

Indigenous ICT Taskforce (IITF)

Ann-Kristin HÅKANSSON (Ms.) (Representative, Stockholm)

Ingénieurs du Monde (IdM)

François ULLMANN (président, Genève)

Institute for Policy Innovation (IPI)

Tom GIOVANETTI (President, Texas); Erin HUMSTON (Mrs.) (Representative, Texas)

International Policy Network (IPN)

Alec VAN GELDER (Network Director, London)

International Trademark Association (INTA)

Bruno MACHADO (Geneva Representative)

Knowledge Ecology International (KEI)

Thiru BALASUBRAMANIAM (Geneva Representative); Sisule MUSUNGU (Fellow, Geneva); Fiona LE DIRAISON (Representative, Geneva)

Médecins sans frontières (MSF)

Ellen't HOEN (Ms.) (Director Policy Advocacy, Paris)

Public Interest Intellectual Property Advisors (PIIPA)

Chew Chin WONG (Research Coordinator, Washington, D.C.)

The Federalist Society for Law and Public Policy Studies (the Federalist Society)

Mark SCHULTZ (Representative, Washington, D.C.)

The International Committee for the Indigenous Peoples of the Americas (INCOMINDIOS)

Sari Päivi MIETTINEN (Ms.) (Project Manager, Zurich); Eliane SCHEIBLER (Ms.) (Project Assistant, Zurich)

Third World Network (TWN)

Riaz Khalid TAYOB (Researcher, Geneva); Kappoori GOPAKUMAR (Representative, Geneva); Sanya REID SMITH (Ms.) (Representative, Geneva)

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

Jens BAMMEL (Secretary General, Geneva)

IV. ORGANISATIONS NATIONALES NON GOUVERNEMENTALES/  
NATIONAL NON-GOVERNMENTAL ORGANIZATIONS

American BioIndustry Alliance (ABIA)

Susan K. FINSTON (Ms.) (Executive Director, Washington, D.C.); Thaddeus BURNS (Representative); Uwe HIRSCH (Representative)

Association internationale de l'hôtellerie et restauration (IHRA)/International Hotel and Restaurant Association (IHRA)

Ghassan AIDI (President, Geneva); Abraham ROSENTAL (Director General, Geneva); Thalys Haris PAPADOPOULOS (Director, Industry Affairs, Geneva)

Electronic Frontier Foundation (EFF)

Gwen HINZE (Ms.) (Director, International Policy, San Francisco)

Fundação Getulio Vargas (FGV)

Pedro PARANAGUÁ (Líder de Projeto, Rio de Janeiro)

Library Copyright Alliance (LCA)

Janice T. PILCH (Ms.) (Representative, Washington, D.C.)

Société portugaise d'auteurs (SPA)/Portuguese Author's Society/Sociedade Portuguesa de Autores (SPA)

José Jorge LETRIA (Vice-President, Lisbon)

V. BUREAU/OFFICERS

Président/Chair: C. Trevor CLARKE (Barbade/Barbados)

Vice-Présidents/Vice Chairs: Muratbek AZYMBAKIEV (Kirghizistan/Kyrgyzstan)

Javier Alfonso MORENO RAMOS (Espagne/Spain)

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

Sherif SAADALLAH, directeur exécutif, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement/Executive Director, Office of Strategic Use of Intellectual Property for Development

Yo TAKAGI, directeur exécutif, Bureau de la planification stratégique et du développement des politiques et de l'Académie mondiale de l'OMPI / Executive Director, Office of Strategic Planning and Policy Development, and the WIPO Worldwide Academy

Edward KWAKWA, conseiller juridique / Legal Counsel

Herman NTCHATCHO, directeur principal, Bureau de l'assistance technique et du renforcement des capacités pour l'Afrique / Senior Director, Technical Assistance and Capacity Building Bureau for Africa

Svein ARNEBERG, sous-directeur, Département de la gestion des ressources humaines/Deputy Director, Human Resources Management Department

Jorgen Savy BLOMQVIST, Directeur, Division du droit d'auteur, Secteur du droit d'auteur et des droits connexes / Director, Copyright Law Division, Copyright and Related Rights Sector

