

WIPO



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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

COMMITTEE ON DEVELOPMENT AND INTELLECTUAL PROPERTY (CDIP)

Third Session
Geneva, April 27 to May 1, 2009

REPORT

adopted by the Committee

1. The Third Session of the CDIP was held from April 27 to May 1, 2009.
2. The following States were represented: Afghanistan, Albania, Algeria, Angola, Argentina, Australia, Austria, Azerbaijan, Bahrain, Barbados, Belgium, Bolivia (Plurinational State of), Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People's Republic of Korea, Democratic Republic of the Congo, Denmark, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Finland, France, Germany, Ghana, Greece, Guatemala, Guinea, Haiti, Holy See, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Jamaica, Japan, Jordan, Kenya, Kuwait, Latvia, Lebanon, Libyan Arab Jamahiriya, Lithuania, Luxembourg, Malaysia, Mali, Mauritius, Mexico, Monaco, Morocco, Myanmar, Netherlands, Nigeria, Norway, Oman, Pakistan, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Serbia, Singapore, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, The Former Yugoslav Republic of Macedonia, Trinidad and Tobago, Tunisia, Turkey, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Uzbekistan, Viet Nam, Yemen, Zambia and Zimbabwe (110). Palestine was represented in an observer capacity.
3. The following intergovernmental organizations (IGOs) took part as observers: African Union (AU), Arab League Educational, Cultural and Scientific Organization (ALECSO), Caribbean Community (CARICOM), Commission of the European Communities (CEC),

Eurasian Patent Organization (EAPO), European Patent Office (EPO), Food and Agriculture Organization of the United Nations (FAO), League of Arab States (LAS), Organization of the Islamic Conference (OIC), Patent Office of the Cooperation Council for the Arab States of the Gulf (GCC), South Centre, United Nations Conference on Trade and Development (UNCTAD), the World Health Organization (WHO) and the World Trade Organization (WTO) (15).

4. Representatives of the following international non-governmental organizations (NGOs) took part as observers: Association IQSensato (IQSensato), Centrale sanitaire suisse romande (CSSR), Centre for International Environment Law (CIEL), Civil Society Coalition (CSC), Competition and Tax Law (MPI), CropLife International, Electronic Frontier Foundation (EFF), Electronic Information for Libraries (eIFL), European Digital Rights (EDRI), European Law Students' Association (ELSA International), Exchange and Cooperation Centre for Latin America (ECCLA), Federation of Industries of the State of Rio de Janeiro, Free Software Foundation Europe (FSF Europe), Ibero-Latin-American Federation of Performers (FILAIE), Indigenous ICT Task Force (IITF), Ingénieurs du Monde (IdM), Institute for Policy Innovation (IPI), International Association for the Protection of Intellectual Property (AIPPI), International Center for Trade and Sustainable Development (ICTSD), International Chamber of Commerce (ICC), International Federation of Associations of Film Distributors (FIAD), International Federation of Pharmaceutical Manufacturers Associations (IFPMA), International Federation of Reproduction Rights Organizations (IFRRO), International Federation of the Phonographic Industry (IFPI), International Federation of Film Producers Associations (FIAPF), International Hotel and Restaurant Association (IH&RA), International Publishers Association (IPA), International Trademark Association (INTA), International Video Federation (IVF), Knowledge Ecology International (KEI), Library Copyright Alliance (LCA), Max-Planck Institute for Intellectual Property, Organization for an International Geographical Indications Network (oriGIn) and Third World Network (TWN) (34).

5. Representatives of the following national NGOs also took part as observers: Chamber of Commerce of the United States of America (CCUSA) and *Fundação Getulio Vargas* (FGV).

Agenda Item 1: Opening of the session

6. The Director General of WIPO opened the session. Welcoming the participants, the Director General emphasized the importance of the Development Agenda and invited the Member States' involvement in taking the Development Agenda to further stage. The Director General then invited the Committee to consider Agenda Item 2 dealing with the Election of officers.

Agenda Item 2: Election of officers

7. Following a proposal made by the Delegation of Germany and supported by the Delegation of Serbia, speaking on behalf of the Regional Group of Central European and Baltic States, Ambassador Trevor Clark of Barbados was unanimously elected as the Chair of the Committee and Mr. Mohamed Abderraouf Bdioui of Tunisia and Mr. Javier Alonso Moreno Ramos of Spain, as Vice-Chairs.

8. Following his election, the Chair thanked the Group of Latin American and Caribbean States (GRULAC) for having supported him for the position of the Chair for the third time, once for the Provisional Committee on Proposals Related to a WIPO Development Agenda (PCDA) and subsequently as Chair of the CDIP. He also thanked the Delegation of Germany and Group B for formally proposing him as the Chair. The Chair mentioned that there existed concerns about the slow pace of the Development Agenda implementation after many years of its discussions at WIPO and the need for the delegations to move the process forward. The Chair hoped that the hard work during the session would bring WIPO closer to the goal of implementation of the adopted recommendations. Before seeking the formal adoption of the Agenda, he proposed that due to large number of issues to be considered during the session, there was a need to focus on discussing further work with regard to the implementation of the adopted recommendations. The Chair proposed the preparation of a “Summary by the Chair” to be adopted at the end of the Session instead of the draft report. He reminded the meeting that the usual draft report which would be prepared subsequently by the Secretariat would contain the interventions made during the sessions and would also include the Chair’s Summary. He stated that the draft report would be communicated to the Permanent Missions of Member States and would also be made available to Member States, IGOs and NGOs in electronic form on the WIPO website. He invited written comments on the draft report to be communicated within three weeks of its issuance. The revised draft report would then be considered for adoption at the beginning of the fourth session of the CDIP. With respect to the Agenda, the Chair proposed that the statement of the Director General be followed by general statements after Agenda Item 4, namely “Accreditation of Observers”. He also felt that it would be important that the *ad hoc* observers had the opportunity to listen to the Director General and the general statements which he hoped would be few and concise.

Agenda Item 3: Adoption of the Agenda

9. The Delegation of Egypt, while congratulating the Chair, sought to amend the Agenda Item 8 to be read as “discussions on coordination mechanisms and monitoring, assessing and reporting modalities” so that it reflected the mandate given to the Committee by the General Assembly.

10. The Delegation of the Republic of Korea requested that consideration of document CDIP/3/7 which contained a proposal from the Republic of Korea be considered under Agenda Item 7.

11. The Chair decided to accept the proposed amendments and invited the Secretariat to introduce document CDIP/3/6 relating to the accreditation of Observers.

Agenda Item 4: Accreditation of Observers

12. The Secretariat, in introducing document CDIP/3/6, recalled that the Rules of Procedure of the CDIP provided for an *ad hoc* accreditation of NGOs. The Secretariat informed that WIPO had received two requests, the first from the Confederation of Industries of the State of Rio de Janeiro (FIRJAN), and the second from the *Central Sanitaire Suisse Romande (CSSR)*, for *ad hoc* accreditation. With no objections from the floor, the two NGOs were declared as accredited and invited by the Chair to join the meeting.

General Statements

13. Addressing the Committee, the Director General stated that the presence of a large number of participants in the meeting was a testimony of the importance that Member States attached to the Development Agenda. The Director General reiterated his personal commitment of the implementation of the Development Agenda. He felt that the Development Agenda presented an excellent opportunity to mainstream development into all activities of the Organization. Describing the efforts of the Secretariat, the Director General stated that WIPO had sought to identify the principles that were to be applied to all of the activities of the Organization. On the other hand, the Secretariat proposed to implement action-oriented activities by various sectors of the Organization. By seeking to involve the various sectors of the Organization, the entire Secretariat was behind the implementation of the Development Agenda. The Development Agenda would also be integrated in the Organization's budget for the next Biennium. This approach would ensure a collective effort of the whole Secretariat for the implementation of the Development Agenda.

14. Referring to the concerns expressed by some that the mainstreaming of the Development Agenda might result in its dissipation, the Director General informed that the Development Agenda Coordination Division working under his direct supervision was the single point of responsibility within the Organization. The Director General then expressed the hope that his explanation would allay all the concerns.

15. As regards the project based methodology proposed by the Secretariat for the implementation, in particular of the five recommendations, the Director General stated that this was a beginning of a process for implementation of those recommendations. Each project had a life cycle and would be implemented through an interactive process with regular feedback provided to the Member States. This mechanism would provide an opportunity for the Member States to evaluate, assess and monitor the implementation and also to see how these projects were implementing the recommendations and what else remained to be done.

16. As regards the estimated budget of eight millions Swiss francs for the implementation of the five recommendations included in the Program and Budget for 2009, the Director General informed the Committee that in order to ensure that the figure of 8 million Swiss francs was fully respected, WIPO had exceptionally – with respect to those five recommendations – not taken into account the full cost of the human resources within the Organization that were to be deployed. He stressed that should the cost of the internal human resources that were being used be disregarded, then the amount in respect to the five recommendations would come to some 7.9 million Swiss francs. On the other hand, if the cost of human resources was included, then the amount would come to a figure of some 10.3 million Swiss francs. With respect to future projects, for reasons of transparency, it was WIPO's intention to reflect in the budget the full cost to the Organization of the implementation of any project or recommendation. In the future, the cost of human resources that were deployed internally in the implementation of the recommendations of projects would be reflected in the budget. The Director General added that the process of deploying human resources within the Organization to the implementation of the various recommendations and projects of the Development Agenda was being undertaken through the process of strategic realignment. The process of strategic realignment would in turn be a finite process and at that stage the necessity for Member States to consider the deployment or engagement of new fresh human resources with respect to future projects would arise. In WIPO's preliminary consultations with the Member States, quite a considerable amount of

discussion had taken place with respect to the question of reporting and evaluation. The Director General welcomed the proposal made by several delegations that he should report to the CDIP annually on the implementation of principles. He stated that there were certain principles that were directed immediately to the Secretariat, such as the principles relating to technical assistance and capacity-building. There were equally principles that Member States were directing to themselves as the collective membership of the Organization. The Director General said that a recommendation to urge the expedition of the work of the Committee on Traditional Knowledge, Genetic Resources and Folklore (IGC) was a principle that lay in the hands of the Member States to implement. The Director General welcomed the suggestion that he should report to Member States annually on their implementation. With respect to projects, the project managers he had appointed for each of the projects would report to Member States in the CDIP. In that regard, he drew the attention of the Committee to the necessity on deciding on a structured periodically reporting process that satisfied the needs and desires of Member States. The third category which had been identified with respect to the Development Agenda for its implementation dealt with activities which would be undertaken through the regular program and reported annually to the CDIP. The Director General looked forward to a constructive engagement on the Development Agenda, and felt that a stage had been reached where all ideas for the Development Agenda would be translated into an actionable program for the Organization.

17. On behalf of the Member States, the Chair thanked the Director General and invited comments on his statements. The Chair in particular referred to the Agenda Item 7 and the proposed Thematic Project approach and invited questions for the Director General in particular on those subjects.

18. The Delegation of Argentina felt that the costs of human resources deployed to the projects from the existing human resources of the Organization should not be included in the project budget. The Delegation felt that, while the human resource requirements could be indicated in the project proposals, the inclusion of cost in the Delegation's opinion should not be included. The Delegation, however, did not wish to open a discussion on this matter at that time.

19. The Chair then invited general statements and requested delegations and regional coordinators to be brief in their statements and to provide with written copies to the Secretariat for its inclusion in the records of the meeting.

20. The Delegation of Sri Lanka, speaking on behalf of the Asian Group, expressed its confidence in the leadership of the Chair and appreciated the Secretariat for preparing detailed documents and in particular the extensive briefing sessions held before the meeting. The Delegation also appreciated the efforts of the Director General for his personal interest and commitment to the Development Agenda and hoped that the Member States and the Secretariat would work together in making progress towards the early implementation of all the Development Agenda recommendations. On behalf of the Asian Group, the Delegation also welcomed the new approach proposed by the Secretariat by identifying the recommendations in two broad groups, namely principles and actionables and further grouping of the similar recommendations under different themes. Furthermore, the Group hoped that financial allocations would be made available for the effective implementation of these recommendations. The Delegation suggested the mainstreaming of those principles in the work of all the committees of WIPO as the most effective way to achieving the results to meet the expectations of the Development Agenda. The Delegation, while appreciating the

proposals made by the Secretariat felt that the proposals could be further improved and that individual members of the Asian Group would be making specific suggestions as the discussion unfolded.

21. The Delegation of Costa Rica, speaking on behalf of GRULAC, thanked the Chair and the WIPO Secretariat for the efforts made in drafting the documents and holding the informal consultations that preceded the event. The Delegation felt that the meetings facilitated an extensive and productive exchange of ideas which made it possible to start the Session in a spirit of positive dialogue and a basis of a common understanding of the concerns and needs of delegations. The Delegation expressed its concern that the Spanish version of some documents had been circulated late, which limited a detailed analysis of the proposals by those in charge of following up the topics in their capitals. The Delegation recognized the Secretariat's efforts in formulating a new method of work. It recognized the importance of active and constructive participation of the members and valued the proactive and positive action of the Secretariat to facilitate the progress. The idea of Thematic Projects was a new method of work and GRULAC was prepared to collaborate in that process. For GRULAC, it was essential to guarantee certain basic conditions in the development of the Thematic Projects. First, the Secretariat, when preparing Thematic Projects, should maintain the content and the wording of the original recommendations adopted by the Committee and there should be no reinterpretation of the recommendations. Second, in the development and implementation of projects, the amendments that Members make during the meetings of the Committee should be included. Third, the fact that the project was completed should not mean that the implementation of the recommendations is complete. Fourth, if the projects only implemented part of the recommendations, additional projects or activities would be formulated to implement those recommendations fully. Fifth, there should be sufficient budgetary funds to guarantee the implementation of the Thematic Projects. The Delegation reiterated GRULAC's interest in agreeing on the coordination mechanisms with other committees and decision-making bodies in WIPO to help effectively implement the recommendations of the Development Agenda. GRULAC considered that the Director General should report annually to the CDIP on the implementation of the recommendations that required coordination among different WIPO committees. Finally the Delegation repeated that the order of analysis of the recommendations did not imply any preference or priority among recommendations. The Delegation repeated the Group's interest in the development of follow up and assessment mechanisms of an appropriate nature and urged the Secretariat and the Chair to continue with the conclusive and transparent dialogue that had been developed so far.

22. The Delegation of Bangladesh, speaking on behalf of the least-developed countries (LDCs) Group, greatly appreciated the leadership and contribution of the Chair in the adoption of the WIPO Development Agenda and the consequent work in the CDIP towards its implementation. The LDCs were committed to the continued support of the Chair's endeavors to forge consensus in the CDIP and move its work forward. The Delegation also expressed its appreciation to the commitment of the Director General to address the interests of LDCs related to intellectual property (IP) and his proactive role in suggesting new ways to facilitate the implementation of the WIPO Development Agenda. The Delegation also thanked the Secretariat for the extensive briefing provided to the members of the group on the matters that would be taken up by the CDIP, which had helped them better understand the issues and the stakes involved. In particular, the Group thanked the LDCs Division of WIPO for their continued support to the LDCs. The Delegation also commented on two specific issues, first the new project-oriented approach proposed by the Secretariat to expedite the

implementation of the WIPO Development Agenda. The LDCs Group saw some potential merit in such an approach as it might accelerate the implementation of the Development Agenda and felt that the CDIP should explore that approach. Second, the LDCs Group was encouraged by the proposal for the holding of the Donors Conference for mobilizing extra-budgetary resources for WIPO towards the implementation of, in particular, Recommendation 2 of the Development Agenda that called for the establishment of Trust-Funds or other voluntary funds within WIPO specifically for the LDCs. While continuing to accord high priority to finance activities in Africa through budgetary and extra-budgetary resources to promote, *inter alia*, the legal, commercial, cultural and economic exploitation of IP in those countries, the Group strongly believed that this should be the main recommendation to be addressed through this initiative which had also been proposed in document CDIP/3/INF/2 Annex I. In that context, the Delegation called upon the WIPO Secretariat to establish as soon as possible the WIPO multi-donor Funds-in-Trust (FIT) for the LDCs.

23. The Delegation of Senegal, speaking on behalf of the African Group, warmly congratulated the Chair on his re-election which confirmed the appreciation of the way in which he had directed the Committee's work. The Delegation also congratulated the Vice-Chairs and expressed its pleasure for the fact that one of their Members was a Vice-Chair. The Delegation thanked the Secretariat, under the leadership of the Director General, for having prepared the working documents which were both very detailed and well structured. The Group stressed that all the necessary steps should be taken by WIPO to ensure that the agreement which led to the adoption of the 45 recommendations resulted in the much expected economic, social and cultural development and it led to a cultural change in WIPO. Furthermore, the implementation of the Development Agenda should strengthen the role of Member States in driving the Organization. An effective implementation without any prioritization would certainly contribute to the achievement of the Millennium Development Goals (MDGs). The Delegation informed the Chair that during the third session of the CDIP, the Group would be mainly concentrating on two points, namely, the new methodology proposed by the Secretariat on the basis of Thematic Projects and the coordination of activities between the CDIP and other WIPO bodies for the follow-up and assessment of the Development Agenda implementation. In respect to the new approach and the projects proposed by the Secretariat, the African Group considered them as positive. However, the Group wished to reiterate the importance attached to the contents of the recommendations and to the need for not affecting their scope by grouping them into Thematic Projects. The Delegation stressed the need for coordinating all efforts to achieve the objectives of the recommendations even after projects had been completed. Regarding the other important point on the agenda, the Group stressed the importance attached to a coordination mechanism between the CDIP and the other WIPO bodies. Consequently the African Group would be open to all ideas on the subject. For a successful and sustainable implementation the Development Agenda a number of conditions should be respected; First, technical assistance for the elaboration of regional and national strategies for development. Second, strengthening of human resource capacity-building at every level and the financing of all those activities from the regular budget. The Delegation welcomed the convening, before the end of 2009, of a donor conference. On behalf of the African Group, the Delegation also proposed that the following three aspects be taken into consideration: first, the socio-economic development plans second, the need for finding a balance between the various different interests involved, i.e., the interests of Governments, the private sector, and the consumers; and third, respect for the principles discussed and adopted by Member States for that purpose. The implementation of the recommendations should make it possible to achieve, *inter alia*, efficient use of the IP

system in the context of formulation of government policies and the development of economic, social and cultural policies taking into account the various levels of development. The Delegation felt that in order to be a leader for economic, social and cultural development, the assistance of WIPO in the area of IP should be provided in a clearly defined framework with clear identification of the needs and priorities of the beneficiary states in line with their national objectives and development plans. The Delegation appreciated that the Director General for giving priority to a successful implementation of the Development Agenda.

24. The Delegation of the Czech Republic, speaking on behalf of the European Community (EC) and its 27 Member States, congratulated the Chair and all the delegations for the good work done during the previous two sessions of the Committee, the substantial progress made in the implementation of the 45 recommendations, and the action plan that represented a clear commitment of all the delegations. It expressed its gratitude to the WIPO Secretariat for the essential contribution provided during the work of the Committee. As development was one of the most important challenges of the time, WIPO had a specific mandate to promote development in the field of intellectual property rights (IPRs). The Delegation stated that it was aware of the importance of ensuring that the IP system met the needs of WIPO members and users. The Committee should keep momentum and continue to move forward to achieving concrete results. It considered it essential to maintain the constructive spirit which had been built up during the previous years to further develop a work program for the implementation of the adopted recommendations. In that regard, it appreciated the progress achieved and was prepared to examine the proposals already being implemented. It welcomed the new Thematic approach presented by the Secretariat in order to speed up the implementation process and looked forward to discussing the proposed projects contained in documents CDIP/3/4 and CDIP/3/4 Add. The Delegation also informed that the EC and its 27 Member States had already started discussions concerning the coordination mechanisms and reporting modalities. The Group assured all the delegations that it remained committed to discussing the various points of the Agenda with an open mind and constructive spirit, and looked forward to continuing its cooperation to make progress with respect to the mandate that the General Assembly had given.

25. The Delegation of Yemen, while stating that it spoke on behalf of the Arab Group, congratulated the Chair and the two Vice-Chairs and appreciated the Secretariat's work for preparing the documents and the support it provided to Member States, in particular to the Arab Group. The Delegation stated that it would have preferred to receive the documents in Arabic language more in advance so as to be able to read them properly. With regard to the proposal of the Secretariat and the methodology to implement the recommendations of the Development Agenda, it believed that it was a good step forward. The Delegation, however, stressed the need to ensure that the thought behind each of those recommendations was important, and that while analyzing the Thematic Projects, it should be ensured that they were successfully implemented. The Delegation also stressed the need to ensure that the efforts in the implementation of the recommendations were successful and that the measures adopted were efficient. The Delegation stated that the Arab Group supported the work of the Committee. The Group believed that the necessary financing should come from the regular budget. There was also a need to continue to exchange opinions, work in a transparent framework and hoped that the recommendations were actually implemented to serve the interests of all Member States. The Arab Group expressed the need for the Arab Bureau to have more assistance in terms of financial and human resources for the Development Agenda to be disseminated throughout the Arab-speaking world. The Delegation also believed that

the Development Agenda should be mainstreamed into all of WIPO's work and this was the reason why the Group called on the Director General to crown the work with success.

26. The Delegation of Serbia, speaking on behalf of the Regional Group of Central European and Baltic States, acknowledged the great efforts already invested in the preparation and elaboration of the WIPO Development Agenda. The WIPO Development Agenda reflected in a good manner the needs of the developing countries and LDCs, and the realization of its goals should facilitate the IP to become one of the leading means to enhance the technological progress and economic development of those countries. In that sense, the Group wanted to underline that the WIPO Development Agenda should help also the countries with economies in transition. The Group supported the position that the list of 45 recommendations should remain intact and that there should be no prioritization among them. The Delegation expressed disappointment that the process of the implementation of those recommendations had moved forward very slowly and therefore commended the Director General's initiative to introduce the new Thematic Approach which, in its view, would improve the efficiency and coherence in implementing the recommendations of the Development Agenda. It believed that such an approach would make the Development Agenda concept more coherent, transparent and easier to understand and follow. The Delegation hoped that the proposed new approach would, in the course of the meeting, initiate a substantive discussion on the various issues.

27. The Delegation of China congratulated the Chair on his re-election and thanked him and the Secretariat for all the efforts made for the meeting. The Delegation was pleased to see that the Secretariat had made detailed project plans in order to make the implementation of the agreed proposals more effective. It hoped that the effective implementation of those projects would benefit developing countries, including China, and in particular LDCs which would truly benefit from them. Given the global economic situation, it was only by promoting development, respecting creation and stimulating the overall creativity that they could truly advance the economic and cultural development. Encouraging and protecting invention and creation could play an important role in promoting development. However, the protection of IP should not impede the technical assistance to developing countries, especially LDCs, in particular when it came to new technologies such as IP protection and public health, since those technologies had a certain degree of public interest. WIPO, as a specialized agency of the United Nations (UN) responsible for IP issues, had the duty to provide an effective platform for Member States to explore development models that corresponded to each country's situation. With the economic downturn, WIPO should make effective efforts in order to ensure that developing countries, especially LDCs, could make better use of the IP system, in order for IP to play a truly positive role in stimulating the economic growth. The Delegation was pleased to see that in previous meetings, all Member States had made great efforts and shown an open, cooperative and inclusive spirit. The Delegation expressed hope that that the spirit would continue during that session, and in the spirit of seeking common ground, all should make joint efforts in order to reach consensus as to the implementation of all proposals, so that all members could truly benefit from the implementation. At the same time, the Delegation would, as usual, participate actively in the discussions of that session, in a positive and constructive spirit.

28. The Delegation of Romania congratulated the Chair for his re-election and the Vice-Chairs for their election, and also congratulated the Chair and the Secretariat for the excellent work done during the two previous sessions. The Delegation acknowledged the contribution of the delegations to the substantial progress made in implementing the action

plans contained in the 45 recommendations. The Delegation expressed its special thanks and congratulations to the Director General for the proactive and personal involvement in the new approach of the Development Agenda, making it possible for the CDIP to make progress and to go further. The Delegation of Romania attached great importance to the work developed within CDIP and intended to assist developing countries in taking advantage of IP in their economic evolution and in raising awareness of development issues connected with IPR. In the end, its cooperative work had to ensure that the IP system met the needs of all WIPO members. Facing the new technological challenge, the Government of Romania, recognizing the potential contribution of IP to the economic growth of the country, decided that the IP policy and strategy for the next five years would be drawn by the Ministry for Communications and Information Society, which would coordinate the Romanian Copyright Office and the Patent Office activities. The efficiency of the Romanian IP system would be based on the green technology, education, raising of awareness, research and development (R&D) in a healthy environment. Lastly, for the subsequent five years, R&D would be funded by the Government, with a very significant investment. The study of copyright-based industries contribution to Romania's economy, realized with the technical and financial assistance of WIPO, had been released publicly in the Romanian version in February 2009. It showed a 5.55 per cent total contribution in 2005, the last year of the survey, stimulating the interest in the application of the results and in the continuation of the survey. Romania was committed to continuing the positive and constructive discussions in order for the Committee to achieve concrete results and move on to a further stage.