Octavio ESPINOSA, Directeur, Division des avis législatifs et juridiques, Division des services d'appui aux offices de propriété intellectuelle / Director, Legislative and Legal Advice Division, Technical Assistance and Capacity Building Sector

Guriqbal Singh JAIYA, directeur, Division des petites et moyennes entreprises (PME), Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Director, Small and Medium-Sized Enterprises (SMEs), Office of Strategic Use of Intellectual Property for Development

Richard OWENS, Directeur, Division des techniques et de la gestion du commerce électronique, Secteur du droit d'auteur et des droits connexes / Director, Copyright E-Commerce Technology and Management Division, Copyright and Related Rights Sector

Pushpendra RAI, directeur par intérim, Division de la propriété intellectuelle et du développement économique, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Acting Director, Intellectual Property and Economic Development Division, Office of Strategic Use of Intellectual Property for Development

Nicholas TREEN, directeur, Division de l'audit et de la supervision interne / Director, Internal Audit and Oversight Division

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Christine CASTRO HUBLIN (Mme/Mrs.), chef, Section des affaires juridiques et statutaires, Bureau du Conseiller juridique / Head, Legal and Constitutional Affairs Section, Office of Legal Counsel

Dimiter GANTCHEV, directeur par intérim, Division des industries de la création, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Acting Director, Creative Industries Division, Office of Strategic Use of Intellectual Property for Development

Marcus HÖPPERGER, Directeur par intérim, Division du droit et des classifications internationales, Département des enregistrements internationaux, Acting Director, Law and International Classifications Division, Sector of Trademarks, Industrial Designs and Geographical Indications

William MEREDITH, chef, Service de l'information en matière de brevets et des statistiques de propriété industrielle, PCT et Brevets, Centre d'arbitrage et de médiation et questions mondiales de PI / Head, Patent Information and IP Statistics Service, PCT and Patents, Arbitration and Mediation Center, and Global IP issues

Tomoko MIYAMOTO (Mme/Ms.), Conseillère principale, Section du droit des brevets, PCT et Brevets, Centre d'arbitrage et de médiation et Quest. mond. de P.I. / Senior Counsellor, Patent Law Section, PCT and Patents, Arbitration and Mediation Center, and Global I.P. Issues

Nuno PIRES DE CARVALHO, directeur par intérim, Division de la politique générale et du développement, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Acting Director, Division for Public Policy and Development, Office of Strategic Use of Intellectual Property for Development

Antony TAUBMAN, directeur par intérim, Division des questions mondiales de propriété intellectuelle, PCT et Brevets, Centre d'arbitrage et de médiation et Quest. mond. de P.I. / Acting Director and Head, Global IP Issues Division, PCT and Patents, Arbitration and Mediation Center, and Global I.P. Issues

Joseph BRADLEY, conseiller, Section de la mobilisation des ressources extrabudgétaires, Secteur de la coordination concernant les relations extérieures, le monde de l'entreprise, les communications et la sensibilisation du public / Head, Section for Mobilization of Extrabudgetary Resources, Coordination Sector for External Relations, Industry, Communication and Public Outreach

Bajoe WIBOWO, administrateur de programme, Division de la propriété intellectuelle et du développement économique, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Program Officer, Intellectual Property and Economic Development Division, Office of Strategic Use of Intellectual Property for Development

Esteban BURRONE, administrateur de programme, Division de la propriété intellectuelle et du développement économique, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Program Officer, Intellectual Property and Economic Development Division, Office of Strategic Use of Intellectual Property for Development

Paul REGIS, administrateur adjoint de programme, Division de la propriété intellectuelle et du développement économique, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Assistant Program Officer, Intellectual Property and Economic Development Division, Office of Strategic Use of Intellectual Property for Development

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Oriol LLEVOT, stagiaire, division de la propriété intellectuelle et du développement économique, Bureau de l'utilisation stratégique de la propriété intellectuelle pour le développement / Intern, Intellectual Property and Economic Development Division, Office of Strategic Use of Intellectual Property for Development

[Fin de l'annexe III et du document/End of Annex III and of document]