29. The Delegation of Egypt congratulated the Chair and the Vice-Chairs on their election and thanked the Chair for all the efforts in the previous and current sessions. The Delegation also thanked the Secretariat for providing them with the documents. It supported the statement made by the Delegation of Senegal on behalf of the African Group and the statement made by the Delegation of Yemen on behalf of the Arab countries. Stating that the third session of the CDIP was a new phase, the Delegation hoped that it would be very productive, focused on the concept of development, linked to general policies while bearing in mind the challenges. There was also a need to take into account the different levels of development. As it was the first time for the Committee to meet since Mr. Francis Gurry had become the Director General, the Delegation paid homage to all his efforts and also thanked the Secretariat. The Delegation stated that the General Assembly had given the Committee a certain mandate which should be followed up. The Committee should look at the progress achieved and discussed during meetings, compile reports and take stock of coordination mechanisms it had put together on the issue of development. It was an inclusive mandate, in other words and decisions based on Member States, were Member-States driven. Given the recommendations that had been adopted for the Development Agenda, the Committee must take the appropriate measures for activities which should consider the values and the principles that had been mentioned and to the work of the Secretariat and the activities proposed by all Member States. The Delegation stated that this was the cornerstone that would allow all to build up all the recommendations, put them in place and this was the reason why there was a need for sufficient time to carry out the work properly. The Delegation had closely examined document CDIP/3/INF/1, "Proposed Methodology for Implementation of the Development Agenda Recommendations", as well as all of the proposals made by the Secretariat on the Thematic approach that would allow them to implement a number of recommendations. The Thematic Projects methodology was an interesting approach. However, the Delegation felt that there was a need to ensure that it did not change the content of the recommendations or reclassified them on the basis of Thematic Projects approach. The fact of linking them should not affect the content of the individual

recommendations. Thus, the Delegation believed that the principles and actions should not be separated. This was the reason why it believed that Member States could enrich these Thematic Projects so that the concerns of Member States were taken into consideration. The Delegation looked forward to discussing coordination mechanisms in the Committee in light of its mandate and look at things in a horizontal and cross-cutting manner. The Delegation stated that the work of the other committees of WIPO should be taken into consideration, there should be a link, a communication between the Committee and other WIPO bodies, and thus, during its discussion, it should talk about the follow-up of the examination of the recommendations. It was those mechanisms that would allow the Committee to mainstream development under the Development Agenda and to ensure that it was successful in its efforts, and that the whole process be member-driven, taking into account the work of the Secretariat and the interest of all stakeholders. It was an approach that should be based on a horizontal approach, in other words those mechanisms should include a follow-up in an inclusive and open manner. The Delegation also thanked and congratulated the former team in charge of coordinating the Development Agenda for its excellent work and thanked further the current team at the helm. All the work done since the adoption of the recommendations by the General Assembly had allowed them to pave the way to where they currently found themselves, the Delegation concluded.

30. The Delegation of Kenya extended its warm greetings to the members of all delegations and staff of the International Bureau present and supported the statement read by the Delegation of Senegal on behalf of the African Group. It congratulated the Chair for his re-election as Chair of that Committee and expressed its gratitude to the Director General and the Secretariat for preparing the documentation for the meeting. The Delegation of Kenya, as a developing country, supported the Thematic Project approach to implementation and realization of the Development Agenda and emphasized the importance of concrete and measurable projects. It took keen interest in the preservation of the public domain, particularly the components relating to patents and traditional knowledge (TK). It was anticipated that the preservation of the public domain would address the issues of bio-patents and bio-piracy. The Delegation took that opportunity to inform the Committee that a TK unit had been established at the Kenya Industrial Property Institute (KIPI) with the co-objective to establish a Kenyan database on TK and expressions of folklore. It reaffirmed the need for the Director General to annually report to the CDIP on the implementation of the Development Agenda and to take political responsibility for actionable recommendations. The Delegation looked forward to being an active participant and beneficiary of the Development Agenda projects.

31. The Delegation of Brazil congratulated the Chair for his election to preside over that Committee and thanked the Director General for his intervention. The Delegation also thanked the Secretariat for preparing the working document and reiterated Brazil's commitment to the Development Agenda and its effective implementation. It reiterated that the Committee should always bear in mind that the Development Agenda went beyond the elaboration of the work program. The Development Agenda, constituting a much broader concept of a cross-cutting nature, was a body of principles and norms which should be mainstreamed into WIPO and into the IP system. The Delegation supported the suggestion by the Director General to report on the implementation of principles annually, and reminded the Committee that development should not be confined within the limits of the said Committee, but rather mainstreamed into all WIPO activities. It was time WIPO acted consistently with the overall goals of the UN system by striking an adequate balance between the interest of the private sector on one hand and the interest of the consumers, of the public in general on the

other hand. The Committee had a strategic role in the spread of a culture of development within WIPO and its bodies. The CDIP had begun its third session with the challenge of coming up with a methodology to deliver actions and activities for the Development Agenda recommendations. Such a methodology should be very pragmatic though it should not lose the track of the 45 recommendations as approved by the General Assembly in 2007. The Delegation recalled that the agreement reached on the 45 recommendations encompassed six overarching clusters of equal importance for the success of the Development Agenda. In that regard, it believed that the Committee had followed until then a workpath that was inclusive and legitimate. The prevailing work method of the CDIP allowed Member States to thoroughly discuss all recommendations and to agree on the relevant activities. Thematic projects or any other work method should not prevent Member States from discussing the 45 recommendations and agreeing on their implementation. In line with the Development Agenda principles, forthcoming strategy for the establishment of the work program should be viewed under a member-driven process. WIPO was driven by members, and members had to remain committed to implementing not only a few aspects of the Development Agenda, but the Development Agenda in its entirety. The Delegation was of the opinion that the work and the discussion held in that Committee should take into account the work of other WIPO bodies. Similarly, other WIPO bodies should take into account the work of the CDIP. The mechanisms for inter-committee communications had to be dynamic and efficient in the streamlining of the Development Agenda into WIPO activities. It therefore favored modalities and mechanisms that would allow such a relationship, thus giving the CDIP the important role it deserved. The Delegation of Brazil was fully committed to work in the session towards substantial progress in the implementation of the Development Agenda and was more than confident that, under the able guidance of the Chair the CDIP would achieve concrete results regarding its work program.

32. The Delegation of Morocco expressed its pleasure with the re-election of the Chair and the other members of the Bureau. The Delegation also expressed its satisfaction with the Director General of WIPO who had done such tremendous work since he had taken up his office as head of the Organization. The Kingdom of Morocco was greatly pleased with his vision, his leadership and welcomed the restructuring that he was undertaking, his commitment to the Development Agenda, his awareness of the problems and obstacles that the developing countries faced, which confirmed the trust Morocco had placed in him. The Delegation also expressed its satisfaction on the work carried out by the Secretariat, and the quality of the documents they had provided for the meeting. The Development Agenda was an issue that was very important to the Delegation for several reasons, firstly because Morocco was a developing country, and secondly because Morocco had to play a pioneer role at WIPO to promote that topic, to move it forward and to give it content, the responsiveness of the developing countries that was based on a consensus. Morocco was firmly convinced that IP was a vector for development in developing countries. For all these reasons, it believed that the issue was very important, as was the meeting that they had convened for the Development Agenda. The Delegation supported the statements made by the Delegation of Senegal on behalf of the African Group, and by the Delegation of Yemen on behalf of the Arab Group. The third session of the CDIP was meeting in a very difficult economic climate but, despite that context, the Delegation believed that the steps on a multilateral level taken recently gave the reason for optimism, for example promoting an emerging market and steps taken by developing countries lately and steps taken by the World Bank and the G20. Those measures reassured the Delegation that solidarity between the North and the South was one of the noblest measures to stop the seriousness of the current economic and financial crisis that they were facing, and that made the developing countries suffer the most. This was the reason

why it liked to see these countries play a key role during the crisis to find a way out particularly based on solidarity that was seen in the Committee. For LDCs and developing countries, this would be through the Donor Conference planned for the end of that year. The Delegation hoped that for that event all the members and the other stakeholders would join their efforts to make it a success. The Delegation reminded the meeting that the objective of the conference was to collect funds to finance complimentary assistance to LDCs. However, it was crucial to recall that depending on the provisions of Recommendation 2, WIPO should continue to give priority to financing activities in Africa, using extra-budgetary resources as well as those from the regular budget. The implementation of the Development Agenda would depend on those resources. However, the importance of the extra-budgetary resources and the reserve was very important. The Delegation pointed out three other reasons to be optimistic in terms of achieving the recommendations: firstly, the monitoring and the follow-up of the implementation of the recommendations, that was member-driven; secondly, the reelection of the Chair at the head of the CDIP which did not happen by chance, his efforts being crucial in achieving the success of the Development Agenda; thirdly, the highest level of management of the Organization was committed to the Development Agenda. The Delegation said it was very pleased by the steps taken by the Director General for the implementation of the Development Agenda that he had clearly expressed very convincingly earlier that day. For all those reasons, the Delegation was confident about the future and success of the Development Agenda and that the session would be an important step forward. During the session, the Committee would be called on to examine a new methodology for the implementation of the Development Agenda based on Thematic Projects considering which focused on deliverable outcomes in a clear timeframe. The Delegation supported the new approach. It, however, remained open to other proposals with a view to improving the methodology. The Delegation believed that the financial crisis should not necessarily be an obstacle for the Donor Conference. On the contrary, it should be another reason to consolidate solidarity between Member States and to re-mobilize even further WIPO, its bodies and its members to give a rich and real content to the Development Agenda. It therefore supported the new methodology and was committed to the rapid achievement of all of the recommendations of the Development Agenda.

33. The Delegation of India congratulated the Chair for his able chairmanship and expressed confidence that, as in the past, he would ably guide that week's deliberations. The Delegation also thanked the Director General and the Secretariat for the detailed documentation provided and for the extensive consultations held prior to the meeting, stressing that the Development Agenda of WIPO was a historic achievement for the Organization, that fundamentally transformed the goals and the organizational culture of WIPO to bring them in consonance with its stated mandate as a specialized UN Agency that supported the socio-economic development of its Member States. As one of the countries that had played a pivotal role in formalizing the Development Agenda, the Delegation was heartened to see that the agenda was in its implementation phase. While the Delegation had every reason to be proud of what it had collectively achieved, there was also a need to realize the long journey to be travelled and that the Development Agenda was far from actualization. Indeed, it devolved on every Member State to honor the singular achievements of the predecessors by ensuring that the recommendations of the Development Agenda did not simply remain high sounding principles on paper. To transform them into reality, there was a need to identify specific activities and evolve effective work programs that realized the spirit behind the recommendations. There was a need for vigilant scrutiny and monitoring of the implementations as well as continued, honest and robust appraisals of what had been achieved and what remained to be done. In doing so, all had to be conscious that the starting point of

that exercise was always the spirit of the eventual outcome envisaged by each recommendation. Given that the overall objectives of all the recommendations were essentially the same, which were long-term national social and economic development, the recommendations defined specific timeframe and entailed some overlapping. Therefore, they had to be conscious of the fact that it might be convenient that the implementation of each recommendation could not simply be minimized and narrowed down to fill stated projects objectives. There was a need to recognize that the projects, objectives and outputs were just an element or a step forward toward realizing the outcome envisaged in the recommendation. In that sense, as the Director General had rightly pointed out, it was the beginning and not the end. There was also a need to recognize the project format as a facilitating managerial tool, an efficient implementation methodology, and the sum and substance of the recommendation itself. In the deliberations in the course of the week, the Delegation hoped that the Committee would focus primarily on the substance of how best to achieve the desired outcome of each of the recommendations under discussion rather than get distracted by any particular implementation methodology or format which would form a secondary step. Once the Committee had deliberated and approved new work program, adequate resources would have to be made available for the early and effective implementation. Care would also have to be taken to ensure that technical assistance and other activities which also had associated personnel costs already undertaken by WIPO under its regular budget, were not budgeted under the Development Agenda. While evaluating the project-based approach, it was important to ask to what extent the project outputs were translated into the larger outcome envisioned in the recommendations and what more remained to be done. Similarly, there was also a need to monitor and evaluate to what extent the principles in the Development Agenda had been mainstreamed into every aspect of WIPO's work, and not just in the project output, but also in WIPO's norm-setting activities, the studies undertaken by WIPO, the conferences and seminars organized by WIPO, the mandate of its Secretariat and the Member States. While those might not be as easily quantifiable as project outcomes, it was imperative that continued internal and external mechanisms evolved, taking into account perceptions of stakeholders and serving as a constructive input into policy-making. In the Delegation's view, that was of central importance given that the heart of the Development Agenda lay in the principles and norms and the key to success of the Development Agenda lay in its successful mainstreaming. In that regard, the Delegation welcomed the proposal made by the Director General to report annually to the Committee on mainstreaming the Development Agenda principles. The Delegation also looked forward to hearing an update from the Secretariat on implementing the WIPO evaluation policy outlined in document WO/GA/32/4, and looked forward to discussing that aspect further under Development Agenda Items. The Delegation was committed to taking the Development Agenda forward by constructively participating in the discussions on reviewing the progress of implementation considering an evolving new work program and discussing the important issue of how to design effective mechanisms for coordination, reporting and assessment.

34. The Delegation of Nigeria congratulated the Chair on his election and fully endorsed the statement made by the Delegation of Senegal on behalf of the African Group. The Delegation also appreciated the excellent reports that had been prepared by the Secretariat. It welcomed the new methodology proposed by the Secretariat and the effort made by the Director General in that respect, recognizing that there were some difficulties about the new project methodology which was more or less a systematic measure which could present the difficulty of how each recommendation would be specifically implemented. The Delegation very strongly supported the need for an effective follow-up mechanism for assessing and monitoring the level of implementation, which should have addressed that concern. In this

new methodology there was need to give particular consideration to issues that concerned developing countries, especially the issue of technical assistance in respect to national and regional strategies for IP. The strengthening of capacity-building for human resources which was really the key for most developing countries and, in particular, the issue of mobilizing sufficient financial resources for the Development Agenda. The Delegation appreciated the fact that efforts had been put in place to hold another conference in the latter part of 2009. The Delegation called the international community to contribute substantially to the funding of this Donor Conference.

35. The Delegation of Algeria congratulated the Chair on his re-election and supported the statements made by the delegations of Senegal and Yemen on behalf of the African and Arab Groups, respectively. The adoption of the Development Agenda had been a watershed for the future of the Organization and, as a consequence, WIPO should adapt its role and its working methods, taking into account the close relationships between IPRs, innovation and development. International IP policies would have to mainstream the concerns of countries in respect of development in all its dimensions. The Delegation repeated the particular interest it attached to the implementation of the 45 recommendations making up the Development Agenda and felt that accepted proposals should be given equal attention and equitable treatment by Member States. It further believed that the new project-based approach proposed by the Secretariat for the implementation of the Agenda contained many advantages on the whole. It provided greater clarity by structuring the projects according to established timelines, and it also facilitated the follow-up and evaluation of the implementation of the Development Agenda by providing a number of performance indicators. However, that new methodology should, in its view, be refocused and readjusted so as to guarantee the effective and complete implementation of the 45 adopted recommendations. The idea of grouping recommendations in Thematic Projects should avoid giving rise to a reinterpretation of these recommendations or to restricting their scope. The Delegation restated the need to preserve the specificity of each recommendation in the Development Agenda, and the core document CDIP/1/3 which listed the activities to be implemented for each recommendation should remain the reference document. The Delegation considered that the process of implementing the Development Agenda required a number of prerequisites. Apart from identifying a number of activities and projects for each group of recommendations, budgetary and extra-budgetary resources would have to be mobilized to fund the development of the Agenda. The Development Agenda should be funded through the regular budget of the Organization. The Delegation was in favor of holding a donor conference at the end of 2009, which would contribute to an increase in extra-budgetary resources and partnerships that could support WIPO activities for developing countries, particularly African developing countries. However, any donor contributions should not be used for selective and conditional funding of some activities that might lead to a hierarchy being established between the recommendations. Apart from sustainable budgetary funding and the search for extra-budgetary resources, the implementation of the follow-up of the Development Agenda required horizontal coordination among the various WIPO committees. It supported the setting-up of coordination mechanisms and stated that it would contribute in a constructive and positive way. Finally, aware of the pre-eminent role that the Secretariat would have to play in implementing the Development Agenda, the Delegation expressed its support for the Secretariat and stressed the need to provide it with the necessary human and financial resources to achieve the goals entrusted to it.

36. The Delegation of Japan congratulated the Chair on his re-election and recalled that it had submitted an information document, circulated as document CDIP/3/8, providing an

opportunity for WIPO to consider implementing its suggestion for the purpose of promoting economic development in the developing countries.

37. The Delegation of Ukraine thanked the Secretariat for preparing documents of high quality and their timely submission to the Member States and appreciated the work of the Secretariat and the policy of transparency and a greater involvement of the Member States in the Organization. During previous sessions, the Delegation of Ukraine had expressed its support to WIPO for the Development Agenda for a global infrastructure of development to help developing countries make fuller use of IP resources to for their development.

38. The Delegation of Tunisia congratulated the Chair on his reelection and thanked all of the delegations for the trust they placed in him by electing him Vice-Chair. In supporting the statement made by the Delegation of Senegal on behalf of the African Group, and that of the Delegation of Yemen on behalf of the Arab Group, the Delegation of Tunisia further added that the Committee represented an excellent opportunity to discuss issues related to IP and development, and that the discussion should take place in a regular and systematic manner as it was one of the main reasons why the CDIP had been created. The Delegation was also pleased to see the significant progress made by adopting practical measures to implement some of the recommendations and hoped that the same momentum would accompany them even further. The Delegation commended the new approach adopted by the Secretariat based on Thematic Projects, organizing information sessions, and for preparing documents which, in addition to the fact that it avoided duplicity, also offered structured activities together with clear objectives based on a clearly defined timeline and evaluation mechanisms. The Delegation believed that this new approach would be a good working method and very useful for other delegations. The Delegation suggested certain aspects to be taken into consideration. Firstly, some of the recommendations were best addressed when they were dealt within the cluster in which they were placed so that the spirit of the recommendation was preserved after they had been grouped. Secondly, most of the recommendations grouped more than one idea and the Committee had to have the option of re-examining, on a regular basis, those recommendations as they could well include other topics that would not been explored following the pooling and the Delegation was pleased to note that this idea was well taken care of by the Secretariat. Thirdly, in most cases, the implementation of the recommendations should not be limited just to one project as there was an ambitious program in mind given the challenges that they had to meet in terms of development. There must be continued on-going projects. Fourthly, once they had been examined and implemented, all of the recommendations should not just be abandoned, but should be regularly followed up as they were the source of information that the Committee could use in its development activities and as a guide that could help with adopting certain approaches to the development and a reference point as well that could be used to ensure follow-up and evaluating the success of activities. The Delegation commended the effective implementation of the Development Agenda as a concrete project that was sure to have a positive effect on the user. Given the importance of those activities, the Delegation hoped that WIPO would envisage the possibility of organizing regional awareness seminars to allow the various stakeholders in the various capitals to take up the opportunities in a greater manner of those proposals and also other activities to exchange experiences. The Delegation thanked the Member States which had already put forward the proposals within the Development Agenda and hoped that other activities would also be proposed by other Member States. The organization of an international donor conference was one of the most important decisions taken by the Committee. The Delegation hoped that all would live up to responding to the objectives of the Conference.

39. The Delegation of Iran (Islamic Republic of) congratulated the Chair on his re-election and the two Vice-Chairs of the third session of the CDIP. The Delegation admired the excellent work and contribution of the Chair to the CDIP during the past years and for the progress that had been made. The Delegation also appreciated the commitment of the Director General to the Development Agenda and the Secretariat for its efforts. The Delegation associated itself with the statement made by the Delegation of Sri Lanka on behalf of the Asian Group, and emphasized that Iran (Islamic Republic of) attached great importance to the CDIP activities and had actively participated in its discussions. In that regard, the Delegation believed that CDIP provided a good basis for reaching the WIPO mandate for promoting creative intellectual activities and facilitating the transfer of technology related to industrial property in developing countries through the appropriate trainings for accelerating the economic, social and cultural development. It was of the view that the implementation of the entire 45 agreed Recommendations would move the national and international IP system to an IP system which was well adapted to development requirements of member countries. Accordingly, the CDIP should accelerate implementation of the approved recommendations. In that regard, the review of the progress in respect of the recommendation under implementation was certainly an important issue which would facilitate and provide the Member States with a clear vision to fulfill the future work of the implementation of the rest of the recommendations.

40. The Delegation of Cambodia congratulated the Chair on his re-election and reiterated its strong support for the statements made by the delegations of Sri Lanka and Bangladesh on behalf of the Asian Group and of the LDCs, respectively, and appreciated the commitment of the Director General for mainstreaming and implementing the recommendations as soon as possible. The Delegation urged all to pay more attention to the needs of the LDCs, in particular in addressing the future Funds-in-Trust (FITs). The technical assistance should be delivered in a sustainable manner. The Delegation was fully committed to work closely with the Chair and other members to implement the adapted recommendations to enable all to use IP for economic growth.

41. A representative of the Library Copyright Alliance (LCA) thanked the Chair for the opportunity to make a statement on behalf of Electronic Information for Libraries, the LCA and the International Federation of Library Associations and Institutions. The representative congratulated the Chair on his re-election and expressed his gratitude to the Secretariat for the substantial efforts made since the last meeting in developing a concrete work plan, as well as for the impressive documents relating to the Thematic Project. He stated that his organizations represented the world's public, academic and research libraries and comments-related copyright issues. Referring to Agenda Item 6, LCA welcomed the detailed examples of activities which illustrated an increased rate of transparency in that process and accelerated progress towards the Development Agenda goals. LCA welcomed the emphasis on the use of legal options and flexibilities, including the work of the Standing Committee on Copyright and Related Rights (SCCR) and limitations and exceptions for the visually impaired for the libraries and archives and for education, and the workshop organized by WIPO on digital preservation and copyright held in July 2008, which had revealed an urgent global need for copyright exceptions to enable library preservation of cultural heritage and memory, especially in developing nations. LCA further encouraged concrete measures to expand the scope of exceptions in national laws throughout the world. At the same time, LCA felt it necessary to point out traces in those documents, particularly in the document CDIP/3/5 that reflected not so much a change in direction that WIPO had traditionally

promoted. Activities focused primarily on IP protection and IP culture, for example, were not necessarily development-oriented. Such efforts likely benefitted rights holders in developed nations and while they might also benefit a limited fragment of population in the developing nations, they did not address the broader interests of developing societies. LCA hoped that as the work program expanded, there would be more evidence of a change in focus in the group of 19 Recommendations and less reliance on existing outdated structures and goals. Referring to Agenda Item 7, LCA commented on several activities under consideration. Concerning Recommendation 20, LCA strongly supported work that contributed to a better understanding of the public domain. The purpose of that activity was to facilitate access for the public and not to monetize content to create new markets for the private sector. Therefore, LCA agreed with the need to preserve such content from individual appropriation as outlined in the Thematic document entitled “Intellectual property in the public domain”. With respect to Recommendation 22, LCA urged that emphasis be placed on sub-point D on potential flexibilities, exceptions and limitations, and E on the possibility of additional special provisions for developing nations and LDCs. That was one of the most productive areas in which the work program could enhance access to knowledge for the developing nations. Exceptions were important to libraries and to people everywhere, but they were of critical importance to developing countries whose capacity to access knowledge was defined primarily by exceptions and limitations. LCA therefore encouraged WIPO to formulate a project document to examine co-limitations and exceptions to benefit developing nations and to develop guidelines for IP administrators on their implementation. The academic and library community would be most happy to assist in formulating that study, it added. LCA had three more comments concerning Thematic Projects. It first commented on the issue of competitive licensing practices under Recommendation 23 and also under the Thematic Project entitled “Intellectual Property and Competition Policy”. That was the key area for libraries. Libraries acquired most of their electronic content through licenses and often experienced difficulties when the exclusive rights to content were then owned by a single entity that held a monopoly, precluding negotiations for favorable prices and contract terms. In countries with advanced anti-competition laws, libraries might have remedies but in countries that did not, there were no alternatives. LCA supported the study of competition policy in selected countries and regions with a focus on IP licensing. With respect to the Thematic Project entitled “Intellectual Property and the Public domain”, LCA strongly supported efforts of identification and preservation of the public domain. Most nations did not have works in their copyright laws. Uncertainty over the copyright status of works was a hindrance that undermined all uses of works. LCA welcomed efforts to develop tools for verifying the status of copyrighted works and looked forward to that proposed activity. Finally, with respect to the Thematic Project entitled “IP Information and communication technologies and the digital divide”, LCA fully supported a multi-stakeholder approach to new models of distributing information and creative content, to enable digital inclusion and global and affordable access to information and knowledge. LCA appreciated the acknowledgement of the crucial role that civil society could play in promoting sustainable public sector information and IP policies, and was ready to cooperate with WIPO in making that proposal a reality.

42. A representative of Ibero-Latin-American Federation of Performers from (FILAIE) congratulated the Chair on being re-elected, seeing his re-election as a guarantee for the continuation of the work, and also congratulated the two Vice-Chairs. The projects that were being presented involved all of the IP community. FILAIE felt that it would be a good idea to recall that there was still a need to avail some of the individual rights such as those of artists in the area of audio visual work. There was a need to fully develop those rights that still

needed to be done. WIPO needed to remember that one should not forget the very important requests involving the rights holders in the area of audiovisual works.

43. With no further requests from the floor, the Chair thanked the Coordinators and Member States for their statements. He acknowledged that these statements were all positive and indeed contributed to the focus that all intended to make during the week. The Chair also thanked the two representatives from the NGOs for their contributions which were very much appreciated. The Chair then requested the Secretariat to introduce Agenda Item 5.

Agenda Item 5: Adoption of the revised draft Report of the Second Session of the CDIP

44. The Secretariat introduced document CDIP/2/4 Prov.2 which contained the draft report of the second session of the CDIP, held from July 7 to 11, 2008. Following the agreed approach, the report was circulated to the Member States electronically. Comments were invited and those received within the deadline were incorporated in the report. That document was put forth to the Committee for adoption.

45. The Delegation of Argentina congratulated the Chair on his re-election and stated that it had some corrections to suggest on its statement reflected in the report which it would provide to the Secretariat in written form.

46. The Delegation of the United States of America mentioned that it had found a number of places in the report where the language could be a little tighter, a little bit more precise, and agreed to submit those changes to the Secretariat. The Delegation had two suggestions in particular. In paragraph 92, line 4, there was a reference to 300,000 Swiss francs in response to a question raised by the Delegation of Thailand in paragraph 91, quoting page 4 of the document CDIP/2/2. However, in the document CDIP /2/2, page 4 there was no reference to 300,000 Swiss francs. The Delegation sought clarification of that particular paragraph. The Delegation also stated that paragraph 83 referred back to Recommendation 5, but did so in an imprecise manner. In the spirit of reflecting accurately the negotiated framework for that particular recommendation, the Delegation had submitted in writing a language that would be closer to the language of Recommendation 5. The other suggestions that the Delegation pointed out were entirely grammatical, with the spirit of improving the document grammatically and stylistically.

47. The Chair thanked the delegations from the United States of America and Argentina, and mentioned that the corrections from the Delegation of Argentina referred to their statements, while the corrections from the Delegation of the United States of America covered both its statements in paragraph 83 and the Secretariat's intervention in paragraph 92. With that clarity, the Chair sought the floor's approval that the report be adopted with those adjustments.

48. The Delegation of Nigeria pointed out that it needed to have a look if the amendment proposed by the United States of America were specific and went beyond what it was stated concerning paragraphs 83 and 92.

49. At the invitation of the Chair, the Delegation of the United States of America stated that it had some other minor stylistic amendments offered in the spirit of improving the document, but that it was quite open to withdrawing those. Its focus was paragraphs 83 and 92.

50. The Delegation of Angola congratulated the Chair for his re-election. Touching on the proposal made by the Delegation of the United States of America, it suggested making the amendment at a later stage, which the Secretariat could circulate to the members for approval at the end of the meeting.

51. The Chair requested the delegations of Argentina and of the United States of America to submit their amendments so that the paragraph could be amended later on that day. That would give the Member States an opportunity to see the revised text. The Chair then adjourned the meeting.

52. The Chair asked whether delegations had understood the amendments suggested by the Delegation of the United States of America. He asked whether the amendments were satisfactory and the report could be adopted. He then requested the Secretariat to read the amended sentences and see if they were acceptable to the Committee.

53. The Secretariat explained that the first suggestion from the Delegation of the United States of America was in paragraph 83 of the report, which should read “the Delegation believed that details on specific technical assistance activities should be made available only on request from Member States and only after the consent of the Member States and of the recipients concerned as required by the negotiated language of the text”. The statement had been made by the Delegation of the United States of America itself so it was requesting refinement of its own intervention. The Delegation had also identified a typographical error in paragraph 92 where 300,000 Swiss francs should read 700,000 Swiss francs. The Secretariat thanked the Delegation of the United States of America for recognizing the shortcoming in the report. There were also some further typographical errors in the report, for example, on page 57, in paragraph 207, line 13, the word “whether” had been misspelled as “weather”. Similarly, they had identified additional typographical errors on pages 12 and 13 which would be corrected. The Secretariat thanked the Delegation of the United States of America for identifying those errors.

54. The Chair indicated that the report was adopted with said amendments.

Agenda Item 6: Review of progress in respect of recommendations under implementation

55. The Chair informed that the Agenda Item included three documents addressing the review of progress and the Committee would deal with each of them separately. He requested the Secretariat to introduce document CDIP/3/5 entitled “Progress Report on Recommendations for Immediate Implementation”.

56. The Secretariat explained that document CDIP/3/5 provided a progress report on recommendations for immediate implementation, also known as the “19 Recommendations”. The Secretariat recalled that out of these, six recommendations, namely 1, 3, 4, 6, 7 and 11, had already been discussed by the Committee while the remaining recommendations had not yet been discussed. The progress report contained in the document covered the period from November 2007 – when the Secretariat had been requested to start the implementation of these recommendations – up to December 2008. Following several observations made by the Committee on Annex II to document CDIP/1/3, which was a preliminary information report on the 19 Recommendations, the Secretariat had tried to make the report more structured by providing strategies and achievements, rather than simply providing a list of activities. It also recalled that for recommendations 1, 3, 4, 6, 7 and 11, the Committee had agreed to a strategy

for implementation. Consequently, the left hand column of the report included the agreed strategy followed by examples of activities and, in the last column, the achievements. It was clear that the achievements in the last column were the initial assessment by the Program Managers with regard to the achievements in addressing the recommendation. The document was before the Committee for information.

57. The Delegation of El Salvador thanked the Secretariat for the information provided and commended the Secretariat on all the work that had been done in preparing the progress report on recommendations for immediate implementation. The Delegation noted that the Secretariat had continued to undertake work on universities, and a number of studies had been undertaken on academic institutions which had been particularly useful for developing countries, including El Salvador. The Delegation also noted that there were a number of topics in the report on which the Delegation worked very closely with the Technical Assistance and Capacity Building Bureau for Latin America and the Caribbean. The Delegation indicated that there was a new vision, which was particularly important for developing countries. It also commended the fact that attention had been drawn to collective management issues and also to audiovisual issues as they were two very important areas. The Delegation noted that a large number of activities had been undertaken in Latin America on such topics, which were of particular interest to El Salvador. The Delegation had become involved in multilateral cooperation with a number of other members that were already very involved in work in those areas. Legal assistance was also a subject of great interest to the Delegation and, as the Secretariat had indicated, the list of activities was not exhaustive, but the Delegation wished to thank the Secretariat for all the assistance that had been provided to El Salvador, such as assistance in interpreting and implementing some of the texts on subjects under negotiation.

58. The Delegation of the United Kingdom asked if the database on legislation and legislative measures to protect TK, traditional cultural expressions and genetic resources mentioned in the activities of Recommendation 13, was available to the public or whether it was available only to the Member States of WIPO and how to access it.

59. The Delegation of Egypt asked whether the floor was open for questions on all recommendations, or whether comments should be provided on a recommendation by recommendation basis.

60. The Chair indicated that he was open to either approach, and noted that as many of the recommendations had already been discussed and it was a follow-up report, the delegations were familiar to them. He suggested that comments could be made on one recommendation at a time if that was the preference of the delegations.

61. The Delegation of Egypt asked two questions about Recommendation 1. The first was on page 2, second column on examples of activities, where there was a mention of a High-Level Forum on IP for LDCs, which had been organized in Geneva, on December 12, 2007, the recommendations of which had been developed and implemented in various LDCs. The Delegation wished to receive more information on what the Forum had entailed, who had been invited and what had been the recommendations. Secondly, the Delegation made reference to the initial working document CDIP/1/3, where it was mentioned that in 2008, WIPO would prepare, coordinate, and commission, a document containing a description of legislative assistance as regards public policy and development. The document was going to discuss the modalities, principles and format of the assistance provided, as well as various

options of flexibilities available under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and Paris Convention. The Delegation wished to know whether the document had been prepared, and if it was available, given that there was no reference to it in document CDIP/3/5 and was it an activity that had been set aside or been completed.

62. The Delegation of India requested that the Committee discussed recommendations one by one. On Recommendation 1, the Delegation had two queries. The first query related to the part on progress and achievements, which indicated that national plans and strategies were being formulated in some countries and were under implementation in others. The Delegation wished to know what elements constituted WIPO's advice when it came to advising countries on how to formulate a national IP policy. Did it include advice on flexibilities available under the TRIPS Agreement and elsewhere? Did it also involve advising them on how to strategize IP as a tool for economic growth in order to leverage IP assets for competitive advantage, advance shareholder value and ultimately boost revenue and national development? Were these issues a component of the package that was offered? The Delegation wished to receive further details on what elements constituted the advisory package. The second query also concerned the same paragraph, where it said that review/evaluation mechanisms had been included in IP plans involving national authorities and other stakeholders. The Delegation requested further information on what kind of review mechanism existed for assessing the effectiveness of the projects by WIPO. Was it the country that gave the feedback and if so, after how long? The Delegation asked if the information could be shared with Member States, perhaps on the WIPO website or, when each event was held, through the publication of a summary report or feedback, so that Member States would be able to review to what extent they had succeeded and what they had actually entailed in substance.

63. The Delegation of Bangladesh also wished to speak about Recommendation 1. As a general comment relating to all recommendations the Delegation felt that the Secretariat was trying to capture a project or an initiative in one sentence, it had either over-simplified it or raised questions in the absence of details. The Delegation did not wish to dwell on projects being done in other countries, but only on the project that was being done in Bangladesh. This was mentioned on page 2, column 2, and referred to as a comprehensive three-year national project. The project actually covered various ministries and agencies that dealt with IP, but it could not be called "comprehensive" because, for example, the genetic resources, TK and folklore issues were not covered under the project. It was not that the Delegation actually wanted them to be covered, but since they were not, covered calling it 'comprehensive' gave people an impression that everything was being done in one go, when it was not the case. Drafting, therefore, was critical. The document also indicated in the next column that the project was based on a thorough needs assessment, but there was a severe need to upgrade even the internal structure and administrative mechanisms and there were a lot of things that Bangladesh needed to do internally also for there to be a thorough needs assessment and thorough understanding on how to take the project forward. The Delegation suggested it was better not to over-reach by trying to capture the complexities of such a project in a very short text, which was what had happened generally throughout the document. Referring to the column on the second page, the Delegation of Egypt had already mentioned the High-Level Forum on IP for LDCs organized in Geneva in December 2007. The Delegation knew that there was a 10-point plan of action that the ministers who had participated had approved, but it wished to know how far those recommendations had been implemented in various LDCs, especially given resources and financial constraints. The Delegation also believed that the full detailed report of the Forum had yet to be published.

64. The Delegation of Costa Rica commented on the third column of page 2, where there was a reference to a program in Costa Rica. The Delegation wondered whether Costa Rica was the best example, given that it had not been involved in a project with WIPO in that field. The Delegation had sought the support of the Organization and all it had received was a handbook on how to carry out an IP audit.

65. The Delegation of India noted that in the report there was no mention of the IP Audit Tool which was mentioned extensively under Recommendation 4, which was also dealing with the same issue of setting up appropriate national strategies for IP. Both of them had the same objective so it questioned why it had not been referred to in the report under that Recommendation. The second point pertained to the section on “Mainstreaming principles” on the second page where it referred to an internal memorandum issued in November 2007, to all Divisions asking them to ensure that all the Development Agenda principles be implemented with immediate effect. The Delegation wished to know what kind of review had taken place following that memorandum. Had there been any sort of mechanism put in place to see in what sense or how far they had been mainstreamed?

66. The Chair thought it would be helpful to have the experts present to respond. As a result, the Committee would first have a look at the document CDIP/3/2 with the roster of consultants, for which the Secretary of the Committee could answer questions and then go back to the report on the 19 Recommendations.

67. In introducing document CDIP/3/2 the Secretariat informed that the second part of Recommendation 6 read “WIPO shall draw up and make widely known to Member States a roster of consultants for technical assistance to WIPO”. The document contained the roster of consultants which gave a list of all consultants who were under a WIPO Special Services Agreement (SSA) contract between January 1, 2005, and December 31, 2008. SSA contracts were the key modality through which the Organization hired consultants to work on technical assistance activities. The roster did not include speakers used for specific occasions such as WIPO seminars and workshops.

68. The Delegation of El Salvador expressed its satisfaction on the document containing the roster of consultants. The Delegation highlighted that the availability of external consultants to WIPO had been particularly useful in a project which El Salvador had been implementing with some success on IP and fiscal matters. The Delegation thought that it was an excellent practice and it had always been helpful for Member States to have access to specialists not only from the Organization but also external consultants. The project, which had been running for between six to eight months, had benefited from the advice of high-ranking officials within Latin America on these issues and many of them were included in the roster of consultants.

69. The Delegation of Algeria thanked the Secretariat for having prepared the document which provided Member States with very clear and transparent information on the roster of consultants used by WIPO. The Delegation also wished to make two comments. The first referred to the working language of the experts or consultants in question. In the majority of cases, they appeared to be native English speakers although there were some Member States that worked with other UN languages, for example French and Arabic. The second comment referred to the countries benefiting from the services of those consultants. The Delegation wondered whether it might be possible for the Secretariat to prepare the document in a slightly different format, including information on countries in which the projects took place.

It would then be possible to draw a comparison between regions and have a better idea of the countries benefitting from the expertise of the WIPO external consultants.

70. The Delegation of South Africa thanked the Secretariat for making available the roster of consultants, which they felt was very useful. The Delegation wished to add to the point raised by the Delegation of Algeria, that it would be helpful to see which countries the consultants were from because it was not always clear. In addition, the Delegation requested the Secretariat to continue to consult with the Permanent Missions and the Foreign Ministries when selecting the experts to be used in their activities.

71. The Chair asked the Delegation of Algeria whether its concern was the countries the consultants came from, as requested by the Delegation of South Africa, or whether it was something else.

72. The Delegation of Algeria clarified that it wished to see the beneficiary countries, the countries benefitting from the projects for which the consultants had been engaged.

73. The Delegation of India thanked the Secretariat for the publication of the roster and considered it a very welcome step towards creating transparency and moving forward to realizing the spirit of Recommendation 6. The Delegation was interested in knowing how the roster had been drawn up, what parameters had been kept in mind, who had been consulted and what had been the criteria employed for selecting the consultants. It noted that the roster satisfied part of Recommendation 6. The other part, which was perhaps the larger objective behind the exercise, was to ensure the neutrality and accountability of WIPO's technical assistance staff and consultants "by paying particular attention to the existing code of ethics and by avoiding potential conflicts of interest". The Delegation enquired as to what would be the follow-up step after the publication of the roster. It believed that there was a WIPO code of ethics that was being drafted, and wished to know whether there also was a definition of conflict of interest and, if so, whether there was specific advice which was given to consultants whenever they were associated to WIPO activities.

74. The Delegation of Egypt expressed its agreement with the points raised before by the delegations of South Africa and India. It wondered whether, in addition to the roster, there could be some narrative to explain the basis for the criteria used for the roster at the beginning. The Delegation had heard the Secretariat mention that it had not included the speakers, so it enquired whether such information could also be made available. The Delegation noted that in almost 300 consultants, only five were Arabic-speaking, so that meant that for the Arab Region, there were five consultancy opportunities over 300. It, therefore, wondered whether the information was not clear enough or it did not catch all what WIPO was doing in the Arab Region in terms of consultancies. The Delegation also agreed with the issue raised by the Delegation of India on the need to understand how the issue of potential conflicts of interest with regard to the various consultants was being addressed, and indicated that in an updated version of the roster, a column could be added, specifically addressing the issue of conflicts of interest.

75. The Delegation of Algeria asked whether a Member State could submit the name of a consultant or rather a potential consultant, and whether there were any specific requirements which had to be met. The Delegation also enquired whether the Special Services Agreements (SSAs) were open-ended or had an end date. Finally, the Delegation enquired to whom the

reports of consultants were addressed, to the Secretariat, to Member States in general, or directly to the country involved.

76. The Secretariat explained that the document under consideration dealt with only a part of Recommendation 6. The implementation of that Recommendation was also contained on page 10 of document CDIP/3/5 and that was where, in the first column, it described the standards of conduct for the international civil service adopted by the International Civil Service Commission (ICSC). The Secretariat explained that the Standards of Conduct dealt with the question of impartiality, conflicts of interest and other aspects of similar nature. The Secretariat also pointed out that the project document on Recommendation 5, contained in CDIP/3/INF/2, contained a project that aimed to establish an IP technical assistance database. The Secretariat further explained that the roster was a first attempt and may have some shortcomings, but once the technical assistance database for recommendations was ready, the observations made by the Committee would be addressed. The Secretariat took note of the fact that the roster did not clearly mention the nationality of the consultants or the countries that have benefited. Questions had been raised with regard to the working language and the Secretariat ensured that the issue would be shared with the colleagues that would develop the database. The Secretariat also agreed with the Delegation of Egypt that in future reports a narrative could be provided describing exactly what the consultants did. SSAs were basically short-term staff hired to undertake specific activities for which the Organization either lacked skills or did not have enough manpower in that specific area of expertise. With respect to the observations made by the Delegation of Algeria, the Secretariat pointed out that IP was a specialized field and it was always a challenge to find appropriate expertise in the various sub-areas or sub-subjects of IP. The Secretariat would be willing to receive any nominations that countries may wish to provide of consultants or potential experts in the various fields. Concerning the question of who the consultants reported to, the Secretariat explained that they reported to the Program Managers in WIPO who had hired them for undertaking a specific task, and that Program Managers were responsible for delivery to the Member States.

77. The Delegation of Nigeria commended the Secretariat for preparing the roster and stated that it was a step in the right direction towards implementing Recommendation 6. It provided the names of specialists for different types of projects but needed to be more comprehensive, including countries. The Delegation pointed out that one area which was missing with respect to Recommendation 6 was the code of ethics. In document CDIP/3/5, it talked about the standard of conduct for international civil service which had been adopted by the ICSC in 2001, and approved by the WIPO Coordination Committee in 2002. The Delegation considered it very important to see such documents. When the issue of the code of ethics had been raised in the second session of the CDIP, it had been mentioned that it was under study, as explained in paragraph 203 of document CDIP/2/4. But it now seemed that it had already been adopted. There seemed to be a contradiction. The Delegation concluded that it would be important to see the documents it had referred to in order to clarify the issue.

78. The Delegation of Brazil thanked the Secretariat for preparing the roster of consultants and acknowledged the efforts made in consolidating the names of such a large number of consultants in one document. In its view, the roster should be regarded as the practical part of Recommendation 6. Although it was included in Cluster A, it thought that the Recommendation also addressed issues of other clusters, especially the issues of balance and transparency. The Delegation noted that there were certain blank spaces in some columns regarding institutions of origin and in some cases the subject matter or project was described in a very general way. The Delegation was of the opinion that it could be improved in order

to enhance transparency. Additionally, in order to give effective implementation to Recommendation 6, it suggested that the roster be made widely available in WIPO's website. The Delegation was also of the view that the roster should be continually updated and that the question of balance should be taken into account in the future selection of consultants. The Delegation also had comments on elements raised by the Secretariat relating to document CDIP/3/5, but stated that it would present them when the Committee discussed that particular document.

79. The Delegation of Yemen thanked the Secretariat for the efforts undertaken to prepare the document. It supported the comments made by the delegations of Algeria, Egypt and India. In relation to what had been said by the Delegation of Egypt regarding the number of Arab consultants on the list, the Delegation wondered whether the Secretariat had considered providing translation or interpretation to help Member States benefit from the services of such experts as several member countries could lack the necessary expertise in foreign languages.

80. The Delegation of Romania was very satisfied with the roster of consultants, which also included a Romanian national. The Delegation noted that, while there were many projects of local or specific nature, there were also some of a more regional or general nature. The Delegation enquired about the availability of the material created by the consultants in cases in which the material was of general interest and when the results were tangible, such as the study by the President of the Hungarian Copyright Council. The Delegation would be very interested in the results of that study, of the project and the methodology used for measuring piracy rates. The Delegation wished to know whether the material on the project was accessible and whether it was available for other countries that might need such models or methodologies.

81. The Delegation of Trinidad and Tobago congratulated the Secretariat for having taken the time and seen the wisdom in preparing the roster of consultants, which it believed had been extremely helpful and which reflected the increased emphasis on the part of the Secretariat on transparency and efficiency. The Delegation endorsed the observations made by the delegations of India and Egypt with respect to the criteria for the selection of consultants. They felt that the issue was extremely important, as the output, the process would create was directly linked to the capacity, the skill sets and the competencies of the consultants assigned to deliver the particular project. In that context, the Delegation wondered whether, in the process as it operated at the time, there was room for consultation with Member States prior to the assignment of consultants, or whether the consultants were already assigned and the project then ran its course. It seemed to the Delegation that from the perspective of efficiency, or from the perspective of enhancing the potential to deliver the project efficiently, it might have been beneficial that such consultation took place prior to the assignment of the consultant.

82. The Delegation of Bangladesh thanked the Secretariat for preparing the roster and raised two points. The first was a practical suggestion for improving the roster, and it related to the third column where the names of the institutions were provided, and in some cases the names of the institutions were not present or the address was missing. Some of the individuals did not appear to be affiliated to any institution and if a country was interested in finding out what expertise the experts had, there was no way to contact them. The second point concerned how the roster would evolve in the future. The Delegation thanked the Secretariat for explaining and it understood that that was the first attempt and that it would be improved and updated. In that context, the Delegation supported the proposal made by the Delegation of Brazil to

publish the roster on the website. On how it evolved in the future, the Delegation considered that there was a need for balance and for expertise. In particular, it highlighted the need for having in the roster the experts who had worked in the context of LDCs.

83. The Chair explained that a number of experts from the Secretariat had been invited to respond to some of the questions raised by the delegations. The Chair, therefore, requested the representatives of the Secretariat to respond to the questions and comments raised with respect to Recommendation 6 and specifically with respect to the roster of consultants.

84. In response to the questions raised by several delegations concerning the roster of consultant, the Secretariat explained that the roster was a first effort which would be improved in the future. Member States could suggest consultants and the consultants report to the program managers that hired them. It pointed out that the project for implementing Recommendation 9 would focus on developing a technical assistance database and the observations and comments made in the meeting with respect to the roster would be taken into account in the context of that project.

85. The representative of the Human Resource Management Division (HRMD) noted that as of 2009, a reference had been included in all contracts to the Standard of Conduct for the International Civil Service Commission (ICSC), which was common to all UN system organizations. The Standard of Conduct had also been included in the contracts of consultants. With respect to the roster of consultants, the HRMD representative noted that the roster was not a centralized tool in administration, but it was a roster based on technical assistance demands and it was managed the by the Technical Assistance and Capacity Building Sector. The HRMD representative informed the Committee that the previous month, the Secretary General of the UN, Mr. Ban-Ki Moon, had addressed all the Chief Executives on a proposal for a common policy document on ethics within the common system of organizations. That, together with rules and regulations and procedures for financial disclosure, was an issue on which the Secretariat was working.

86. The Delegation of Nigeria thanked the Secretariat for the explanation and wondered whether it understood correctly that the Secretariat did not work with a pool of experts. The Delegation pointed out that the Recommendation indicated that WIPO should draw up and make widely known to the Member States a roster of Consultants for technical assistance available with WIPO. In effect, what had been drawn up was not a roster of consultants nor a roster of experts, but what delegations had received were projects that experts had undertaken. A real roster of consultants would not in any way exclude the ones included there but they had to be in a common pool. In other words, if somebody was selected for projects and that person complied with the requirements or guidelines to become a consultant, then that name would go in the pool, which would then be circulated to all Member States. What the Committee had before it included accurate information on the project and the institution, which was very important, but what was required was a roster, that is, a kind of pool to be established on the basis of guidelines, inviting countries and anybody else who could provide the names of people who met the specifications. All the explanations that were being provided would still be very relevant but what was currently missing was the most important link, namely, the roster of consultants.

87. The Secretariat informed that there were many criteria that formed the basis for the selection of consultants. First of all was the knowledge of the issue, the competencies required, and the matching of that knowledge and those competencies with the requirements

for any particular mission, advice or undertaking. Then the names of the individuals that matched those requirements were shared with the beneficiary countries or institutions to obtain their agreement on the names proposed for undertaking such assignments. The final decision on acceptance or not of those names depended on whether the terms, which were being prepared for the assignment, were acceptable or not. As a consequence, it was a process which was based on competence and coordination with the beneficiary countries. The list of experts was a tool which contained the names and some additional information of various experts that had been used or had been employed by WIPO in different areas. It was something that could be used to identify experts as required and it was something that needed to be developed further. As had already been mentioned, the project which was proposed to be undertaken under Recommendation 5 would hopefully enable a much more flexible way of handling and recording the names and the fields of action of the various experts that the Organization would employ in the future.

88. The Delegation of Bangladesh stated that its previous intervention was a suggestion about embellishing the information that was contained in the third column, "Institutions". When individual experts did not have an affiliation with an institution, it was necessary to widen the information on the individuals themselves so that delegations knew how the experts could be reached. The second point which had been made was more relevant to the issue being raised by the Secretariat, but it was not about the selection criteria. The current methodology for developing the roster was that if a given person had previously worked with WIPO, then the name would go in the roster because if WIPO tried to go beyond that it might be accused of being subjective in including some and not others. The methodology used was therefore probably good to start with but, clearly, as it evolved, the methodology would have to be amended. The Secretariat had already indicated that individual countries were free to suggest people for inclusion in the roster and WIPO would play the role of an arbiter so that it brought more balance of expertise on various regions, in particular expertise on LDCs. The point was, therefore, related to the future evolution of the methodology and how the roster could benefit all the Member States that were in different stages of development.

89. The Chair thanked the delegations for their initial response to Recommendation 6. The delegations had identified some deficiencies, which the Secretariat had recognized. The comment by the Delegation of Bangladesh dealt with the issue of the roster evolving in the future, which had also been mentioned by the Secretariat. As technology and demands on the expertise changed, no roster could remain static, so delegations were right in expecting it to evolve. There was also the question of collaboration with Member States in the identification of experts. The Secretariat had mentioned that if delegations were aware of experts in their countries, their names could be communicated to the Secretariat and their availability would be taken into consideration. The Chair also expected that from time to time some of the programs would be funded by certain countries and those countries would have a say in the choice of experts and where they came from. As a consequence, a variety of principles would be identified that should guide the process. The Chair did not think that it was the objective of Member States to put all the questions together and develop rigid rules to guide how the organization identified experts. His suggestion was that certain criteria be taken on board, that the Committee recognized the challenges that the Organization would have to go through in identifying consultants, and that the Secretariat recognized the expectations of Member States in terms of balance, conflicts of interest, etc. One delegation had mentioned that there were five out of 300 consultants in the roster who came from Arab states. If that proved to be the correct number, then that was a fact, but the Chair did not see any Barbadians on the list

either. However, what he would want to see in the roster was the expertise required to assist his country and that was the fundamental issue.

90. The Delegation of Angola expressed the need to define criteria to be used for the selection of experts taking into consideration an equitable, geographical distribution and representation. The Delegation also underscored the need to establish objective criteria in the selection of experts in the future. The Delegation suggested that the roster be improved and that a cover page be added which described the selection criteria.

91. The Delegation of Morocco reiterated the need to review the roster of consultants, so as to allow for nominations by member countries. The Delegation expressed the importance of transparent and objective selection criteria. It believed that expertise, work experience and languages, as it pertained to the benefitting country, should be key elements of selection criteria, and that guidelines to that effect should be drafted for use in the future.

92. The Delegation of India thanked the Secretariat for answering its question about the criteria, and agreed with the Chair on the necessity to have a constructive approach for drawing up the roster. With respect to the selection criteria, the Delegation suggested that in addition to the elaborated criteria, skills requirements on WIPO website or otherwise, an invitation to express interest should be published on the website. The Delegation of India noticed that many well-known names, which look at IP from a developmental perspective, were missing from the list, and that names of many students were on the list. Accordingly, it reiterated the need to create a database which was consultative, transparent and balanced, and allowed for skill sets to be advertised, as was done elsewhere on a website or newspapers.

93. The Delegation of France supported the conclusions that were drawn, but expressed reluctance with respect to the establishment of a framework for recruitment that was too narrow, when it came to consultants or experts to be hired by the Organization for specific time bound tasks. The Delegation agreed with all the previous suggestions and the Chair's comments about moving forward and promised some improvement in the future. Referring to document CDIP/3/5, it asked the Secretariat to answer the many questions that were raised with respect to Recommendation 1 within the said document.

94. Responding to the questions made by the Delegations of India and Costa Rica relating to the issue of IP strategy development in general, the Secretariat made five comments: Firstly, the overall goal of the IP strategy and policy development was to use IP at a strategic level for economic development. Accordingly, the priorities, needs, and specific circumstances of the countries would be taken into consideration; the whole package is done in such a manner that it is within the overall development goals and priorities as enshrined in the overall development plans. The Secretariat explained that some tools were internally conceived which were currently being fully developed and systematized, including the IP Audit Tool, in addition an enhanced systematic process to identify such needs in comprehensive, coherent and robust manner, tool-kits, which would enable the Organization to be more confident in the process of developing IP policies and strategies. Moreover, a number of questionnaires were specifically tailored to address the needs of specific constituents such as LDCs questionnaires and small and medium-sized Enterprise questionnaires. In addition the Secretariat adhered to a process that would include a number of key elements namely a needs assessment which would be undertaken prior to the development or the finalization the policies involving a review meeting for all national stakeholders interested in the development of an IP policy. The Secretariat also pointed out

that it relied on external consultants who would bring specific expertise relating to specific areas that may be of prime interest to the countries concerned. As such, the process would be of an interactive nature involving discussions among the Secretariat, the consultant hired by the Secretariat and the various national authorities. The Secretariat mentioned a similar case in Mauritius. The Secretariat recalled Costa Rica's and India's remarks on this issue adding that the strategy would cover the entire gamut of IP activities ranging from formulation of IP policy to activities geared to leveraging the use of IP assets. Furthermore, the Secretariat held seminars on licensing arrangements, patent drafting, transfer of technology, and creation of technology in IP innovation centers, IP management for University research and development institution, and areas such as human resource development, legal assistance, and drafting of legislation. Responding to the questions concerning LDCs, the Secretariat pointed out that 45 out of the 49 LDCs were members of WIPO. It explained that the LDCs Division focused on building IP institutions in LDCs together with UN Organizations as well as with the other programs in WIPO. Referring to the High Level Forum which was held in December 12, 2007, the Secretariat explained that the Forum was on building capacity in LDCs to use IP as a knowledge-base for wealth creation and it consisted of two parts: the Ministerial plenary and sessions on a number of Thematic issues such as patent licensing, business identifiers and commercialization of products and services, development of copyright industry for wealth creation, TK, the role of higher education in institutions and research organizations in LDCs and their contribution for IP capacity-building, and the cooperation between business, industries and higher education and institutions and research centers. The Secretariat further explained that, as an outcome of the deliberations, an action plan was proposed for LDCs and that this action plan would deal with issues such as formulation and implementation of national IP policies and strategies, building sustainable institutions, promotion of innovation in LDCs, identification of specific products in a position to get added value when exported, TK, partnership at the national level between the private and public sector to promote IP for economic development, exemption and preferential treatment with regard to LDCs membership to the various WIPO treaties, preferential treatment with regard to their annual payment or contribution to most of the treaties, recognition of LDCs as a group within WIPO, LDCs related activities in WIPO and monitoring and follow-up. Concerning the question on CDIP/1/3, Recommendation 1, page 3, paragraph 10, the Secretariat said that an internal discussion took place about the implementation of this Recommendation. In this regard there was no clear determination on the modalities and the terms of reference of the document. Given the extreme sensitivities and the legal complexity of the issues involved in flexibilities, the Secretariat decided to take a very cautious approach, and prepared a working document that was distributed in a regional meeting, held in Singapore, in July 2008, with the participation of representatives of IP offices and Ministries of Health of a number of Asian countries. Those representatives had group discussions on the document and proposed a number of changes. Those inputs had already been incorporated into the working document. The working document was formed by an introductory part, with an explanation of the concept of flexibilities, their various modalities and the principles that apply to them. The document also contained a number of examples of flexibilities, namely on the scope of patentability, on the condition of enabling disclosure of inventions, on exhaustion of rights, on compulsory licenses of patent rights, on undisclosed data and other data and on injunctions. The Secretariat further clarified that the strategy was to bring that document, already modified after the Singapore meeting, to other regions, including a meeting with Group B Members, and incorporate inputs after each meeting. In the end, the document would not yet a consensual one, but it would be at least a thoroughly discussed document. The final version would then be submitted to the CDIP and, eventually, transformed into a formal CDIP document.

95. The Delegation of Argentina asked with respect to the questionnaires whether those had been updated since the adoption of the Development Agenda. It asked, for example, if questions had been included on the use of flexibilities in the IP system.

Agenda Item 5 continued

96. Reverting to Agenda Item 5 “Adoption of the revised draft Report of the Second Session”, the Chair wished to confirm that the amendments to the statement made by the Delegation of the United States of America in paragraph 92 were satisfactory to all and that, subject to an amendment still to be submitted by the Delegation of Argentina, the report was in fact adopted.

Agenda Item 6 continued

97. The Chair expressed concern with the progress of the Committee’s activity. He stated that work had begun correctly but the process of looking at the progress reports contained in document CDIP/3/5 was rather slow. He reiterated that the report was clearly on the 19 Recommendations for immediate implementation and that if the CDIP continued reviewing the report at that pace, it might spend the whole week looking at that report which, he was sure, was not the intention of the Committee. The Chair stated that he had given a lot of thought as to how he would encourage the CDIP to quicken the pace with respect to reviewing the report and had based his thoughts on a simple formula: The CDIP would be able to challenge reports, comment on reports, make adjustments to activities for the next ten to 20 years. Everything would not necessarily have to be done now, the CDIP therefore would not need to get it all perfectly right immediately, and the essential element to get right at that point in time was the implementation of all 45 adopted Recommendations. He added that in the following year, 80 per cent of all time would be spent on reviewing reports and dealing with reports. However, at the time and in the following session, he would submit that 90 per cent of the time should be spent on implementation and addressing the recommendations to be implemented. The Chair reiterated that he was not discounting the importance of critically looking at reports and that there were several years in which to do so. However, if the Committee wanted to see the recommendations implemented sooner rather than later, then it would need to spend most of its time in that area and therefore less time reviewing reports. He expressed the hope that the Committee would understand and sympathize with his sentiment and encouraged the Committee to utilize the time that day as effectively and efficiently as possible. The Chair further emphasized the fact that there were experts present that day and that some of them would need to leave and come back since they had other responsibilities to attend to. He implored Member States to be brief with their questions, as well as the experts with their responses, with the understanding that the Committee could always come back to these reports in the future. The Chair concluded by asking the Director General to make a few comments.

98. The Director General recalled the fact that April 26 was World IP Day and that, although it fell on a Sunday in the current year, it was still celebrated by the Organization. He stated that the day on which he was actually speaking, April 28, was the occasion of another celebration, namely the 200th Anniversary of the First Brazilian Patent Law, because it was on April 28, 1809, that Brazil had passed its first Patent Law. The Director General elaborated that it was quite a pioneering law, since it was only the second Patent Law in the world which accorded similar treatment to foreigners as was given to nationals. That of

course, he added, was the foundation of the principle of national treatment, which in turn found its way into the Paris Convention when it was concluded in 1883, and Brazil, therefore, became a founding member of the Paris Union which was established under the Paris Convention. The Director General concluded by extending his congratulations to Brazil on that occasion.

99. The Delegation of Brazil thanked the Director General for recalling that occasion which was indeed a very important date for Brazil. The Delegation stated that Brazil was holding a seminar that week in Brasilia, with the support of WIPO, to celebrate the occasion. It thanked the Director General for giving it the opportunity to mention the seminar and apologized for being a little self-congratulatory regarding Brazil, but it was important to note that Brazil had always been involved in multi-lateral negotiations. It added that multi-lateral negotiations had been the main aspect of Brazil's foreign policy and, since its independence in the eighteenth century, Brazil had had the tradition of participating in any multi-lateral discussion and had been in favor of multi-lateral institutions. The Delegation underscored that the participation of Brazil in the negotiation of the Paris Convention had been done during the reign of the Empire of Brazil and that it had only been one or two years later that the Republic was installed. Nevertheless, all treaties signed before the entry into force of the Republic had been enforced again and were respected by the new regime. It concluded by saying that the occasion was a very important one, for not only was Brazil a founding member of the Paris Convention, but also a founding member of the IP system, and it was very proud of that.

100. The Delegation of Senegal conferred with the Chair's opinion on the pace of the work the previous day. The Delegation underscored the importance of significant items not being overlooked or sidelined based on time constraints and given that the introductory remarks of the Chair were exactly in line with members of the African Group, it was contented that the work of Committee could indeed proceed as efficiently as possible. The Delegation further added that it believed that was a general acceptance of the need to move a little faster through the recommendations and so as to identify what was critical, either in the way of a comment or a question, bearing in mind that one could always come back to those reports in the future.

101. The Delegation of Egypt thanked the Secretariat for the elaboration on point 10 of the initial working document with regards to Recommendation 1. The Delegation recalled that the Secretariat had mentioned that there were two aspects to the issue. The first one was the preparation of a document containing a description of legislative assistance with regard to public policy and development. In this regard, the Delegation pointed out that the Secretariat had opted against producing this document, bearing in mind that work had been done in other instances on that issue. The Delegation believed that a compilation of the work done in the field would enable the Committee to take a more concrete look at WIPO's work on legislative assistance with regard to public policy and development. With regards to the second issue about options for flexibilities available under the TRIPS Agreement, the Delegation said that it was its understanding that a working document had been elaborated and enquired about the possibility of having access to that document as it evolved, in order to consider how it could be further developed with points being raised by some Member States. The Delegation concluded by requesting that reference be made to the issue in document CDIP/3/5 in order not to lose track of it as the Committee progressed.

102. The Delegation of Costa Rica wished to focus more on implementation. With respect to Recommendation 1, the Delegation believed that the situation it was addressing would also have an impact on how each one of the recommendations would be implemented. It stated

that the previous day it had noted that in Recommendation 1 on page 2, reference had been made to the importance of implementing projects. In the first place, that was an important item on the Agenda, and secondly cooperation should be seen as a project with a life cycle, a beginning and an end. The Delegation added that there seemed to be a difference in the cooperation referred to in the Recommendation under consideration and although it was grateful for the Secretariat's explanations, it noted that there was a tendency towards a systemization of activities. The Delegation stated that it was important for projects to be adapted to the needs of each country. However, it did not see this aspect being elaborated in the projects. The Delegation further stated that in Costa Rica, an IP audit was being carried out, but that was merely an activity and not a project. Costa Rica had been looking forward to an initiative as a follow-up to the IP audit for the past three years but, to date, there had been no follow-up initiative. The Delegation concluded by underscoring the words of the Director General that cooperation needed to be seen as a project and therefore a project plan needed to be drafted together with the country concerned. It believed that this statement was valid for all recommendations.

103. The Delegation of Argentina enquired from the Secretariat as to whether the questionnaire had been updated after the adoption of the Development Agenda, so as to include questions relating, for example, to the use of flexibilities of the IP system.

104. The Delegation of Brazil praised the work of the Secretariat in the field of exceptions and limitations and flexibilities. It underscored the importance it attached to the issue of flexibilities and elaborated that one of the main cultural changes that the Development Agenda had introduced into the Organization was a broadening of the focus of technical assistance activities, so that WIPO in its legislative assistance would present countries with a range of possibilities with respect to the amendment or adoption of a law. For example, it added that if a country had a certain obligation to implement, the Secretariat's assistance would also consist of explaining the flexibilities under TRIPS in that context. The Delegation concluded that it agreed with the statement made by the Delegation of Egypt that the Secretariat should make the document being prepared on flexibilities available to Member States.

105. The Delegation of Ecuador congratulated the Chair on his re-election and the good work he had been doing to achieve progress in the work of the Committee. It also thanked the Secretariat, in particular the Director General, for the documents and the constructive spirit in which the implementation of the Development Agenda was taking place. The Delegation referred to document CDIP/3/5, and in particular to the information under Recommendation 14 which identified a national seminar on the use of IP flexibilities in the area of health. It added that following a roundtable and during a Seminar in Ecuador, there had been discussions on a working document on flexibilities in the TRIPS Agreement. Similar to the delegations of Egypt and Brazil, the Delegation of Ecuador believed that such a document should be included in the official discussions in the work of the Committee. The Delegation expressed its wish to see work stepped up in the area of competition policy and the use of flexibilities.

106. The Delegation of Indonesia congratulated the Chair on his re-election and the Director General for the documentation provided, as well as the previous day's briefing on Recommendation 1. The Delegation sought clarification on: (a) How WIPO intended to set the measures of the national IP plans and strategies while taking into account the different levels of development of Member States, especially given that in their view, national IP plans

and strategies should not be a 'one size fits all' approach; and (b) Given that Recommendation 1 referred to timeframes for completion, why were no timeframes mentioned in the matrix provided.

107. The Delegation of El Salvador re-emphasized what had been said previously with regard to Recommendation 1. It stressed that El Salvador had received significant inputs with regard to planning and strategy on the subject, and had developed activities with the support of the office for cooperation with Latin America and the Caribbean. The Delegation associated itself with the statement made by the Delegation of Ecuador. It thanked WIPO for the organization of the seminar on the use of competition policy and flexibilities, and its input into all the activities. The Delegation reiterated that the working document on flexibilities would not only be important for discussions in the CDIP, or any other committee in the Organization, but also directly important for El Salvador. It advocated the need for such information by developing countries.

108. The Delegation of India thanked the Secretariat for the detailed replies to its queries. The Delegation requested clarification from the Secretariat with respect to the contents of the advisory tools provided to countries under the national IP plans and strategies program, and the review or evaluation mechanism being worked out by the Secretariat.

109. With respect to the process of developing IP strategies, the Secretariat stated that it was basically a process that was demand-driven and that it was the requests from countries that enabled the Secretariat to set the process in motion. It agreed that a project approach should be used and noted the comments made for the development of a project. In that context, the Secretariat mentioned the on-going project in Mauritius. The Secretariat then addressed the question from the Delegation of Argentina on the various tools used. It recalled that it had made reference to the IP Audit Tool and a number of questionnaires that had been developed by the Secretariat relating to the issue of strategic planning. Referring to the document CDIP/3/INF/2, Annex IX relating to Recommendation 10, which dealt with the question of the tool-kit for IP strategy and planning development, the Secretariat stated that the tool-kit would become more comprehensive, coherent and robust since the information collated from the various entities in the Organization that had produced similar tools would be systematized. It further added that an analysis would be carried out so as to identify the gaps present in the various documents and come up with a tested methodology that would assist in providing a rigorous means of elaborating IP strategy and plans for the countries making such a request. The Secretariat confirmed that the document that had been developed so far, for example, the IP Audit tool, even though it did not contain specific paragraphs on flexibilities under the chapter dedicated to the laws, had a provision for such questions since questions regarding flexibilities were confidential and based on specific requests from countries. Such requests would open the door for engaging in discussion relating to that kind of flexibility the country would want reflected in the strategy to be put in place. The Secretariat expressed the hope that new tools in the future would definitely include the dimension on flexibilities since it would be an Organization-wide tool and there would be discussion with the sectors involved in flexibilities. The Secretariat addressed the point made by the Delegation of Indonesia and stated that the Recommendation itself foresaw the need for IP development strategies to be customized to the needs of the country and thus an approach which reflected the level of development, the gaps, and the constraints facing the considered country. With respect to measuring the impact, the Secretariat stated that the tools would also be used for benchmarking. It also referred to a study that was ongoing with the use of external consultants. The Secretariat further elaborated that in respect of timeframes for completion,

there were some set clauses in the IP strategy that was put forward, on average two to four years, all in accordance with the principle that there was no “one size fits all”. The Secretariat concluded that it had taken due note of the request made by the Delegation of India pertaining to the advisory tools and valuation mechanism and that information in that respect would be made available shortly.

110. The Delegation of Angola enquired as to the kind of activities carried out by the Secretariat in Portuguese speaking countries. In that context, the Delegation suggested that WIPO considered more usage of the Portuguese language so as to have greater participation from Portuguese-speaking African countries.

111. In response to the Delegation of Angola, the Secretariat emphasized that the report did not encompass all the activities of the Organization. There were a number of activities carried out in Lusophone countries in the previous year and mentioned the Ministerial conference for Lusophone countries held in April 2008. The Secretariat added that there were also various activities held in the context of a Patent Database in Portuguese and there was a regular cooperation plan which had been approved by the Ministers in Lusophone countries. The Secretariat reiterated that the activities in question were reported with respect to specific recommendations of the Development Agenda and, as such, did not cover all of the technical assistance and capacity-building programs. It assured the Delegation that the absence of an activity from the report did not mean that it was not taking place.

112. The Delegation of Brazil supported the statement of the Delegation of Angola and stated that linguistic differences amongst countries should be taken into account when providing and delivering technical assistance. In the case of the Portuguese community of countries, the Delegation underscored the fact that Portuguese was not only an official language in the General Assembly but also an official language in the Patent Cooperation Treaty (PCT). The Delegation welcomed the statement made by the Director General with respect to the activities that were being carried out for Lusophone countries and encouraged the Secretariat to engage in discussion with its Delegation so as to explore other possible activities.

113. The Delegation of Algeria raised a question with respect to the television program for raising awareness of the importance of IP for Development in Sri Lanka. The Delegation enquired as to the nature of the programs, the achievement of the program’s objectives and where one could find out about the results of the initiative. The Delegation elaborated that in its efforts to promote IP *vis-à-vis* the general public on the World IP Day, Algeria was organizing open house days for the public in relevant institutions and therefore wished to know of other practices from which the country could benefit. The Delegation then made reference to document CDIP/1/3, paragraph 10, which referred to the holding in 2008 of an international conference on the creative industries. In that context, the Delegation wanted to know whether the conference actually took place since said document did not reflect the event.

114. The Delegation of South Africa stated that its question regarding Recommendation 3 was also somewhat linked to Recommendation 4. The Delegation added that reference in Recommendation 3 to three training programs organized on the Strategic Management of IPRs did include one which had been organized in South Africa the previous year. The Delegation was pleased to see that there had been 52 participants from developing countries attending the course which was evaluated as ‘outstanding’. It underscored its contentment

with the positive results obtained and confirmed that South Africa was in the process of arranging a second one with the WIPO Worldwide Academy (WWA) on the IP Strategic Management course. The Delegation sought clarification based on the comment of the Director General on the Program and Budget, as to whether an activity similar to the one on the Management of IP Assets, was still in existence. In its opinion, especially in the light of comments made by delegations of other developing countries, it was important to find a way of continuing those programs. With respect to the Masters Courses in IP courses that were provided and the corresponding 100 degrees and certificates awarded, the Delegation sought clarification as to which percentage were actually graduates from developing countries and for which specific programs, and whether the Masters was a distance-learning course or an actual Masters course.

115. The Delegation of India made two comments with respect to the implementation of Recommendation 3. The Delegation stated that given that less than 5 per cent of global IP assets laid in the hands of developing countries and LDCs, the traditional focus of WIPO on promoting, protecting and better enforcing IPRs were not directly relevant or important to developing countries and LDCs. It added that reference to promoting a development-oriented IP culture, which was the basic objective of the Recommendation in question, would imply that the focus should be on educating countries as to what IP was about and how a strategic IP policy could be dovetailed into national development policy goals, utilizing the policy space and flexibilities available, whilst keeping in mind specific developmental status of a country. The Delegation further added that the progress/achievement column under Recommendation 3, however made no reference to development orientation. In particular, as it pertained to support given to the National IP Office of Sri Lanka and the 22 sessions of regional and inter-regional seminars held in developing countries and LDCs, the Delegation questioned whether the focus should not be more on what was really important to the developing countries and LDCs. The second comment, the Delegation of India stated was similar to the comment made earlier by the Delegation of South Africa. The Delegation welcomed reference to the three training programs organized on strategic management of IPRs which, it believed, was what developing countries and LDCs needed. It also referred to the Executive and Research Program of the WWA which was evaluated as outstanding, adding that out of the nine sessions held, two were held in India, and the total number of participants was 256, of which 65 per cent came from developing countries. Its understanding was that the sessions were on a fee-based participation and that a surplus of 0.15 million Swiss francs had been made and subsequently channeled to offer discount tuition fees for developing countries. The Delegation believed that both the approach and the program were excellent. It underscored that outstanding views on the usefulness of the program to India had been received and that in fact India had requested that another session or a series of sessions be organized in 2009. The Delegation expressed its disappointment with respect to the possible discontinuation of the program and requested the Secretariat to review its decision and reinstate the program.

116. The Delegation of Nigeria believed that with respect to Recommendation 3, what needed to be clearly reflected was the idea of a development-oriented IP culture, which in its opinion was not the case when reading the report in question. The Delegation referred to the statement made by the Delegation of India with respect to the theoretical and practical training in the protection and administration of IP, and advocated a need for coordination at the national level in order for the whole IP culture concept to be brought on board and achieved. The Delegation further reiterated the lack of coordination at the national level with respect to recommendations 1 and 2 and gave an example of a request coming from a national

body. It elaborated that a request that was received by the Secretariat from a national body provided no assurance to the Secretariat that the institution in question was coordinating with the national focal point for IP. The Delegation concluded by emphasizing the need for coordination amongst agencies and the IP focal point at the national level and commended the Chair for placing importance on the issue.

117. The Delegation of Indonesia thanked the Secretariat for having organized a training course for diplomats in the field of IPRs, in collaboration with the Centre for Education and Training, and Indonesia's Department of Foreign Affairs. The Delegation stated that the course had been conducted twice in the last two years, 2008 and 2009, and that those courses were regarded as very relevant and outstanding by participants. It added that the course had targeted not only Indonesian diplomats, but diplomats from the Asia, Africa and Association of South East Asian Nations (ASEAN) as well. In view of the usefulness of such an activity, the Delegation requested WIPO to make the activity a regular one. The Delegation underscored the importance it placed on education, as one of the key factors of development. It expressed its appreciation for the three distance-learning programs conducted in a number of countries and believed that the Masters Degree Programs should be widened into a full distance-learning program with affordable tuition fees, particularly for developing countries and LDCs. The Delegation concluded by informing the Committee that with the assistance of WIPO, Indonesia was going to launch an IP-IT Academy in Jakarta in early May 2009.

118. The Delegation of Uruguay congratulated the Chair and Vice-Chairs on their election and thanked the Secretariat for the documents provided. With respect to Recommendation 3, the Delegation referred to page 5 of the document in question which mentioned the participation of 23,500 people in WIPO's distance-learning courses. The Delegation assumed that the reference on page 5 was to various types of courses and enquired as to whether those courses had been brought into line with the crux of the recommendation concerned, so as to incorporate the notion of IP training designed to promote development.

119. With respect to Recommendation 3, the Delegation of El Salvador referred to the introduction of IP at various levels of training and education and enquired from the Secretariat as to the specific issues of university-related projects. It added that El Salvador was very interested in the introduction of IP not only into university programs, but also into primary and secondary education curricula. In that context, the Delegation wanted to know whether the university program was in the portfolio of the WWA. It stated that a very successful university project had been carried out in El Salvador and that it would be interested in finding out whether the university initiative was still being continued by the WWA. On the question of promoting IP, small and medium-sized enterprises (SMEs) and related issues, the Delegation stated that El Salvador was working on a project with SMEs, which was currently in a very early stage. It added that the country had received a significant amount of assistance from the LAC Bureau and that it was very pleased with what had been achieved to date. With respect to awareness-raising for the judiciary and government officials, the Delegation stated that WIPO and the national office for the Judiciary were working together on a six-month program for training public prosecutors and judges in the filed of IP, which had been quite a successful experience. The Delegation believed that it would support continuing such activities based on that positive experience.

120. The Delegation of Kenya noted that generating public awareness about IP was critical to the African countries, emphasizing the importance of raising IP awareness among all sectors. However, the Delegation remarked that of the activities carried out under the

Recommendation 3, with the exception of programs for diplomats in Egypt, nothing had taken place in Africa, more particularly in sub-Saharan Africa. The Delegation called for an increase in awareness-creation activities in Africa, for instance, the replication of the Sri Lanka activities in Kenya. As regards introducing IP at different academic levels, the Delegation thanked the WWA for the activities carried out, and stressed the need for emphasis to be given to IP for SMEs and specialized research institutions and not only to academic institutions. It further added that focus should be given to specialized institutions dealing with green innovation.

121. The Delegation of Thailand congratulated the Chair on his re-election and thanked the Secretariat for the very elaborate documentation. The Delegation agreed with the statement made by the Delegation from India with respect to the lack of understanding among developing and LDCs of the relationship between economics, development and business uses of IP, rather than the strong enforcement aspects. The Delegation was therefore of the opinion that the issue should be addressed in IP awareness-building programs. The Delegation noted that in one of the activities under the project in question, WIPO had already recognized the importance of the management and economic aspect of IP. However, it encouraged the Secretariat to place more emphasis on the management and economics aspect of IP in developing future curricula and to make those curricula available to various countries in order for other trainers to benefit from it. It added that WIPO should capitalize on its wealth of experience in dealing with different countries when developing the content of the curriculum and endeavor to reflect the benefit of IP to the economic and management development.

122. The Delegation of Trinidad and Tobago made reference to the goal of introducing IP at different academic levels, and stated that it had taken note of the Director General's remarks that listing the training and support was not exhaustive of all that was provided by the Secretariat. However, the Delegation was concerned on the issue of the provision of training on strategic management of IPRs, under the executive and research program of the WWA, which apparently had been brought to an end. In light of the outstanding evaluation accorded by the participants to these programs, the Delegation sought clarification as to whether the Secretariat might have considered or developed alternative modules for delivering said training and support and, if so, in what timeframe it could be delivered.

123. The Delegation of Brazil referred to the issue of introducing IP at different academic levels and stated that it was important to note that some of the programs listed seemed to have been implemented a long time before the Development Agenda had been negotiated and approved. In that connection, the Delegation wanted to know whether adjustments had been made in the curricula of the masters and other programs in order to bring them in line with the 45 agreed Recommendations. With respect to the Roster of Consultants, the Delegation requested more information related to programs be linked to it.

124. The Delegation of Italy congratulated the Chair on his re-election, thanked the Secretariat for the documentation, as well as the Director General for his personal engagement in the exercise. The Delegation referred to the interventions of the delegations of South Africa, Uruguay and Brazil and emphasized that the Master of IP Law program provided by the University of Turin and which the Government of Italy had financed for the past eight years, required that 50 per cent of the participants came from developing countries, of which two thirds mainly came from LDCs. The Delegation added that the course was jointly organized by WIPO and the Government of Italy and that there had been adjustments

in the curriculum. The Delegation cited the example of the previous annual Conference on IP matters organized in the context of that course, which had focused on the Development Agenda. The Delegation of Italy concluded that it believed that example was a crucial activity for implementation of Recommendation 3 of the Development Agenda and encouraged other Member States to engage in similar bilateral activities.

125. The Delegation of Egypt expressed its concern that the implementation strategies of http://www.wipo.int/meetings/en/doc_details.jsp?doc_id=127156 Recommendation 3 might not actually capture the essence of a development-oriented IP culture. The Delegation quoted from the middle of the explanation on the implementation strategy and stated that imparting a development-oriented IP culture encompassed more than involving various stakeholders and required an examination of IP *vis-à-vis* public policy priorities and the level of development. The Delegation believed that a revision of the strategy was required so as to reflect in a more qualitative manner the important substantive elements of imparting a development oriented culture. With respect to the increase in human and financial allocation, the Delegation raised the question of whether what had been presented in the activities allowed for an analysis of an increase or not. It added that on the issue of introducing IP at different academic levels, an important vehicle was the WWA in that context and, as such, the Committee needed to specifically see whether there was an increase in resources to the WWA in order to enable it to undertake some of the activities indicated. The Delegation then referred to the comments made by the Delegation of Italy and enquired as to whether the Master of IP Law programs was still ongoing, whether there would be any revision to the program and expressed the hope that it would continue. The Delegation of Egypt referred to the number of 23,500 participants of the Distance Learning Courses and stated that although the figure was quite substantial, the Delegation would prefer to have more details as to, for example, how many of them were Arabic speaking, were the users satisfied, and were the objectives achieved?

126. The Delegation of Angola referred to the document in question as it pertained to the programs for diplomats held in Indonesia and Egypt. In that context the Delegation was interested in knowing what region was being referred to, from where the diplomats who had attended the programs were, and whether in future courses for other regions and sub-regions could be considered for such a program. The Delegation further referred to page 5 of the document which referred to 22 sessions of regional and inter-regional seminars, and pointed out that given the seminars were apparently conducted in French, Spanish and English, whether it would be possible to consider organizing seminars in Portuguese as well. With respect to the fellowships and the indication on page 6 that 700 people benefited from them, the Delegation requested clarification as to the criteria used for deciding who exactly would get those scholarships or fellowships.

127. The Delegation of Romania stated that it could positively confirm the examples of activities involving Romania did indeed take into account the level of development of that country and its specific priorities. The Delegation reiterated that Romania had recently become a member of the EU, and that being so, the priorities for IP had changed. It added that Romania was currently formulating its second strategic plan 2010 to 2014, and that in the field of IP it had new objectives, new measures and new action plans. With respect to Recommendation 3, the Delegation sought clarification on the towns or countries in which the sub-regional Symposium, referred to on page 5 of the document was held. The Delegation then referred to page 7 on the document in question and addressed studies on the economic contribution of creative industries. It stated that a study had been completed in Romania and

probably there should be a distinction made in the document between studies that were initiated and those that were concluded.

128. The Chair invited the Director General to speak on the subject under discussion. The Director General stated that it had been an extremely interesting discussion. He confirmed that note had been taken of all the requests and comments and that they would be taken into account. The Director General stated that he would confine himself to four comments following the discussion and would hope to provide answers to one or more very specific questions. His first comment addressed the issue of how to deal with such reports in the future, bearing in mind that it was not a report on all of the activities of the Organization, but rather a report on those activities that had been undertaken with particular emphasis on the recommendation of the Development Agenda that was being addressed. In that connection the Director General believed that the help of the Member States would be required and, that Egypt had made a very valid comment that perhaps more focus should be placed on the recommendation in the reporting so as to provide more granularity to the information. The Director General added that he also believed that a catalogue of every single activity that had been undertaken by the Organization was not what the Committee wanted and would not be the most helpful way to advance the work of the Development Agenda. The Director General was of the opinion that it was necessary to find a means of reporting that would capture the essence of the activities undertaken for a recommendation and that of course satisfied the Member States. The Director General suggested that what was required would be a means of interaction which enabled Member States to monitor the Secretariat's program and activities with respect to the implementation of the Development Agenda and those recommendations. With respect to comments made by some delegations, for example, South Africa, India and Egypt, concerning strategic management, the Director General drew the attention of the Committee to the distinction between the structure of the organization and the activities to be carried out. He added that if there were no longer a section, that was called executive research, it did not mean that the activities were discontinued. It simply meant that the method of organizing within the Secretariat, the activities and the program in the WWA had been, for various management and resource allocation reasons, organized in a different manner. He emphasized that the Organization was quite happy to continue and indeed there was in the current month an executive program that would continue. The Director General added that the activities in the executive program conducted in Geneva, which had ceased, were fee paying courses, roughly 2,000 to 4,000 Swiss francs per course, and that it was thought that for that price there were ample courses, for similar prices or less, offered in many, many institutions around the world. He assured the meeting that as far as developing countries were concerned the Organization would be very keen to continue that particular activity. With respect to the participation of developing countries in the programs, the Director General stated that although he could not give specific statistics then, he could say that most of the participants of those programs were from developing countries and that a vast majority of those degrees went to nationals from developing countries. He recognized, however, that Member States were looking for more granularity of information on the matter and stated that he would ask his colleague in-charge of the WWA to provide supplementary information on the matter. The Director General in his fourth comment addressed the university initiatives referred to by the Delegation of El Salvador. The Director General clarified that university initiatives were never conducted by the WWA in the past. He added that university initiatives were now the responsibility of a new section, the Patent Law and Policy Division, which was also responsible for innovation and technology transfer, where we were seeking to give more emphasis to the question of technology transfer. The Director General underscored the focus of that Division on the transfer of knowledge from university

or treasury institutions to the commercial sector including the legal tools and instruments pursuant to which that transfer would take place.

129. The Secretariat addressed the question posed by the Delegation of South Africa with respect to the degrees and certificates and reiterated that most participants to the programs, came from developing countries as had been mentioned by the Director General. The Secretariat stated that the Academy had been organizing a Master of IP Law Program together with the Turin University, and with the support of the Government of Italy on an annual basis. Every year, some 40 students were admitted and 20 of which received scholarships provided jointly by WIPO and by the Government of Italy. The Secretariat reassured the meeting that the recipients of scholarships were in fact from developing countries and LDCs and that other sources of financing were available to self-financed participants. The Secretariat mentioned that the Academy had launched a Masters for IP Program together with African Regional Intellectual Property Organization (ARIPO) and African universities and that so far 20 scholarships had been granted to developing countries' participants. The Secretariat reported on the joint program with the University of South Africa (UNISA), in which every year 40 scholarships were provided to participants from developing countries. With respect to the question on distance-learning programs offered by the WWA asked by the Delegation of Uruguay, the Secretariat explained that 23,500 participated in that course. The course included a general course on IP available in seven different languages, namely, Arabic, Chinese, English, French, Portuguese, Spanish and Russian; four specialized courses; an advanced course on IP and TK, an advanced course on IP and E-commerce; and an advanced courses on copyright, patents and trademarks. In response to the question from the Delegation of Brazil as to whether the Masters program had been modified to accommodate the Development Agenda considerations, the Secretariat responded affirmatively. The Secretariat added that it fully agreed with the intervention by the Delegation of Italy, which highlighted the annual updating of the curriculum content, new information including that on the Development Agenda. With respect to the question from the Delegation of Egypt, the Secretariat confirmed that the Master's program was ongoing and stated that in 2008, three new programs had been launched. The realignment process of WIPO had made the education program one of the main focus areas of activities of the WWA. The Secretariat also stated that it would be happy to provide information to Member States on the number of participants, nationalities, and languages of participants. In addressing the question from the Delegation of Angola the Secretariat stated that although three languages were mentioned with reference to the course which took place in Geneva, it wanted to assure the Delegation that different courses had been organized in different countries for Portuguese speaking participants. There had been a joint program organized by WIPO and the Portuguese Industrial Property Institute (IMPI) which had taken place over a two-week period in Lisbon. On the question of the 700 scholarships for distance-learning courses, the Secretariat clarified that these were granted to government officials from developing countries and that scholarships were also available to them for specialized advanced distance-learning course.

130. Reminding that the Committee had so far discussed only two of the 19 Recommendations, the Chair expressed the hope that the Committee could move on to Recommendation 4. He also stated that as the work progressed, it may be noticed that some of the issues of later recommendations would have been covered.

131. Commenting on Recommendation 4 in the progress report, the Delegation of South Africa emphasized the importance of SMEs for South Africa and for developing countries. The Delegation stated that although that Recommendation put emphasis on SMEs,

the document in question did not quite reflect that emphasis, in particular, in terms of achievements and progress with respect to SMEs. The Delegation sought clarification with respect to activities for creating greater awareness. More specifically the Delegation wanted to know whether there were practical activities or workshop, what the activities entailed and how they were linked to the progress and achievements in terms of effectively managing IP assets and increased knowledge and awareness. The Delegation further sought clarification on the survey that was initiated through a needs assessment questionnaire for SMEs and enquired whether it could obtain information on the outcome of the survey, the answers to the questionnaires and also which countries responded. The Delegation stated that in case South Africa had not yet responded to the questionnaire, it would be appreciative for an opportunity to respond immediately. The Delegation underscored the need for the strategy for SMEs to be highlighted and strengthened in particular in the light of a work program for SMEs under the Development Agenda so as to include more practical examples and experiences at the national level.

132. The Delegation of India noted the example of the activity given with respect to the progress and achievement under Recommendation 4. The Delegation underscored that increasing the knowledge and awareness of SMEs on the benefits that could be derived from effectively using and managing their IP assets was indeed very important for developing countries, including India. The Delegation requested that its appreciation be placed on record and enquired as to the mechanism the Secretariat had in place for obtaining feedback on the effectiveness of those programs. The Delegation's enquiry was made with a spirit that implied continuity to the process. It believed that there was always scope for improving the programs and as such feedback was a very important tool to that end. The Delegation then addressed the point raised by South Africa with respect to a survey conducted on the SMEs sector. Given that 68 countries responded to the survey, the Delegation thought that the survey could be a valuable source indicating the reality on the ground with respect to IP services to SMEs by IP Offices. It added that the nature of the exercise would imply that there had been an intention to evaluate the database, coming to some conclusions about the findings and factoring it in as an input to the future work programs. In that context, the Delegation enquired as to how the findings of the survey had been used by WIPO's Secretariat in creating future action plans. With respect to the studies carried out on the economic contribution of copyright based industries, for policy making and analysis of the creative sector, the Delegation asked whether any follow up had been envisaged for those Studies and if they would finally be used for creating national creative industry strategies.

133. The Delegation of Brazil underscored the importance that it attached to the SMEs and the relevant role, in its opinion, to be played by WIPO in what it considered to be the particular SME perspective. The Delegation believed that it was very positive to have an SME approach within WIPO as they considered SME issues to be cross-cutting in nature. It added that SMEs had a relationship with trademarks, copyright and even with patents, in certain special cases. Therefore, from the perspective of the Delegation of Brazil, SMEs had a fundamental role to play in promoting IP utilization in developing countries. In that context, the Delegation encouraged the Secretariat to carefully look at various possibilities as to how SMEs could engage in open innovation models or in collaborative research models. The Delegation gave the example of SMEs in Brazil that had adopted open innovation licensing schemes when developing software. Those SMEs considered themselves to be service providers, and the open innovation models and open source software innovation schemes were conducive to their role. The Delegation concluded by supporting the activities developed by WIPO in the field of the SMEs. The Delegation of Brazil stated that in Brazil,

there were several supporting Organizations for SMEs such as the SABRAI. However, the Delegation believed that WIPO could be instrumental in the mainstreaming of IP in the context of the promotion of SMEs.

134. Referring to its earlier question concerning Recommendation 3, the Delegation of Uruguay sought clarification on how the content of the distance-learning program had been brought, or would be brought, in line with Recommendation 3 regarding IP and development.

135. In response to the question from Uruguay, the Secretariat stated that there was no specific course in the distance-learning program entitled Intellectual Property and Development. However, relevant content could be found in the various courses with the same purpose. The Secretariat expressed its willingness to discuss with Member States their needs which could be incorporated in new courses.

136. The Delegation of Pakistan expressed its appreciation for the work being done by the SMEs Division. The Delegation sought clarification on what was done with the needs assessment survey to which 68 Member States had responded to; whether the survey had been incorporated into national IP strategies. The Delegation also enquired as to the strength of the SMEs Division and whether it was adequately staffed to carry out the activities to be undertaken.

137. The Delegation of Nigeria commended the Secretariat for the emphasis placed on SMEs and pointed out that it may be useful to make the results of the survey available to all Member States. The Delegation sought further clarification with respect to the Secretariat's response to the survey's feedback *vis-à-vis* the reality on the ground, and inquired if there were assessment guidelines that had been developed, and whether they could be made available to all Member States. The Delegation further inquired from the Secretariat whether it could provide information on the evaluation of the surveys and how it was utilized in order to achieve the objectives of Recommendation 4.

138. The Delegation of Algeria referred to the 'Guide on Intellectual Property for Small and Medium Sized Enterprises' and asked in what languages the guide existed and whether it could obtain two copies. The Delegation further reminded the Chair that it had previously asked questions related to Recommendation 3, on the television programs, their content and objectives, and the conclusions of the International Conference on the Creative industries which took place in Geneva in 2008.

139. The Secretariat stated that the television program that had been implemented in Sri Lanka, was part of a project with the financing of the European Union. The Secretariat added that the television program consisted of six modules, of which two had been implemented. The programs which had been broadcasted live, discussed a specific subject with the participation of three panelists and a moderator. The viewers had participated by fax or mail. The Secretariat stated that the two main programs that had been broadcasted so far, were about IP in general and IP and Business. It also stated that the feedback received so far had been quite positive, which demonstrated a keen interest in learning about the whole IP system and could be beneficial to a country.

140. The Delegation of Indonesia expressed its support for the strategy to enhance the capacity of SMEs and SME Support institutions in various regions and countries through the training of the trainers programs. It believed that it was one of the important endeavors

through which the engine of development could be continuously enhanced. The Delegation underscored the importance that Indonesia attached to the role of SMEs in economic development and recalled the resilience of SMEs during the economic crisis in South East Asia in the late 1990s. The Delegation expressed its support for WIPO's work with SMEs and suggested that the sharing of best practices of SMEs in using IP, particularly in developing countries and LDCs would be useful for other SMEs in increasing their awareness, and at a later stage, the performance of their businesses. In that connection, the Delegation stated that it would be useful if the SME strategy were in line with their needs and requested the Secretariat to carry out a systematic assessment of the IP needs for SMEs. With respect to the strategy for creative industries, the Delegation thanked WIPO for organizing an International Conference on IP and Creative Industries in Bali, in December 2008. It stated that the Conference had attracted hundreds of international participants and provided greater awareness of the subject to policy makers and other related stakeholders in the field. The Delegation confirmed that it was working with two WIPO experts with regard to the study on the economic contributions of creative industries and it hoped that the study would help guide the relevant stakeholders in enhancing the creative industries in the country.

141. The Delegation of Italy started by saying that it would be impossible for its Delegation not to take the floor given that Italy had been a major partner, had benefitted from, and had been a major supporter of the SME Division's work for developing countries since its inception. With respect to the implementation of Recommendation 4, the Delegation referred to a Seminar aimed at assisting Latin American countries to come up with national strategies in the field of IP. It added that the Seminar which would be held in Mexico, was co-organized by the government of Italy, the government of the United States of America, the government of Mexico and WIPO, and would address many cross-cutting IP issues, including geographical indications.

142. The Delegation of Thailand enquired if it would be possible to make the proceedings of seminars and workshops available to Member States. The Delegation believed that such information would be useful and beneficial to all countries. With regard to the strategy for creative industries, the Delegation noted that there was a training course for four categories: creative enterprises, musicians, film makers and the advertising industry. In that, the Delegation asked whether it would be also possible to incorporate the strategy for the users of creative works. That would include the entertainment business, hotels, restaurants and internet users in general. The Delegation of Thailand asked whether the IP PANORAMA software would be made available in other languages besides English.

143. The Delegation of Egypt sought clarification on the creation of materials and guides in Arabic covering various IP assets for use by Arab SMEs. In that connection, the Delegation requested information on the existence and online accessibility of another such guides.

144. The Delegation of Ecuador stated that SMEs in developing countries constituted the greatest source of employment and that the importance of intellectual capital to them was often more significant than their physical assets. The Delegation believed that WIPO should focus particularly on building the technological capacity in the SMEs Division, so as to enable them to access patent and flexibility tools and better understand entrepreneurial approaches to IP.

145. The Delegation of Cambodia stated that SMEs were crucial to the promotion of IP in a country and enquired as to whether WIPO had any specific policy or strategic plan that would

help increase the utilization of IP amongst SMEs, in particular those in LDCs. The Delegation expressed its appreciation for the WIPO monthly newsletter and enquired whether there was any intention to translate the newsletter into the local language of Cambodia.

146. The Secretariat drew the attention of Member States to the overall strategy and the resources available to the SMEs Division. The Secretariat stated that currently the Division had six professionals and one secretary. Amongst the professionals three held regular posts, two were consultants, and one on a temporary post. It added that despite human and financial resource constraints, the SMEs Division over the years had created a substantial amount of business-oriented and easy-to-understand content, and publications in English. A key element of the outreach strategy had been the creation of the WIPO SMEs Website, and the SMEs newsletter, which had greatly helped in disseminating WIPO's message and content directly to SMEs and SME stakeholders worldwide. The Secretariat believed that the strategy was far more productive than the old model of responding to *ad hoc* requests of the Member States by sending a WIPO mission or organizing an event which were very resource-intensive. The Secretariat advocated the exploitation of the ICT environment in making available content and publications, not only on the Web, but also *via* the electronic medium, for example, on CD-ROMs. More specifically all content and publications that were available on the website, including the publications in the "IP for Business" series, could be downloaded free-of-charge by anyone. The Secretariat added that over the years, an increasing number of the content and publications that were created by the SMEs Division, had been translated into one or more of the remaining five UN languages. It explained that the progress in translation had been uneven because of resource constraints in the Language Service of the WIPO. For example, for the first set of publications which came out in 2003, some were still not available in all the UN languages, and that currently, a much higher percentage of the content and publications were available in French and Spanish, but less in Arabic, Russian and Chinese. The Secretariat made reference to the "IP PANORAMA Multimedia Toolkit," which was created in English, in cooperation with the Korean IP Office (KIPO) and the Korea Invention Promotion Association (KIPA). It was suitable both as a self-learning tool and a tool for training the teachers and trainers. The Secretariat stated that using IP PANORAMA for capacity building through "train the trainers" programs required an intervention of at least one week and the traditional way of doing a one-week program with a large number of international speakers, was something that WIPO could no longer afford. The Secretariat stated that the estimate for having the IP PANORAMA software in several languages was approximately 200,000 Swiss francs per language. He added that the Government of the Republic of Korea, had very graciously offered to fund 50 per cent of the cost of creating Arabic, French and Spanish versions of IP PANORAMA, over the next two to three years, to begin with. In order to do so, WIPO would have to provide 300,000 Swiss francs to match the Korean contribution. The Secretariat mentioned that WIPO had also provided 100,000 Swiss francs for making the Arabic version, which would be done through the KIPA. In 2010, the French and the Spanish versions would also be manufactured, provided that a sum of 200,000 Swiss francs was available. The Secretariat also addressed the point raised on the geographical spread, the nature and the evaluation of the activities of the SMEs Division. He explained that given the resource constraints, as a rule of thumb, the SMEs Division did not use its own resources for organizing any activity that required a substantial expense. It plugged into activities and events which were largely funded by one of the regional Bureaus of WIPO or by an external partner. This was done by only providing the international travel and accommodation expenses of the WIPO staff member or a suitable external expert. As a result, the SMEs Division had been able to contribute to a large number of such events around the world. The Secretariat highlighted that the Division also encouraged self-funded events at

the WIPO headquarters, where the participants paid for their own travel and accommodation. An annual summary of the activities, in the form of an activity report was available online from 2002 onwards, on the SMEs website, which provided a lot of granularity of information that Member States requested. In terms of evaluation of the outcome of those activities, the Secretariat stated that the key indicator included the number and the nature of the requests that were received by WIPO from the national IP Offices and the other national SME support institutions. For example, the translation or adaptation of the content and publications of the SMEs Division, especially the publication in the “IP for Business” series. Over the years, these demands had increased and currently more than 60 countries had translated or were translating, with or without national adaptation, one or more of the publications of the SMEs Division. With respect to training, the Secretariat stated that real progress could not be made on the ground in a country, if nationally adapted material in the language of the country was not available. The Secretariat confirmed that adapting publications to the national context demanded competence at the national level to do so. He added that given that the competence of an IP Office largely is confined to the registration of IPRs, when it came to business related issues and IP, it was indeed a challenge for IP offices. The Secretariat then referred to the ‘Needs Assessment Questionnaire’ that was sent to all the IP Offices of the Member States of WIPO, in April/May 2008, and to which some 68 national IP offices have responded. It stated that the remaining national IP Offices were reminded to respond to the needs assessment questionnaire on IP for SMEs, and as a result, an additional five responses had been received. It would therefore be possible to share the information received from those 71 IP Offices in a summarized form on a country-by-country basis. More importantly, the information would be an input for a project-based approach to implement a National IP Policy and Strategy for international competitiveness and economic development. It would also be used for implementing activities under the pilot projects foreseen in six countries in the framework of a project to be considered by the CDIP under another Agenda item later on in that week. The Secretariat emphasized that, given the current financial constraints, the IP needs of SMEs, that had been expressed by the 71 national IP Offices through the needs assessment questionnaires, could not be adequately addressed by WIPO in a short span of time. He pointed out that on the issue of making available the content and publications on IP for SMEs in the various UN languages, substantial progress had been made in many of the UN languages. However, the translations into Arabic had posed the greatest challenge. The Secretariat requested Member States for assistance in the identification of Arabic translation services.

147. The Secretariat referred to the question posed by the Delegation of Pakistan, on the strength of the SMEs Division and reiterated the fact that the Organization was undergoing strategic realignment and when it came to the turn of the SMEs Division, this aspect would be fully taken into consideration. With regard to the point made by the Delegation of Egypt about the creation of materials and guides into the Arabic language, it informed the Committee that it was a work in progress and regretted that fact that it was not mentioned in the document CDIP/3/5.

148. The Delegation of Thailand emphasized the importance of SMEs in developing and least developed economies. The Delegation believed that SMEs accounted for more than 90 per cent of the enterprises in developing countries. It added therefore, that it was extremely important to provide the necessary assistance, so as to ensure that the SMEs in those countries not only understood but fully utilized the IP systems. The Delegation conveyed to the Secretariat the need to ensure that the SMEs received a great deal more attention and more resources in order to facilitate not only the exchange of knowledge but

also the transfer of that knowledge down to the SMEs level. The Delegation added that it was the managers and the owners of those SMEs who made IP decisions, not the lawyers. Otherwise SMEs would not be in a position to adopt the IP strategy that was laboriously developed at the national level. With respect to the IP PANORAMA, the Delegation stated that the Secretariat was probably aware that the IP office of Thailand was undertaking the translation of the IP PANORAMA. However, the Delegation suggested that it might be simpler to amend the programs such that subtitles would be allowed, since the translation and addition of voice could be a very complex exercise. The Delegation further suggested that a similar scenario be envisaged for other national languages in order to save time and cost, and make the software available to a larger audience. The Delegation concluded by saying that the software was very easy to use and useful for SMEs.

149. The Delegation of Egypt referred to the difficulty that the Secretariat had in identifying suitable Arabic translation services. The Delegation considered it a cause for concern and believed that it should be a priority of the Arab Bureau of WIPO. The Delegation recognized that it was not a cost issue, and suggested that WIPO communicated such problems in the future through the Arab Bureau to the Coordinator for the Arab Group, so that the issue could be expedited.

150. The Delegation of India underlined the critical role that the SMEs Division played in India and other developing countries and LDCs, and stated that it looked forward to WIPO helping India make its SME sector IP savvy. In that context, the Delegation placed on record, its appreciation of the role and the initiatives taken by the Secretariat, especially the SMEs Division of WIPO. The Delegation added that given the critical role played by the SMEs in developing country economies and the expectations of the Member States, it would be happy to see the staffing and the budget of the SMEs Division reflected as such. The Delegation expressed hope that in the strategic realignment, the necessary consideration and adequate resources would be allocated in terms of staff and budget that would be made available to the SMEs Division. With respect to the findings of the needs assessment survey, the Delegation expressed its appreciation for the response given by the Secretariat of the SMEs Division, as it related to responses being coordinated for devising national IP strategies. The Delegation enquired, however, why one did not immediately use those inputs to prepare IP strategies for the SMEs Division, for the countries that had responded to the surveys, rather than wait for national IP strategies to emerge? The Delegation requested that the suggestion be taken into account.

151. The Delegation of Iran (Islamic Republic of) stressed the need for SMEs to leverage IP as a tool for development in developing countries, and stated that without SMEs, development would be more difficult or even impossible. The Delegation added that national SMEs were attached to the private sectors of the economy and as such, the value added went directly to society. The Delegation recognized that capacity building and training were key infrastructure components and it underscored its support for the approach taken by WIPO.

152. The Delegation of Trinidad and Tobago endorsed the comments made by India and other delegations with respect to the critical importance of SMEs in the process of development in all developing countries. The Delegation expressed hope that in the strategic realignment process which was in progress, that such issues would be reflected and the right balance would be found, so as to testify to it in the allocation of resources, both human and financial.

153. The Chair while expressing hope that all questions had been answered, stated that the Committee had completed three of the 19 Recommendations. Resuming the afternoon session, the Chair invited Delegates to consider recommendations 6 and 7, or if there were no comments on those two recommendations, to consider the remaining 19 Recommendations.

154. The Delegation of Egypt sought clarification on Recommendation 7. The Delegation stated that in addressing the anti-competitive aspects of IP some Member States had very advanced experiences and regularly issued compulsory licenses. The Delegation asked whether in WIPO's activities, specifically the regional seminars and training activities, an attempt was made to introduce those examples and experiences?

155. The Delegation of Indonesia, in addressing the question raised by Egypt said that it could share some of the experiences it had and also address the question by the Delegation of Egypt. Indonesia had the opportunity to participate at the seminar on IPRs and competition policy held in the Republic of Korea in October 2008. Indonesia was of the view that the said seminar was an excellent opportunity to enhance the knowledge of participants on the various issues related to the interface between IPRs and competition policy. The Delegation said that it understood that the participants also had the opportunity to listen to and learn of national experiences and best practices of the countries and the use of these policy tools. Based on the above-mentioned observations, Indonesia suggested that similar seminars could be organized in other regions. Furthermore, substance wise, the Delegation suggested that the seminars also cover the difficulties of Member States in identifying their needs on competition policy. The Delegation underlined that the policy-making process of Member States should be ultimately based on their actual needs.

156. The Chair recalled that there had been a couple of statements about national experiences, but encouraged Delegates to review the reports and recommendations. He invited Delegates to look at the recommendations, the activities, and the progress report to see if the business was following logically and advise the Secretariat in terms of the structure of the reporting, the content of the reporting so that they can improve next time.

157. The Delegation of Uruguay drew attention to Recommendation 11, page 12 of document CDIP/3/5. The Delegation stated that in the second column where the document provided examples of activities, a reference was made to an experimental three-year program based on research evaluation and exhaustive analysis of circumstances. At the end of that particular comment, it was stated that in 2000, the model was given to a lot of policy makers in developing countries and SMEs. The Delegation sought information on the presentation of this model, as it was the first time it had heard of it. As regards Recommendation 12 the Delegation stated that reference was made to facilitating the incorporation of development questions into technical assistance. Under examples of activities, the document made reference to the Development Agenda Coordination Division to affect the mainstreaming of the development dimensions into all areas of WIPO activities. The Delegation requested some diagrams illustrating this point as this Coordination Division was established recently and they did not know where the Coordination Division stood in the general structure of the Organization and what resources did it have, etc.

158. The Delegation of Kenya commented on recommendations 12 and 15. On Recommendation 12 with respect to mainstreaming development, the Delegation suggested that the example of activities could be more specific and detailed so that the essence of mainstreaming was apparent. The Delegation felt that it remained vague, and asked for more

specific and detailed examples of activities so that Member States could appreciate how mainstreaming was being achieved. With regard to Recommendation 15, the Delegation said that one of the criteria to be taken into account was consideration of a balance between costs and benefits, perhaps in the next report, an explanation should be indicated or given to demonstrate how a balance between costs and benefits was achieved.

159. The Delegation of El Salvador sought clarification on how the work of the Committee proceeded. The Delegation enquired whether the Committee went recommendation by recommendation or whether all recommendations were considered together?

160. The Chair stated that as there was no delegation wishing to speak on Recommendation 6, one delegation spoke of Recommendation 7, the floor was now open for all the remaining recommendations, i.e. from recommendations 6 to 19, any of the remaining 13 recommendations.

161. The Delegation of El Salvador, with respect to Recommendation 7, requested information on the seminars which were held on IP related competition. The Delegation stated that they were aware that all these activities were undertaken on request, but asked whether there were some projects at a regional level covering that kind of activity. The Delegation requested this information with regards to Central America where there was an Economic Integration Secretariat which looked into those kinds of issues. The Delegation further sought clarification whether there was any kind of activity planned. The Delegation then raised a question concerning Recommendation 11, which referred to promoting and enhancing the use of patent information. The Delegation wondered if patent information was available on the WIPO website and if not, it should be made available. The Delegation said they were monitoring this project very closely and as far as they were aware, it had very positive results. The Delegation further asked whether this information was in the public domain, and if not, requested to be informed as to how it could access it. With reference to Recommendation 13, particularly on the issue of TK, genetic resources and folklore, the Delegation expressed its satisfaction on the fact that there was already information available on the WIPO website. The Delegation noted that some legislative assistance had already been provided to certain countries in the Latin American region. The Delegation stated that El Salvador found that kind of information useful, and if the information was in the public domain it, would like to know where it could be accessed.

162. The Delegation of Egypt, referring to Recommendation 6, noted that the meeting had discussed the roster of consultants and sufficient discussion on that subject had taken place. The Delegation said that their interest related to the potential conflict of interests. From what had been presented it saw that there was mention of the preemptive efforts that the Organization was conducting, but there was no mention of any positive efforts to avoid conflicts of interest. The Delegation said that it was one thing to have a code of ethics and to let everybody know about it, and another to actually enforce it through the means and channels that could be pursued to put to an end the conflict of interest. The Delegation felt that this aspect was still incomplete in terms of the conflict of interest element of the Recommendation.

163. The Delegation of Brazil stated that Recommendation 7, which had measures to assist countries to deal with the interface between IPRs and competition policies should be promoted. In that sense, one of the strategies described in the document was that WIPO provided, on request, legislative advice on the use of legal options on compulsory licensing

and other measures. The Delegation suggested that the International Bureau prepare a menu of options, a list of the legal options that could be implemented by Member States at the national level, with a view to fostering a competitive and innovative environment. This initiative would allow a better understanding of the relationship between IP and competition law and how to use IP law to tackle anti-competitive practices.

164. The Delegation of India, in relation to Recommendation 6, requested that the substance of discussion on the Roster be reflected in Recommendation 6. The Delegation's understanding was that the Roster was open for suggestions by Member States and the criteria was to be laid out. The Delegation further stated that the implementation strategy for Recommendation 7 started out by stating that WIPO would provide on request, legislative advice, aimed at preventing or resolving IP-related anti-competitive practices. However, in examples of activities, the Delegation could only see seminars and asked whether it would be possible for the Secretariat to give an idea of how many requests had been received and how much legal assistance had been provided by the Secretariat.

165. The Delegation of Algeria made reference to Recommendation 6, and endorsed what had been said by the Delegation of India. The Delegation stated that they would like to emphasize the format of the list, and that Member States needed to be clearly informed about the beneficiary countries. That would mean changing the format a little, so a greater emphasis could be put on the regions, on the beneficiary countries, projects and then consultants. The Delegation explained that this would make it possible to make everything more visible and enable Member States to compare better. At the moment, there was not really a clear indication of the beneficiary countries and if that information were available, it would assist Member States in making comparisons more easily.

166. The Chair invited delegations to carefully examine all the recommendations and revert with questions or comments.

167. The Delegation of Angola, in referring to Recommendation 11 on page 16, requested more information on improved access to patent information *via* the Lusophone Internet Portal and the Lusopat Interface, and requested to know who the beneficiary countries were.

168. The Delegation of Thailand made reference to Recommendation 11, concerning the training courses on patent drafting for scientists, researchers, and stated that in examples of activities, it was proposed to hold six national patent drafting workshops. The Delegation stressed the importance of the capability of a country that is not as developed to have IP personnel who could draft patent applications, professionally enough to pass a patent registration in the rest of the world. Therefore, it wondered if it would be possible to broaden the scope of the application of these activities and have them on a regional basis, or even at a national level. At the same time, the Delegation recalled that last year they raised a question with regard to distance-learning on patent drafting. The Delegation could not remember the code number but said it appeared on the WWA website as distance-learning for patent drafting. The Delegation requested about its status and to be told if it was meant for people to learn how to draft patent applications professionally.

169. The Delegation of Egypt made reference to Recommendation 11, and the third implementation strategy on developing practical tools to assist Member States in their R&D institutions, to set-up and implement efficient technology transfer systems. The Delegation was of the opinion that the information, the examples of activities, and the progress

achievements, were not sufficiently clear in that the activities did not provide feedback on their quality. The Delegation stated that perhaps in this particular area, there would be a need to have a follow-up with the institutions referred to and a follow-up with those that have participated in the training and then judge over a period of time to see if there was actually a positive impact on technology transfer and innovation. The Delegation felt that just having a list of what had happened and how many people participated, would not really provide sufficient information about the implementation of the recommendation.

170. The Delegation of Brazil raised the point again that it wanted to have access to some studies referred to in the Roster of Consultants, specifically the one from Mr. Antonio Marcio Buainain, on the copyright-based industries, and the study from Mr. Gesner de Oliveira, on IP and Competition.

171. The Chair noted the request from the Delegation of Brazil.

172. The Delegation of Algeria made reference to Recommendation 11, which stated that a training program was provided for 400 participants on the granting of technology licenses, and that it allowed the participants to reinforce their capacity in terms of negotiating licenses. The Delegation asked why the training was limited to scientists only, as there were other populations affected, for example the rights holders.

173. The Chair responded to the Delegation of Algeria by clarifying that the word which was used before scientists should be “mainly”, but the question was still valid, and the Committee wanted to know why “mainly” scientists?

174. The Delegation of Argentina made a comment on Recommendation 14. The Delegation requested that WIPO prepared an analysis document on flexibilities. The Delegation said that when referring to document CDIP/3/5, under examples of activities, in the second paragraph of page 18, of the Spanish version, where it said “concrete examples of the implementation of certain aspects of policies on a national level, certain aspects of the TRIPS Agreement, etc.” that concrete examples were not mentioned in this document.

175. The Chair invited the Delegation of Argentina to repeat the question and also request the Secretariat to use more precise numbering within documents in the future which would make it easier to make direct references.

176. In response to the Chair’s invitation, the Delegation of Argentina requested WIPO to prepare an analysis on the implementation of certain aspects of the TRIPS Agreement. As far as the Delegation could determine, document CDIP/3/5, in the column under examples of activities stated “the elaboration of a discussion paper with concrete examples on a flexible implementation of the TRIPS Agreement and other international obligations, in order to implement national public policies”. In the Delegation’s opinion, it was not clear when the document referred to would be available, and whether it would be possible for WIPO to carry out the requested analysis.

177. The Delegation of India stated that the discussion was confused because delegates did not know exactly which recommendations were being referred to by other delegations. The Delegation was of the opinion that the discussions were more useful when the CDIP dealt with the recommendations individually, but noted the Chair’s point regarding leaving time in the session to consider other elements of the Agenda. The Delegation suggested that the

Committee should perhaps continue on an individual consideration of the recommendations that day, and the following day move to the next Agenda Item. The remaining review of implementation could be continued in the November session of the CDIP. It stated that there would be an effective review of each recommendation, the Secretariat could answer in response to a set of questions on one particular recommendation, as the meeting had done so far. This had facilitated a good exchange, respected the time constraints, and made sure the remaining Agenda Items also got considered.

178. The Chair reconfirmed that the Committee would continue to discuss the recommendations as had been done up to that point, but that if there were any real difficulties, he would change his position.

179. The Delegation of Egypt supported the intervention by the Delegation of India, by stating that it had merit, in the sense that according to what the Chair suggested, the Committee should consider recommendation by recommendation. This would allow a more productive discussion on each item. The Delegation stated that there was no focus at that time, because the Committee moved from one recommendation to the other, and that some of the issues that might have been raised, were interrupted by discussions on other recommendations. It stated that the Committee did not have as much productive use of the time available. The Delegation noted the concern of the Chair about time constraints and said that it joined the Delegation of India to set a particular time at the end of each day, no matter how much progress had been made, and begin the next day with a new Agenda Item. The Delegation said that it was more concerned about having a thorough fruitful discussion on the recommendations.

180. The Chair reiterated that any decision he made should not be interpreted to be interfering with a thorough and fruitful discussion. Delegates had asked thorough and fruitful questions and the Secretariat had given thorough and fruitful answers. The Chair did not see a problem in dealing with the bulk of the recommendations as long as the questions addressed a specific recommendation, and the response addressed that question. The Chair further stated that in terms of the broader suggestion about curtailing the discussion and moving to another Agenda Item the next day, he was fine with that idea. If there was time to go back to it, the Committee would. The Chair explained that the reason he wanted to curtail the discussion and by “curtail” he did not mean close the Agenda Item, he meant “suspend” it, because it was always up to Delegates whether they wanted to go back to it. The Chair said he would seek agreement to suspend the discussions on that Agenda Item, so that the Secretariat could do the presentation on the proposed methodology, and then the regional groups could meet and discuss the methodology in detail, so there could be a final discussion on the methodology. The Chair repeated that he was aiming to achieve the suspension of that Agenda Item that day early, and come back and have the presentation for 15 to 20 minutes, followed by 45 minutes of open discussion on the new methodology. He said that the intention was to finish by 6.00 p.m. Regional groups could meet the next morning as they normally did, and Delegates would have all the information concerning the methodology that would assist them to inform the regional discussions, so that when the Committee reconvened, there would be an open and final discussion of the acceptance of the new modalities, and finally the Committee could go into the projects discussion. He stated that if the Committee went from item to item, there could be discussions from a few delegations that had an interest in Items 6 and 7, but there could be delegations that were more interested in recommendations 35 or 37 or 42. He stated that he would not want to deny the delegations the opportunity to express their views or raise questions and that by opening the floor, it gave

everybody the same opportunity at the outset. It did not disadvantage anyone that did not want to focus on Recommendation 6. The Chair recalled that when the Committee came back into the room, his first question was Recommendation 6, and that indeed when the Committee broke for lunch, they all knew that they would resume on Recommendation 6. He further recalled that he had reopened the floor on Recommendation 6, and did not recall any further questions, so he moved to Recommendation 7. The Chair stated that there had been one question and then decided that if it progressed slowly, recommendation by recommendation, the delegations that had an interest in recommendations 30 and 37, would get the opportunity to speak, and that it was fair to all.

181. The Delegation of South Africa thanked the Chair and stated that it wanted to show support to the proposal that the Chair had summed up, and that had been raised by the delegations of India and Egypt. It suggested pausing the discussion on the issue as the Chair had suggested, and coming back to it at a later stage, and then going to the next Agenda Item later in the day or the following morning.

182. The Delegation of Trinidad and Tobago had three questions. The first related to Recommendation 7, with regard to the information on page 11, where there was an approach that dealt with IP and Competition Policy, from the point of view of legislation and workshops. The Delegation asked that before that stage, whether any consideration had been given to address the issue to policy holder advisors, for example at a Ministerial level, because they noted that legislation was being adjusted for competition policy, minus the implications with respect to IP in many developing countries. The Delegation then went on to Recommendation 11, with respect to the patent drafting workshops, and stated that some regions like the Caribbean were presently exploring the establishment of a regional administration for patents. The Delegation enquired whether these workshops were formal workshops or whether they could import them to the Caribbean, and if at the end of the workshops, a form of accreditation would be issued to the participants. The last enquiry was on the question of raising awareness on the practical and theoretical aspects of collective management, and specifically to contributions of the development and reinforcement of the CCL (Caribbean Copyright Link) and asked whether WIPO could use its expertise and resources to assist solving some problems on small island states, where more than one collective society existed for one category of work, in the name of the development of small countries.

183. The Delegation of Argentina stated that the Recommendation of Cluster B ,15, 16, 17, 18 and 21, that were all recommendations that could be implemented and required coordination with the various committees that carry out those related activities. In line with the statement of GRULAC, the Delegation requested the Director General to make an annual report to the CDIP on the implementation of the recommendations that required coordination among the various WIPO bodies.

184. The Delegation of Turkey thanked the Chair and stated that it was the first time that their Delegation had taken the floor in that session. It stated that their comments were mainly on the document being currently considered. There had been many proposals and many questions with regard to the different recommendations and activities, as well as to the progress of the recommendations, but it was confused at that stage. There were also some comments on the formal questions and proposals, to be added to the recommendations, with regard to what was the next step, because some delegations had requested that the strategies or activities be changed. The Delegation wanted to know if there would be changes to the

document. It would prefer to see the proposals in writing before deciding on the changes to be made to the document. With regard to the procedure, the Delegation agreed with the proposal and thought it to be a good idea to finish the discussions on that subject and continue with the methodology.

185. The Chair stated that if he could give the Delegation of Turkey a quick response, not a final one, but one to think about, it would try to answer the questions in block, and would take note of all the comments. However, all the comments were not coherent, the Secretariat had to look at where there was conflict in the comments, and come to some sort of decision. The Chair stated he would play a role in that decision making process, in terms of the compromises that would be made, but the overall objective would be to improve the document, and the speakers, the Secretariat, and particularly the Development Agenda Coordination Division, had asked that question earlier. The Chair stated that it was the Secretariat's intention and commitment to improve the report according to the broad recommendations, but he was not sure that they could do everything asked, but it was a work in progress and the Secretariat would be able to show some improvements. The Chair stated that he was sure Turkey would observe and recognize things that needed improvement, after which the Secretariat would commit to its further improvement by the next meeting.

186. The Delegation of Egypt thanked the Chair and stated that before terminating with the current Agenda Item, they would like to clarify if the Secretariat was likely to respond to the questions asked beforehand at the end of that Item.

187. The Chair stated that as soon as Egypt had finished speaking, the Secretariat would start answering.

188. The Delegation of Egypt had one final question with regards to Recommendation 12. The Delegation thought it was quite an important recommendation on mainstreaming development into the substantive and technical assistance activities of WIPO. However, the Delegation pointed to the lack of quantifying or qualifying the activities, particularly with regard to progress or achievements. The Delegation did not see how making reference to the Development Agenda in the Program and Budget was progress, that it was a good thing, but did not really tell them how much WIPO had advanced in implementing the Development Agenda into its substantive and technical assistance activities. Accordingly, it should perhaps look at more benchmarks of progress in order to quantify and qualify what had really been achieved.

189. The Delegation of South Africa, referring to Recommendation 14 on the framework of agreement between WIPO and WTO and the examples of activities and the implementation strategies, stated that it would like to see more examples of cooperation with WTO, including those pertaining to the TRIPS legislative advice. Secondly, in terms of Recommendation 42 on enhancing measures to ensure a wide participation of civil society at large in WIPO activities, reference had been made, for example, to an Indigenous Consultative Forum on the IGC, to ensure WIPO's participation of accredited NGOs and IGOs in all WIPO activities. The Delegation sought clarification on whether those NGOs and IGOs were briefed on cross-cutting issues if accredited to the IGC and whether they were briefed on the current developments in SCP, SCCR, etc. Concerning Recommendation 35, the requested to know whether the four, two-day WIPO National Roundtables on the Economics of IP, had already taken place.

190. The Delegation of India referring to the Chair's decision to end discussions on the Item, suggested that as the Secretariat might need more time to respond to the various questions, leaving the Delegation with no time to ask questions, informed that it would not ask further questions. That, the Delegation said, was with the hope that it would be a standing item on the Agenda in the forthcoming CDIP.

191. The Chair responded by requesting the Delegation of India to ask its questions, and for it not to be said that the Chair curtailed questions. The Chair acknowledged that the Delegation was indeed right, in that it would take more than five minutes for the Secretariat to answer the questions, and that it would take whatever time it took, but encouraged the Delegation of India to kindly go ahead and ask their questions.

192. The Delegation of India pointed out that as there were still 13 Recommendations left to be discussed, it declined the offer as it did not think that those present to listen to interventions on ten of those recommendations. Therefore, the Delegation agreed to continue the discussions as the Chair had suggested, in the present session, although it did not seem a practical possibility. The Delegation did not think that there would be time to revisit that Agenda Item during the present session. Therefore, the Delegation stated that they hoped to continue the topic in the November session.

193. The Chair stated that the Delegation of India was correct in that there would be a report in every session, and that in the future, 80 to 90 percent of the time spent in the Committee would be used to review and discuss reports, but stated that at the present time, 80 to 90 percent of the time was needed for the implementation issues. The Chair stated that the Delegation was correct in that the report would be improved based on the dialog already at hand, and if the Committee got through the project issues fast, which was not expected, the Delegation of India could come back to that Agenda Item, and discuss it, but if not in the current session, for sure at the next meeting, the item would be an Agenda Item. The Chair stated there would be less pressure on the implementation issues because there would be a set of implementation of recommendations for the Secretariat to work on, but would see how it progressed for the rest of that week.

194. The Delegation of China thanked the Chair and stated that it would like to support the method applied by the Chair. It also had a comment on Recommendation 12, in order to integrate the development dimension into the activities and debates of WIPO. The Delegation supported this initiative and hoped that in the future when policies were drawn-up, WIPO would place a greater emphasis on the issues of development.

195. The Delegation of Senegal thanked the Chair and referring to Recommendation 12, stated that the mainstreaming of development considerations into various WIPO activities was something that would, to a great extent, depend upon the collective attitude which prevailed in the discussions. The Delegation believed that the existence of such a culture was a prerequisite to the mainstreaming of development considerations. If the development dimension was to be fully integrated, then the culture referred to would have to prevail both inside and outside the Organization. The Delegation questioned what had been done, or what should be done, within the Organization, in order to make sure that the IP culture to which it referred became a reality? The Delegation stated that it had to be a reality outside the Organization, but that it would not do much good if it was not also a reality within the Organization. It stated that it would only be able to progress if it prevailed in both places.

196. The Chair then gave the floor to the Secretariat and requested that before it responded it should identify the recommendation and wherever possible, the Delegation that had raised a question with relation to that recommendation.

197. The Secretariat stated it would concentrate on Recommendation 11, as several delegations had enquired with regards to that particular Recommendation. On the question from the Delegation of Uruguay, on network projects, it stated that it was the first project that the Organization actually carried out as a technical cooperation project with a multi-year time period. It ran for four years, and many countries with research institutes and universities had produced results but the truth was that scientists and universities did not always know how to manage the results, or how to protect them, or identify those who might be interested in the results so as to develop a new product or improve existing products and technologies. Therefore, the Secretariat drew up a project, with the purpose of offering support in two locations, firstly in Columbia, and secondly, in one of the countries of the Economic Community of West African States (ECOWAS). The projects supported research institutes dealing with malaria and tropical diseases, and assisted with the provision of training to create a service shared by the entire network of universities, which would manage the results through their research, to sign licensing contracts, draft patent requests, and identify possible market outlets. The Secretariat stated that it started from zero, that in 2004, there were no training modules in place, which were now referred to in Recommendation 11. There was no example for a module for drafting and preparing a patent request, nor a module for making a patent licensing agreement. The Secretariat hoped that the modules would ensure that at the two locations, the modules were used, which brought the Secretariat to the question from the Delegation of Algeria: why scientists? Basically because the training programs are appropriate for scientists, that were called technology managers rather than scientists. These were people who, in universities or research institutes, have the responsibility for deciding what to do with the research results, and whether or not it should be transferred to the public or the private sector, so it could be used in the real economy. The Secretariat stated there was a small section within the Organization, where there were only four staff, and they covered the 181 Member States of the Organization. They were doing their best to prepare and develop those training modules. The result has been that in Columbia, a network was set-up, a health research and development network with 12 universities working together, which has a shared network and provides support as a sort of transfer of technology office, providing assistance in all respects. The Columbian government decided that the module had been useful and is looking at the possibility of creating new similar networks, one would be a research network dealing with energy development and the other would be in the agricultural sector. The Secretariat then referred to the question from the Thai Delegation, on the program for drafting patent requests. Unfortunately, it stated that there were only four officers in that section and of those four people, only one was actually working full-time on the patent requests program. The Delegation itself stated that knowing how to draft a patent request and which strategy to follow, in order to make the registration of your request in the right sector, is the key to using the whole patent system. That type of training was therefore a priority. It was a very intensive type of training, where participants were taught how to draft and prepare a patent request. The training was done through a course that lasted 8 to 10 days, and then there was an additional three months done through remote-learning, depending on the number of participants. At the end, the participants should be able to complete exercises which were done through remote-teaching successfully, and are then issued with a completion certificate. With regards to the question of certificates by the Delegation of Trinidad and Tobago, the Secretariat believed that the question had been answered. With regards to question from the Delegation of Egypt on the development of tools, it was true that the Secretariat had only

given examples of activities which were undertaken with those tools. There were many more activities than had been carried out using the training modules on the drafting of patent requests, and licenses agreements on the use of technology by universities, and the tools themselves, over the last year had also been improved. The Secretariat stated it could, if delegations so wished, provide additional information on this kind of training module, on the requirements, the length, the profile of participants. The Secretariat explained that in the end, the purpose of all the modules was to support countries and help them to create the infrastructure necessary at a local level. The key producers of knowledge were obviously universities, research bodies and institutions.

198. Before responding to the questions on Recommendation 7, the Secretariat stated that in order to speed up and mainstream the process of implementing the recommendations of the Development Agenda, several recommendations had been grouped into five Thematic Projects, that had been discussed internally and approved by the Director General, and had been presented to the Committee, as the next Agenda Item. It stated that one of those Thematic Projects concerned IP and Competition Policy, and grouped recommendations 7, 23 and 32. The Secretariat stated that the proposals would comprise, at least, of several different sorts of activities that would cover the nuances of the three recommendations, and those activities had the major concern of not forgetting to meet the practical aspects of each recommendation. The Secretariat briefly addressed specific questions, firstly from the distinguished Delegation of Egypt, who reminded all that it was important to attempt to have examples of experiences from different countries in the area of IP and Competition Policy, and that it could be difficult. Exactly one of the elements covered by the Thematic Projects, was to put Member States in contact with each other so that they could share their experiences on the interface of IP and Competition Policy. Indonesia had asked about the Seminar in Daejeon, organized by WIPO in conjunction with the Government of the Republic of Korea. The Seminar was organized in October 2008 with 30 participants from 13 Asian countries, and the Secretariat had invited not only representatives from the IP sector of the Governments, but also from the competition authorities of those Governments, that had competition authorities. There were very fruitful discussions, with also the participation of a colleague from the WTO Secretariat, who ran for a few years, a working group on international trade and competition policy. The Secretariat stated that there were three days of very good discussions, and because the Seminar went very well, one of the items that was presented was to continue organizing regional meetings for the following two years. If the project was approved, it would answer the question from El Salvador on future meetings.

199. The Secretariat stated that the Delegation of Brazil had asked for model guidelines on legal options, to deal with IP and Competition Policy. However, the preparation of guidelines was not foreseen in the Thematic Projects because for the time being, there was no consensus among the Member States to have guidelines, even if guidelines were soft law. However, at the Seminar in Daejeon, Republic of Korea, there were also other requests from other countries exactly along the same lines. Therefore, the Secretariat stated, that if the CDIP gave this mandate, the Secretariat would try to develop some guidelines, but for the time being, the idea was to test the waters, to share experiences, raise new discussions, and create a forum. It stated that the current forum could lead to something deliverable and more concrete, but that it depended on the outcome of the CDIP. The Delegation of Brazil also requested a copy of a study by Professor de Oliveira, and the Secretariat stated that it would be more than happy to provide Brazil with a copy. The document had been distributed as a working document at the meeting in Daejeon in 2008, and had not yet been published officially, because it had been noted that some concrete data was missing, and although Professor de Oliveira was a

very-high ranking public civil servant in the State of Saõ Paulo and was very busy, he had accepted WIPO's request to send the missing tables. As soon as they are received, the document would be published as a WIPO document.

200. The Secretariat stated that the Delegation of Trinidad and Tobago had enquired about the possibility of bringing the discussion to the consideration of policy makers, and that it would be seen in the presentation of the Thematic Projects that it was also one of the Secretariat's concerns. The Secretariat stated that there had been two questions, one from the Delegation of India, and one from the Delegation of Argentina, on legislative assistance. The Delegation of India had asked how many requests on legislative assistance had been received. The Secretariat informed the Delegation of India that there had been changes in the structure of the Secretariat over the last two years, and specific activities on legislative assistance had been separated from activities on flexibilities in general. The specific question on legislative assistance was then deferred to the technical cooperation sector for further clarification. The Secretariat then addressed the question from the Delegation of Argentina on Recommendation 14, on which the English version had been consulted, and not having the Spanish version at hand, it stated that it did not refer to a document, but rather to advice. The Secretariat stated that it did not see any problem in having comments on the subject matter, in having a document explaining in an abstract form, without concrete references to concrete cases in legislative assistance, because confidential and bilateral matters had been discussed, but stated that there would not be any major problem in preparing a general description, not only on the criteria used for providing legislative assistance, but also on the historical evolution of that legislative assistance by the Secretariat.

201. The Secretariat stated that there was one major difference, a conceptual difference between a document on legislative assistance, the document that was being discussed, and that of paragraph 10 of Recommendation 1. When referring to the document and to paragraph 10 of Recommendation 1, it was a document in abstract form, with flexibilities in an abstract form. The Secretariat had provided legislative assistance to Member States in two or three cases, and even formal square brackets with different options possible, whereby the legislative assistance contained different choices for the Member State concerned to either accept or reject. It stated that it was not found to be very helpful or fruitful, because it just shifted the burden of the choice to the Member States, and what was done in the past, was to identify the different options and explain the implications and the possible conflict between the different options in the footnotes, because sometimes legal norms were like medicines, if they combined conflicts in legal norms, they would be counterproductive. The Secretariat stated that it had attempted to do so, but that two years ago there was a change in the organization of the Secretariat, and the Sector for the Strategic Use of IP for Development ceased to deal with legislative assistance specifically after which it only dealt with flexibilities in general.

202. To conclude, the Secretariat stated that the document, which had been discussed that morning, was just a working document, and had been distributed for the first time in a meeting in Singapore for countries of the region, and the idea would be to continue regional seminars and to continue improving the document, receiving inputs, criticism and modifications. The Secretariat stated that it had already planned on meeting with the Group B countries as well, so that the Delegation of India would have a document, not a conceptual document, but at least a discussed document, after which the document would be brought forward to the CDIP for discussion, and it could then be established what the Member States wanted the Secretariat to do.

203. With regard to a question raised by the Delegation of Egypt on Recommendation 6, and in particular on the manner of avoiding conflicts of interest for international consultants hired by WIPO for its technical assistance programs, the Secretariat stated that one particular element in this question was how to put an eventual end to the situation whereby such a conflict of interest would occur. As stated before in the context of the criteria for selection of experts, before an expert is engaged by WIPO, a long exchange of communication with the beneficiary country takes place in which the curriculum vitae, experience, background and the terms of reference of the mission of the expert is communicated to the authorities in the countries concerned. In the process, any conflict of interest should become known. As regards the contractual arrangements for such short-term expert consultancies, there were some references to rights and obligations that the experts had to undertake, namely, for example, obligations not to communicate to any person or other entity, any non-published information known to the expert in the course of performing his or her obligations under the short-term contractual arrangements. Such elements already clearly indicated that should that happen, the expert who took advantage of the information gathered by him during the mission would be in conflict of interest, and in that respect, contractual arrangements also had a specific provision for the termination of a contract. Therefore, should that situation arise, the contract would be immediately terminated upon decision by WIPO, or at the request of the receiving country or beneficiary institutions.

204. Referring to a question from El Salvador concerning Recommendation 11, in particular, regarding the use of and access to patent information and in particular to the LATIPAT Project, the Secretariat confirmed that the LATIPAT was a project being jointly implemented by the European Patent Office, the Spanish Patent and Trademark Office and WIPO. The main purpose of the project was to provide a common place for the electronic publication of patent application files or patents granted in Latin America and Spain. To date, the Secretariat there were 13 Latin American countries actively participating in the project, and that the database was, as far as was known, the only regional database of patent information in Spanish and Portuguese, because Brazil was included, and to date had around 2 million patent documents referenced. The Secretariat stated that the main objective for the current year would be for the countries to provide the full text information regarding their patent documents, and to date, out of the 13 countries actively participating in the project, 9 were providing full text on their patent documents. The second purpose of the project was to generate in the patent administration, the internal capacity to manage, produce and publish national information regarding patent documents, and to be able to publish them on line. The Secretariat had been providing specialized training on how to process this information which were the main formats used for the electronic exchange of the information. Since the database had been in operation, the number of hits and consultations of the regional database has been more than 10 million in the last five years.

205. Responding to a question from the Delegation of Angola which related to Recommendation 11, which dealt with LUSOPAT, the Secretariat informed that it was basically described as a portal. Following the ministerial conference held in 2006, there was another meeting of the Portuguese-speaking countries in Rio de Janeiro in February 2007, for the launching of the portal. The portal was a facility, a repository of patent documents from the Portuguese-speaking countries, which were made accessible to any interested parties and contained information in the Portuguese language, related to patents and patent documentation from Portugal, Brazil and the other Portuguese-speaking countries of Africa, namely Angola, Mozambique, Guinea Bissau, Cape Verde and Sao Tome and Principe. The Secretariat stated that there was a link on the WIPO internet page with LUSOPAT,

Lusophone portal that could be accessed, following the implementation of a resolution that was made in the context of the Rio meeting, to ensure that a link was provided to easy access to this Lusophone portal through the WIPO website.

206. In reply to a question raised by the Delegation of Thailand concerning Recommendation 11, the progress of distance-learning courses on patent drafting, the Secretariat stated that the distance-learning course on patent drafting had been launched in March 2008. It was also offered in English and 230 participants had already taken part in the course that lasted 10 weeks, and because of the technical nature of the course, the Secretariat had also provided tutorial support to the participants. Another course on patent search was launched in March 2008, in English language and 140 participants had undertaken that course.

207. The Chair reminded that on Recommendation 11, the Delegation of Egypt had asked a question about the lack of quality comments in the progress report and its follow-up. The Chair stated that it was important that it was known and understood whether there had been any follow-up to the activity and he requested the Secretariat to respond.

208. The Secretariat stated that in the project Innovation and Technology Transfer Support Structure for National Institutions contained in document CDIP/3/INF/2, in Annex VII, it could be seen as to how to improve the mechanisms for follow-up. The Secretariat stated that it was true that more and more requests for training programs on licensing, patent drafting, marketing of IP, technology management, were being received and that follow-up was quite difficult because there was now a critical mass of trainees, some of whom were applying the knowledge received at the training programs. For example, some of those who had received training on patent drafting, were already drafting patents for universities and filing patents successfully. The Secretariat further stated that it had similarly received input from participants that were supporting their research institutions and universities in the process of negotiating technology transfer contract for their research results. To systematize follow-up, the above project had been proposed to the Committee.

209. In response to a query from the Delegation of India regarding requests received for legislative and legal advice the Secretariat stated that it could provide those figures from the time when the Legislative and Legal Advice Division, which set-up two and half years before at the end of 2006. From its inception to date, over 100 requests had been received by WIPO in different areas of IP. Those requests covered not only industrial property but also copyright, and some requests in that connection were of a different nature, and were used as examples. Some cases were submissions of draft laws, which were quite typical. Draft laws that were sent to WIPO for review before being enacted, or in some cases, outright requests to the Secretariat to prepare a first draft. The Secretariat stated that some developing countries, in particular, wanted to see a first draft prepared by WIPO before deciding to move on, and it was usually in context from the past and in compliance with future requirements, but more recently in the overall context of upgrading their IP systems. It was stated that a number of countries requested general advice on interpretation or usual practices in connection with provisions contained in treaties administered by WIPO, of which there were 25 or 26, and also the TRIPS Agreement from the WTO, which provided advice under the Inter-Secretariat's agreement between the two Organizations. Some sort of advice regarding the provisions in national laws of the consulting countries were provided that went beyond the Secretariat's mandate. On the whole, WIPO had not been able to respond to all the requests, because in a few cases, the requests had been put on hold pending the receipt of additional clarification and documentation which had not come from the requesting countries. However, taking that into

account, most of the requests had been responded to. There were some 14 or 15 out of an overall number of 100 requests that had been received and were still pending. These were under consideration and were being responded to. The Secretariat stated that that should give the Committee an idea of the scope of activity that had been undertaken by the Secretariat.

210. The Chair proposed the suspension of the discussion on Agenda Item 6, so that the presentation of Agenda Item 7 could proceed, which ensured a bit of work in terms of understanding, particularly for those delegates from capitals to comprehend the newly proposed methodology. However, before the Secretariat made its presentation, the Chair gave the floor to the Delegation of Argentina which wanted to clarify a statement made earlier.

211. The Delegation of Argentina stated that it wanted to offer a clarification with respect to Recommendation 14 and a document from the “Group of Friends of Development” which was submitted last year, in which it was proposed that as an activity for the implementation of Recommendation 14, WIPO would prepare a document on the analysis of TRIPS flexibilities. The Delegation of Argentina requested the Secretariat to take note of that request for the next meeting and to ensure that information on the analysis of the flexibilities present in the TRIPS Agreement, would be made available for which they would be most grateful.

Agenda Item 7: Consideration of work program for implementation of adopted recommendations

212. The Chair noted the request by Argentina and called upon the Secretariat to make a presentation on Agenda Item 7.

213. Making a Powerpoint® presentation the Secretariat informed the Committee that the presentation pertained to the Thematic Projects approach which was developed under the guidance of the Chair and the leadership of the Director General. The Development Agenda Coordination Division had tried to see how best it could simplify the implementation of the Development Agenda recommendations, and make it easy for the Member States to review the progress of implementation and its impact. The diagram in Powerpoint® was presented to the Member States in the informal sessions called by the Chair and populated later with the number of recommendations. The Secretariat went on to explain that as could be seen in the left hand side column, a list of recommendations had been provided which were considered as principles that the Organization had to adhere to in undertaking all its activities. In the right hand side column, were those recommendations which required actions for implementation. To simplify, the right hand side column, top row, were the five recommendations that were approved by the CDIP in its last session. As could be seen, these were recommendations 2, 5, 8, 9 and 10. In the second row in the right hand side column, were the five Thematic Projects, for which the Secretariat prepared and presented a document for the consideration of the Committee. The third row consisted of the proposed future Thematic Projects which could be prepared if that approach was accepted by the Committee for the future sessions of the CDIP. There were certain activities which could not be implemented through projects and it was proposed that they be implemented through the Organization’s regular program. As already noted, many recommendations included principles. Most of those principles were contained in the famous list of 19 Recommendations and it would be seen while discussing the implementation of the 19 Recommendations that it was hard to justify implementation of recommendations which were principles. It was hard to justify the objectives of those recommendations met through activities, and as the Director General had mentioned that he would report on those principles periodically. The Secretariat stated that it was important to

appreciate the value of the new approach to see where things stood. Member States would recall that from the list of 19 Recommendations, the Committee had so far discussed recommendations 1, 3, 4, 6, 7 and 11. Over a period of one year, the Committee had also discussed five recommendations from the list of 26, namely recommendation 2, 5, 8, 9 and 10. During its last session, the Committee had discussed Recommendation 12 from the list of 19, and recommendation 20, 22 and 23 from the list of 26. The Secretariat drew attention to a document which provided a revised work program for those recommendations, and stated that what was left before from the list of 19 Recommendations could be seen as a long list, beginning from Recommendation 13 and from the list of 26 Recommendations beginning with Recommendation 24. It said that the current approach was the basis for discussions in the Committee's document CDIP/1/3, in which the Secretariat provided a suggested list of activities. The first session of the CDIP came up with an approach on how to look at recommendations from the list of 19 and from the list of 26 moving from one cluster to another. Now primarily the Committee was looking at, for example, Cluster A from the list of 26 Recommendations, and going back to Cluster A from the list of 19, moving to Cluster B from the list of 26 Recommendations, going back to the list of 19 Recommendations to Cluster B and so on. After discussions, the Secretariat would modify the proposed activities on the basis of document CDIP/1/3. The Secretariat would also identify the additional human and financial resources. However, it was very important to mention here that in view of the slow pace of progress after the second session of the CDIP, a deviation was taken, and instead of continuing to discuss from the list of 19 Recommendations, the Committee started to discuss from the list of 26 Recommendations, which were considered to be actionable recommendations. The proposed approach was that those recommendations which dealt with the same or similar subject matters could be identified and grouped together. Thematic projects could be prepared for discussion by the Committee, and if the Member States agreed, the Secretariat would go back and update the projects in view of the comments made by the Committee and would begin implementation. It was clear that if there were substantive changes to be made to the project document, the Committee might like to see the project again before the implementation began. The rationale was that there were quite a few overlaps when it came to the activities proposed for the implementation of these recommendations in document CDIP/1/3. Only one example would suffice. If the actions proposed for the implementation of Recommendation 30 were considered, for instance, the column that dealt with the action would state "please see comments for proposal 31". Another example was Recommendation 28. It stated that similar activities were proposed for recommendations 25 and 26. The Secretariat said that clearly the Committee, in adopting document CDIP/1/3 as the basis for the classification, had itself established linkages which could justifiably be seen as those recommendations that dealt with same or similar subject matters. A number of delegations had been asking for more details. They noted that document CDIP/1/3 did not contain sufficient information with regard to the objectives, time frames, monitoring and evaluation, budget and other information, and many other delegations had spoken of the slow progress of implementation. The Secretariat recalled that in the revised Program and Budget for 2009, it was proposed that the Development Agenda recommendations would be implemented through projects and that was how the idea of developing Thematic Projects came up. Overlap and duplication could be avoided by jointly discussing and implementing activities. Of course a project-based methodology ensured that more complete information was available to the Member States before they made decisions by grouping recommendations together and hopefully saw accelerated progress. In order to make sure that in proposing and developing the Thematic Projects all the sensitivities were taken into account, for the Thematic Project document, additional sheets had been added with supplementary information. It established the link between document CDIP/1/3 to the

activities proposed in the project. As a matter of fact, it demonstrated that all the activities contained in the document CDIP/1/3 which were included in the project document. Where those activities were modified, the supplementary information sheet provided a clear justification as to why a particular activity had been modified. Where an activity was not included in the project document, but existed in document CDIP/1/3, again this supplementary information page provided the justification as to why that activity had not been included. There had of course been concern about appropriate reporting procedures. The project-based methodology ensured that a single person, who of course was implementing the project, with the help of other areas within the Organization, developed and implemented a project and reported back to the Committee. The Secretariat explained that the Thematic Project approach cut across clusters. While some might see it as a potential risk that not all the concerns behind the recommendations might be addressed, others saw that it could avoid compartmentalization of recommendations dealing with the same subject matter. If action was taken in parallel lines, between, for example, Cluster A, dealt with technical assistance and the Cluster that dealt with norm-setting activities it would not produce optimal results. That was how the project approach took a holistic view of the situation. Referring to a slide, the Secretariat stated that it dealt with some of the concerns that emerged during the period of negotiation. The first point was that the 45 Recommendations remained in tact. Document CDIP/1/3 would not be touched. It would stay as it was. Whenever the Member States wanted to come back and revisit that document, it would exist. The mere listing of activities proposed in document CDIP/1/3, get replaced by a project-based project structure. In the past, Member States had concerns about prioritization amongst activities. The Thematic Project approach as a matter of fact, removed any possibility of prioritization. The Director General mentioned that those projects were only a first step towards implementation of the Development Agenda. Clearly, after those projects, the Member States could decide on the future work. As mentioned earlier, if there were any aspects of a recommendation which could not be included in the project, they would be included and implemented through regular activities of the Organization. Concerning the internal structure within the Organization, the Development Agenda Coordination Division (DACD), reporting directly to the Director General was the overall responsible Division within WIPO. There were project managers, as mentioned earlier, from the time of conceiving a project document to its implementation to reporting. The project managers would deal with given subjects, and then other activities which were not included in the projects would be implemented by the various sectors and divisions. The program managers would report to the CDIP and the reports will also be included in the Program and Budget reporting of the Organization. If the Member States agreed to that approach, as the Director General had kindly indicated, in anticipation of the approval of the project documents, the project budget would be included in the next biennial budget process. In order to ensure that the projects were not something external to the regular activities of the Organization, the Secretariat had tried to, both in terms of the substantive inputs and implementation and financially to include or bring them closer to the regular programs of the Organization, and the financial allocations would go to the program managers who should provide assistance to the project managers in the implementation of those recommendations. As mentioned earlier, those project managers were fully integrated into the rest of the work of the Organization, and there were no separate structures that were being created. The Secretariat very briefly presented the advantages and disadvantages of the new Thematic approach as follows: It said that the advantage of the current or existing approach was that it contained a familiar methodology. Of course a case could be made that it was familiar to those who had been involved in the process, but given the fact that colleagues from the Permanent Missions in Geneva kept rotating, familiarity was perhaps a subjective matter. This was also true of delegates from the capitals. Those were advantages of the

existing approach. With regards to the proposed or new approach, it could be said that it was faster in implementation and presented opportunity for coordinated progress, whereby all related recommendations could be discussed under Thematic Projects, which of course would lead to efficiency and coherence. The CDIP would make prompt decisions; a single project manager would deal with the subject and report back to the CDIP; effective monitoring and evaluation. And of course, the disadvantage of that approach was that it was a new approach. The human and financial resources for the five proposed Thematic Projects would consist of non-personnel costs of approximately 4 million Swiss francs and personnel costs of about 2.8 million Swiss francs. Those personnel instead of hiring them afresh from outside would be drawn from existing human resources within the Organization as it went through the phase of the strategic realignment. The second point was that those colleagues who would be working on the implementation of those projects, were not devoted to technical assistance or Development Agenda activities in the past. They came from other areas of the Organization, as mentioned earlier through the process of strategic realignment and they would be seen as fresh resources. The third point that was obvious because the Organization had recruited personnel for the implementation of those projects, that amount would have been included in the project document and paid by the Organization. The Secretariat set out a brief list of the proposed elements that the Committee might want to consider while it looked at the project documents. Firstly, did the proposed project meet the concerns of the recommendation or recommendations contained therein? Secondly, did the project require any changes, replacements, additions, subtractions? Thirdly, are there any elements of the recommendation that needed to be implemented through regular activities of the Organization, meaning by subject matter or elements that were not project worthy? Lastly, were there any other changes required to any part of a project document? Obviously this was not an exhaustive list of elements, and the Committee might have other additions.

214. The Chair thanked the Secretariat and noted that there was only one request from the floor. He invited the Delegation of Thailand to take the floor.

215. The Delegation of Thailand thanked the Chair and the Secretariat for the presentation. It congratulated WIPO and the Director General for their efforts in undertaking the Thematic Project approach. The Delegation expressed its full support to this approach in order to implement activities under the CDIP. This would not only economize on WIPO resources, but would hopefully provide a more tangible result with clear, defined objectives. From the Delegation's experience, not only IP offices but also private enterprises only embark on activities when the objectives and tangible outcomes have been identified and noted that this would be done with the new approach. Therefore, the new approach would eventually lead to a more tangible result for WIPO efforts. The Delegation however advised the Secretariat that in undertaking the tasks of developing the Thematic Project the following should be observed: (1) In establishing the objective of each project regardless of its name, the objective would have to cover all aspects of the matters raised by the Members that were related to such a project (2) These objectives would also have to be flexible enough to cater to any additional requirement if the Member State saw fit (3) The objective would have to be realistic and suitable to the country targeted and the outcome or output must be accomplishable. Finally, the Delegation of Thailand addressed the Chair regarding the implementation of these projects they would have to be adjustable to suit the economic development conditions of each of the Member Countries.

216. The Delegation of India also thanked the Secretariat and the presentations held on the subject which it viewed as very useful. The Delegation enquired if there were any activities

in the proposed Thematic Projects that had already been done by WIPO? And if there are were, had they been indicated in the project document?

217. The Secretariat replied that specifically those activities were not being undertaken by the Organization at the moment. However, in some cases through the activities under the projects, links were being developed between WIPO's regular activities and the project activities, and in many cases, the projects gave a boost to other activities that were ongoing within the Organization. When the CDIP got into discussion on those project documents, the project managers and other colleagues would come to the podium to reply to the Delegation's questions, and identify the areas where there were mutual relationships between the regular activities and the project being established.

218. The Chair invited the delegations to discuss the new methodology in their respective regional groups so that the Committee could agree to work with the new methodology and the projects. The Chair announced that whilst delegations were meeting in their regional groups, he had arranged to meet with the NGOs and the IGOs for them to have an opportunity to share any concerns. Member States not having regional group meeting were free and welcome to join the meeting.

219. Resuming the session, the Chair noted that delegations had had enough time to focus on the methodology and discuss within their respective regional groups. The Chair had had discussions with the NGOs and the IGOs, and wished to give delegations a flavor of what he had heard from them, but also wished to get a flavor from the regional coordinators, as to what they had heard from their respective groups. The Chair requested that only a few words to give what seemed to be the consensus within the group, with regard to the use of the proposed methodology, were necessary.

220. The Delegation of Germany stated that when the Group B had proposed the Ambassador of Barbados to continue as Chair of the CDIP, it had not been solely a matter of diplomatic courtesy, but had done so to show support and appreciation for his able stewardship of the Committee. The Group B had limited itself to a statement on the first day of the Committee, which included its view on the Thematic Projects approach. The Delegation also indicated that Group B very strongly supported the Chair's ruling that the Committee started with substantive discussions on the new approach. The Delegation proceeded to read out the statement made on the first day on behalf of Group B. It supported measures to accelerate and improve the implementation of recommendations adopted by Member States in September 2007, as WIPO's Development Agenda. The Delegation reminded the Committee that the 45 Recommendations had been grouped into clusters, with a view to advancing the negotiation process. That methodology had been quite instrumental to the consensus that had eventually emerged. Partly due to that negotiation technique, some overlaps risked to slow down the progress in the implementation of the Development Agenda. The Delegation, therefore, welcomed the initiative of the Secretariat to enhance efficiency and coherence by applying a Thematic Projects approach, as suggested in document CDIP/3/4. The Delegation saw much value in that approach and wished to commend the Secretariat for its efforts. If properly applied, the suggested approach would not adversely affect the substance of any of the recommendations. To the contrary, the Group expected it to be beneficial, because it would facilitate the implementation of the Development Agenda in practical terms. The Delegation indicated that it was ready to enter into in-depth discussions on the four Annexes and the Addendum. It expressed its assurance that the Members of

Group B would work in a constructive spirit in order to advance the recommendations' implementation in the best possible way.

221. The Delegation of the Czech Republic spoke on behalf of the European Union (EU) and its 27 Member States and, as in its opening statement, expressed its appreciation on the proposal regarding the new methodology for the implementation of the Development Agenda recommendations, which had been presented by the Secretariat. The EU and its Member States were convinced that the new Thematic approach would increase the efficiency, governance and quality of the work of the Committee. It would, therefore, make the implementation process faster and smoother. The EU and its Member States looked forward to entering into discussions about those proposals, as it was convinced that the Committee would reach positive results. Moreover, it supported the Chair's approach to start the debate on Agenda Item 7.

222. The Delegation of Costa Rica, speaking on behalf of GRULAC, thanked the Chair for his chairmanship and stated that the Group had held a regional meeting that morning. The meeting had been very productive and made it possible for delegations to exchange information on their respective positions, and discuss national policies on the work being undertaken in the Committee and the expectations that the Delegation had for its continuation. The Delegation referred particularly to four points on which the Group had a clear position. The first was to recognize and acknowledge the efforts made by the Secretariat in preparing a new working mechanism concerning the Thematic Projects, which would be discussed in the Committee. Secondly, the Group recognized the importance of active and constructive participation by Members in the process, and appreciated the proactive and positive role of the Secretariat in promoting negotiations in the forum. Thirdly, for GRULAC, it was essential to guarantee that the fundamental conditions for discussion of the Thematic Projects included the five points which had been raised in the opening statement, which it wanted to repeat (i) that the Secretariat would prepare the Thematic Projects taking into account the content of the original recommendations. There should be no reinterpretation of the recommendations; (ii) that the development and implementation of the projects should bear in mind modifications that were made by countries in the course of the meeting; (iii) once a project was concluded, that it did not necessarily mean that the process of implementing the recommendations was concluded; (iv) if the recommendation was not really complied with, then additional projects would be undertaken to ensure that it was; and (v) sufficient budgetary funds should be provided to guarantee the full implementation of the Thematic Projects. Lastly, GRULAC felt that it should be noted that the cost of the projects should not include the participation of the staff who were already working in the Organization. Staff costs to be included should be those incurred by the use of staff that were brought on board especially for project implementation in the form of additional consultants, that is, additional to the permanent staff of WIPO.

223. The Delegation of Serbia supported the position that the list of the 45 Recommendations remain intact, and that there should be no prioritization among the recommendations because of the fact that the process of implementation of those recommendations had moved forward very slowly. The Delegation commended the initiative to introduce the new Thematic approach, which in its view would improve the efficiency and coherence in implementing the recommendations of the Development Agenda. The Delegation believed that such an approach would make the Development Agenda's context more coherent, transparent and easier to understand and follow. The Delegation was also interested in hearing the views of other regional groups and delegations on the proposal.

224. The Delegation of Senegal thanked the Secretariat for the considerable amount of work it had put into preparing the documents and in keeping delegations briefed. Speaking on behalf of the African Group, the Delegation reiterated its initial position, during the opening statements, that the Thematic approach included positive aspects and the group remained open to all proposals, the purpose of which was to develop relevant and agreed projects and activities that were likely to enable the rapid and effective implementation of the recommendations.

225. The Delegation of Sri Lanka recalled that the Asian Group had mentioned in the statement on Monday that it welcomed the new approach proposed by the Secretariat that identified the recommendations in two broad groups as “principles” and “actionables”. Regarding the actionable recommendations, while appreciating the proposals, the Group felt that the proposals could be further improved. In that respect, members of the Asian Group would make specific suggestions with regard to the Thematic Projects.

226. The Delegation of Bangladesh reported on the position of the LDCs group. It explained that the LDC delegations had taken note of the new approach proposed by the Secretariat. They had received a briefing and had discussed the Thematic Projects approach among other issues, and the delegations saw potential merit in such an approach, as it could accelerate the implementation of the Development Agenda. The Group, therefore, believed that the CDIP should explore the approach. The Delegation also indicated that a number of delegations in the Group had specific questions and comments on individual projects, and would be taking the floor when each project was discussed individually.

227. The Chair explained that he held a consultation with the NGOs and IGOs, and had not properly written out his views and understanding following the meeting, but would do his best to broadly state what he considered to be the views expressed during that meeting. There was no doubt in his mind that the views were broadly supportive of the methodology, as he had not heard a single objection to the methodology. He had heard a number of concerns, which were largely associated with the need for Member States to ensure that the projects were not seen as an end in themselves. There was concern that the projects with end dates could be interpreted and could possibly lead to the curtailment of activities that were intended to be on-going as far as the recommendations were concerned. There was concern looking at some of the project proposals that they did not always properly reflect what was considered to be the essence of the recommendations, and that some of the objectives did not properly reflect the objectives of the recommendations. There was some broad concern that, in the projects, development may be too narrowly defined, reflecting the economic development dimension, but not the broader concept of development. There had also been some discussion on Agenda Item 8, but he would refer to that under that Agenda Item. Thus, the fundamental concerns were essentially two. The first was that the projects should not be seen as ends in themselves and the continuation of activities would not be inhibited because there was a project with an end date. The second was that the objectives, as embodied in the recommendations, should not be lost in objectives of the projects. Therefore, the connection between the recommendations and the objectives of the projects needed to be more coherent and better linked. There seemed to be recognition that the projects, or at least most of the projects, reflected more of a starting point for the implementation of the Recommendation. The Chair mentioned that one NGO articulated that point well and the Secretariat staff who was with him did respond. It was recognized that a lot of the projects concern studies and assessments and it was clearly the starting point and were not ends in themselves. The Chair

pointed out that while that was not a faithful reproduction of what had been said during the meeting, it was probably a reasonable reproduction. There was, therefore, a broad acceptance that the Thematic approach was useful, or could be useful to avoid duplications and to bring the benefits that were outlined in the presentation, but Member States needed to take care to ensure that the supremacy of the recommendations remained, and any interpretation of implementation was based and continued to be based on the recommendations.

228. The Delegation of Nigeria stated that the principle of the Thematic approach was not in itself problematic, but it was in the detail that difficulties could often be found. The Delegation explained that what presented a difficulty was what would be lost by clustering. In other words, how to ensure that clustering of recommendations would still make it possible to address all the recommendations in their entirety. In effect, it simply meant that in discussing the work plan under Agenda Item 7, the perspective of Agenda Item 8, monitoring mechanisms and coordination modalities, would all have to be considered. It was the results of the discussion on Agenda Item 8 that would give guarantees of acceptance of what was discussed under Agenda Item 7, because it was the monitoring that would inform about the level of progress on each recommendation, and then the kind of follow-up mechanism that would be put in place to address the shortcomings of the recommendations that would be clustered. The Delegation also explained that principles were principles because they were something that guided the Organization in its activities. But if a distinction was made between principles and action-oriented recommendations, the point would be lost. Recommendations were recommendations. They were related, they overlapped, and therefore, could be brought together. But there could be issues with categorizing recommendations as principles because the Organization was supposed to implement all recommendations, including the principles. The essence of the mandate of the CDIP was to produce a work plan, to develop mechanisms and deal with any issues relevant to development. The Committee was currently dealing with the work plan, but before it could be completed, the development of mechanisms had to be dealt with.

229. The Delegation of Egypt supported what had been said by the Delegation of Nigeria, that the treatment of the 45 Recommendations should not result in amending the intention of the Member States in instilling quality among all the recommendations. The Delegation agreed that some recommendations carried elements of what could be described as principles, but delegations should not fall into the trap of not believing that they should be treated, as the others, in an action-oriented manner. According to the Delegation those particular recommendations which the Secretariat had outlined, as possibly presenting principles, were also action-oriented and it wished to see them implemented in the project-based approach whether at that juncture or in the future. If they were labeled as principles, it would be very easy to forget about them. The Delegation did not wish for that to happen and believed that in order to ensure that it did not happen, the principles, while guiding the overall work, should also be of an action-oriented project approach.

230. The Delegation of Pakistan stated that in its opinion, it was a good approach to group different recommendations which were related to each other and address them collectively and was in favor of the approach. With respect to the content of the projects or the activities which had been included under the projects, there were some concerns, but it believed there was an openness on behalf of all the Member States and the Secretariat, that if there were any gaps in some of the activities which had been proposed, delegations could give inputs to improve them to the satisfaction of the Member States. The last point the Delegation wished to make concerned the principles. The Delegation felt that the principles were very important,

not only for all the activities undertaken by WIPO within the context of the Development Agenda, but also all the other activities which were undertaken by the other committees of WIPO. The Delegation thought that those principles should be a guiding light for all the work undertaken by WIPO. The Delegation concluded by indicating that it supported in principle the approach and felt that it was a good way to move forward, on the understanding that the Committee could improve the activities proposed under the different projects.

231. The Delegation of China noted that the document assisted the delegations in having a better understanding of the proposed approach, and it believed that the approach proposed by the Secretariat was very workable and a good basis to advance the work of the Committee. The Delegation looked favorably on the work which had been done in preparing the projects and stated that WIPO should provide full financial and human resources for the implementation of those projects. The Delegation also noted that the WIPO Secretariat should continue to propose projects so that Member States could benefit from the implementation of the Development Agenda.

232. The Delegation of South Africa aligned itself with the statement made by the Delegation of Senegal on behalf of the African Group. It believed that the Development Agenda remained critical to balance the work of WIPO, to include a development dimension and in that regard, the Development Agenda had been proposed to ensure the effective mainstreaming of all the principles and norms of the recommendations into all the activities. The Delegation welcomed the proposal made initially by the Director General to report annually to the CDIP prior to the General Assembly. Regarding the progress on the implementation of the Development Agenda, the Delegation emphasized the importance of establishing a mechanism on the modalities for monitoring, assessing and reporting on the implementation, in addition to the Director General's proposal. Therefore, the Delegation welcomed the progress that had been made by WIPO on the Development Agenda and to answer the question that had been raised initially, it supported the basis of the proposal, to accelerate the work on the recommendations productively through the clustering of recommendations for implementations. However, as other delegations had also mentioned, the Delegation was also of the view that the essence of each recommendation needed to be retained when looking and discussing at the approach to ensure that implementation was complete and comprehensive. The Delegation had specific concerns and clarifications regarding the approach which it would raise in the course of the discussions.

233. The Delegation of India joined others in expressing its appreciation for the considerable efforts made by the Secretariat and its initiative in proposing a new approach to ensure a speedier and more effective implementation of the Development Agenda. It was indeed a laudable objective and the Delegation fully supported and expressed its whole-hearted appreciation. It welcomed the more efficient implementation tool proposed which was the project-based approach. It agreed that that methodology provided more information on activities, it had specific time frames and well-defined objectives. It was easier to monitor and evaluate and, on the whole, it was a more efficient administrative and managerial tool for implementing the recommendations. However, the Delegation emphasized that the Committee must remain conscious of the fact that it was a tool and not the goal. The desired goal was in the sum and substance of each recommendation which had been arrived at following painstaking negotiations, and the real goal would depend on what each country perceived was the objective of each recommendation. In the Delegation's view, it was very important to hear how each delegation perceived the objective of a certain recommendation, because there could be varying interpretations and as in the past, what had been done was to

listen to what each country wanted or expected from each recommendation. Those perceptions had been distilled and had evolved into work programs that reflected the sum and substance of those discussions. In the view of the Delegation, that should be the kernel of the approach that the Committee would adopt. Once there was agreement on what delegations wanted from each recommendation, then implementation could begin through effective mechanisms, whether through a project or a work program, was really a secondary issue. In the Delegation's view, it would be a good idea if all delegations could focus on each individual recommendation, and see what delegations wanted as a starting point for discussions on the new recommendations. The Delegation also wished to comment on the classification made by the Secretariat into two categories, principles and actionables. It wondered if it implied that the principles were not actionables. The Delegation felt that perhaps a better classification could be found that did not imply that, because probably all delegations agreed that the principles were the heart of the Development Agenda and needed to be implemented, acted upon and mainstreamed into the Organization.

234. The Delegation of the Philippines commended the members of the Secretariat who, with great diligence and thoughtfulness, had prepared the documents for the session. The Delegation had studied the document CDIP /3 /4, on Thematic Projects and could not help, but be impressed with the strategic and pragmatic approach it proposed in implementing the multi-faceted and multi-layered demands of mainstreaming development into the IP system. From an inter-disciplinary perspective, the themes captured the long-standing as well as the emerging issues in the field of IP that cut across various disciplines, and how interfacing impacted on development. They also embodied the recommendations adopted under the Development Agenda. The Delegation believed that the themes were sufficient, but could be further improved or refined as the need arose. From an organizational and management perspective, conceptually, organizing product services or interventions into a matrix form where different projects and activities were converged, to accomplish a mission under one theme, was a bold initiative that, if executed well, would succeed. From a policy-maker and policy-implementer point of view, the Thematic approach was elegant in its simplicity. It was a conceptually operational tool that had proved useful to some national IP offices like that of the Delegation's. According to the Delegation, the Thematic approach was smart, had a strategy and accountability, was time-bound and included monitoring and review. There were two basic concerns that the Delegation wished to raise. Firstly, after hearing some of the experts the previous day on the human resources at their disposal, it wondered whether the approach would not require additional personnel, particularly experts, in addition to the present personnel at WIPO. The Delegation understood that there was a need to do more with less, but for the enormous tasks ahead and for such an important undertaking, it was important to be realistic. Secondly, in bureaucracies that had adopted a matrix organization with project managers held directly accountable, those in positions in the traditional structure were often adversely affected by the new set-up. Assuming the Thematic approach was adopted, the Delegation asked how that would impact the existing structure of WIPO. Those were general comments on the proposal before the Committee. The Delegation indicated that it may have more specific comments on the themes chosen or items under each project proposal later on. The Delegation fully supported the Thematic approach presented to the Committee, which it stated, if adopted, would be a milestone in the implementation of the Development Agenda in WIPO.

235. The Delegation of Tunisia supported the statement made by the African Group that had pointed out that the new methodology was acceptable to the extent that it allowed the Committee to avoid duplication. The Delegation also pointed out that if delegations

compared the two methodologies, they were in fact identical. The only difference was that the new methodology avoided redundancy. If the current approach was kept, repetitions with activities may not be avoided. The Delegation wished to point out that there was a need to make a distinction between agreeing on a methodology and agreeing on proposed activities. It also reiterated that the new approach was acceptable to the extent that certain concerns, as expressed in previous statements and by other delegations, would be included and mainstreamed into the cornerstone of the report and the projects. For example, the option of revisiting the recommendations was important, as also the option of keeping the spirit of each recommendation after it had been clustered. The Delegation also pointed out that the projects, action plans, and activities should be presented by the Member States, with the Secretariat and the Chair. It reminded delegations that during the last session of the General Assembly, it had been decided that the three stakeholders, that is, Member States, the Chair and the Secretariat, would prepare an initial work plan for the next CDIP session. The Delegation thought the same procedure should be repeated for the next recommendations.

236. The Delegation of Morocco stated that the proposed approach was a good one and that its implementation should be carried out as soon as possible, and the Committee should not spend too much time on procedure and steps to be taken for implementation. It stated that enough time had been spent on its development it was time to move forward faster, which did not mean not doing things properly. In other words, each recommendation had to be respected in its integrity and its entirety. The Delegation recalled the commitment made by the Director General and the chairperson concerning the implementation of the Development Agenda. The Delegation fully supported the new approach, while emphasizing that the monitoring and evaluation process remained Member State driven. The Delegation supported the statement made by the Delegation of Tunisia that the Committee must have the possibility of going back to projects when shortcomings were noticed, so that they could be constantly improved and reconsidered, with special considerations of each Member State. It pointed out that not all countries had the same level of development and each country had specific needs, and the proposed projects were simply toolboxes. It was up to each country to have the liberty to choose the projects that were best suited to them.

237. The Delegation of Brazil recognized the efforts carried out by the Secretariat in preparing and presenting the proposed new methodology. It regarded the efforts by the Secretariat as a demonstration of the International Bureau's commitment to the effective implementation of the Development Agenda. The Delegation associated itself with the intervention made by the Delegation of Costa Rica on behalf of GRULAC, and requested that the five conditions pointed out by the Delegation of Costa Rica, be reflected in the Chair's Summary. It stated that any method of work that the Committee adopted or maintained must take into account that the Development Agenda is a Member-driven process. The Member-driven aspect was a fundamental principle of the Development Agenda, which the Delegation treasured, and to which it attached the utmost importance. Bearing that in mind, the Delegation believed that the Committee had followed a work path that was inclusive, legitimate, and with which the Committee was familiar. Furthermore, the current work method of the CDIP, allowed Member States to thoroughly discuss the cross-cutting and multi-thematic aspects of each one of the 45 agreed Recommendations, as well as to identify, under each recommendation, the relevant implementation activities. It stated that the current work method had its shortcomings. It was indeed a slower way of making progress, but it had a fundamental advantage, which was that members of the Committee were allowed to discuss in a thorough manner, the full content of each recommendation. The current work method ensured Member States' leadership in the implementation of the Development Agenda. It

seemed to the Delegation that if the new approach was tried, delegations would have to agree on conditions or guidelines to pursue the work in the new framework, and ensure that the implementation of the Development Agenda remained a Member-driven process. The Committee needed to agree on conditions or guidelines that would address the various concerns expressed by Member States in the consultations, regarding the project approach. All aspects of each and every recommendation needed to be discussed and would be implemented. No aspect should be overlooked. Multi-thematic recommendations could and should be part of more than one project. Another important condition or guarantee was that recommendations must always be discussed prior to the projects. The Delegation pointed out that discussing the projects before discussing the recommendations themselves seemed to invert the natural order of things. The Committee had already discussed and agreed on activities for recommendations 2, 5, 8, 9 and 10. The Delegation did not, therefore, see any problem in discussing the nine projects presented by the Secretariat for those five recommendations because the Secretariat had based the nine projects on the activities identified by the Committee. Nevertheless, for the new recommendations, that is, for recommendations not already discussed by the CDIP, the necessary guarantees should be in place to ensure that the Committee would have the opportunity to thoroughly discuss the recommendations, identify the activities and discuss the projects.

238. The Delegation of Indonesia also expressed its appreciation to the Secretariat for the initiative taken in preparing the Thematic Projects. The Delegation noted that further clarification from the Secretariat was required on the methodology to be applied. During the presentation of the Secretariat, delegations heard that there were a number of advantages to the proposed approach. One of them was that the proposed approach would lead to a faster and more coordinated progress in the implementation of recommendations, but the Delegation asked if the Secretariat could further explain what timeframe it considered appropriate for the proposed approach. It had been mentioned that with the current methodology, implementation could take approximately four years, but it was unclear how long the new approach would take. It had been explained that through the proposed Thematic Projects, 13 Recommendations would be grouped into five Thematic Projects, and that further projects, to be presented at the fourth session of the CDIP, would bring together the remaining recommendations. The Delegation, therefore, considered that discussion on the remaining recommendations could be completed in two sessions of the CDIP, which would be a great achievement. However, the Delegation stressed the importance of underlining, in accordance with statements made by the delegations of South Africa and India, that the essence of each recommendation should not be lost. It pointed out that although some of the recommendations could be clustered into one or two Thematic Projects, a thorough look at the recommendations revealed that there were differences between recommendations, and issues that may not be fully addressed in a single project. The Delegation indicated that it would revert to that subject when the Thematic Projects came up for discussion.

239. The Delegation of Argentina expressed its support for the statement made by the GRULAC Coordinator that the projects approach needed to be implemented on the basis of five conditions. It stated that firstly, in preparing the Thematic Projects, the Secretariat should maintain the content and layout of the original recommendations adopted by the Committee. In other words, there should be no re-interpretation of the recommendations. Secondly, the development and implementation of the projects relating to the recommendations should include modifications requested by Members in the course of the Committee sessions. Thirdly, the fact that a project comes to an end, did not necessarily mean that the recommendation's implementation was also concluded. Fourthly, if the project only

implemented a part of a recommendation, then additional projects or activities would be drawn up, so as to implement the recommendation concerned in its entirety. Lastly, sufficient budgetary funds should be provided to guarantee the implementation of the Thematic Projects, as was indicated by the Delegation of Brazil, the Delegation requested that such conditions be included in the Chair's Summary. Furthermore, the Delegation requested that the cost of the projects should not reflect existing staff costs, but only additional staff costs. In conclusion, the Delegation of Argentina noted that the 45 Recommendations had been adopted by the General Assembly and, therefore, all 45 should be implemented through actions.

240. The Delegation of the Republic of Korea stated that it had waited for a long time to discuss the substantive issues relating to the implementation of the projects. It seemed that many Member States wanted to implement the recommendations as soon as possible, and also ensure that every single element was included in those recommendations. The Delegation reminded other delegations of the WIPO procedure, and that it was effectively the last session of the CDIP prior to the Program and Budget Committee, in which the budget for the implementation of the projects should be approved. Therefore, the Delegation suggested that the Committee discuss the proposed projects, and if there were any Member States who did not want to lose a single element in the implementation of those recommendations, they should come up with suggestions and proposals on how to implement and incorporate those ideas into the implementation projects. The Delegation warned that if the Committee did not get into the substantive discussions of the suggested projects, there may be no projects implemented for the following two years. It noted the importance of discussing the projects as soon as possible, in order to move forward.

241. The Chair declared that he had not heard anything that implied that the methodology could not work, and noted that the concerns were fundamental concerns that could easily be resolved, and suggested that the principles on which Members were willing to move forward, be captured on a single sheet of paper. As soon as that was done, the Chair stated that he wanted to meet with the Regional Coordinators, the Coordinator of the "Group of Friends of Development", and one or two other delegations that the Coordinators may want to include, in order to come to an agreement on the way in which they wanted the Committee to move forward. He indicated that all of the suggestions made could easily be incorporated into the approach, but wanted to make sure that he had captured what the delegations considered to be important, and the most effective way to do that was to make use of the resources of the Secretariat, and summarize those ideas on a single sheet of paper. The Chair stated that the Secretariat would need a few moments to put the notes together on the principles for moving forward.

242. The Delegation of Algeria supported the statement made by Senegal on behalf of the African Group. It was the Delegation's opinion that the new approach based on the Thematic Projects, was perfectly valid and very practical. However, the Delegation had asked the Chair to include in the summary of the discussions the notion of regional balance when distributing projects among the Member States.

243. The Chair noted the concern of the Delegation of Algeria and stated that there was a broader issue on which it was important to reach agreement and this was a concern that the Committee could discuss as it moved forward. The Chair then requested the Secretariat to read out the summary of principles so that it could be interpreted into the other languages.

244. The Secretariat noted that the document was entitled “Conditions for Thematic Projects Approach”. It read out the summary as follows: “(1) In preparing the Thematic Projects, the Secretariat should maintain the contents and formulation of the original recommendations which were adopted by the General Assembly. The projects should reflect the shared interpretation of Member States. (2) In the development and implementation of the projects which address the various recommendations, any modifications made by Member States during the discussions should be included and the process will remain Member State driven. (3) The fact that a project comes to an end should not necessarily mean that the implementation of the relevant recommendations also comes to an end, and will depend on the consideration by Member States. (4) Where the projects only implement part of the recommendations (that is the remaining part is either a principle or implemented through regular activities), additional projects or activities for the implementation of those recommendations will be formulated to implement those recommendations in their entirety. (5) Sufficient financial resources should be made available to guarantee full implementation of Thematic Projects. The cost of all human resources for implementing the projects should be included in the project budget and in order to maintain full transparency, internal and external cost should be reflected separately. (6) Recognition that in promoting the objectives of some principles, activities may be required. (7) There should be flexibility to ensure that Member States may go back to review a project if it is felt that it does not appropriately address the concerns behind the Recommendation. (8) Given the multi-thematic nature of some recommendations, individual recommendations may be included in more than one project.”

245. The Delegation of India stated that it had one comment to make on the first point regarding the wording of the paragraph which it stated did not probably reflect the central point made by many delegations, that the discussions on the recommendations should be the basis for formulating the Thematic Projects. The Delegation said it had a revised text which may better capture what the Member States had said, which read as follows: “Item 1. The Thematic Projects should be prepared to reflect the shared interpretation of the relevant recommendations by Member States and implement the activities agreed upon by them to realize the spirit and objective of each recommendation”.

246. The Delegation of Brazil pointed out that one of the principles that should be reflected was the understanding that first came the recommendation, then the project. Thus, the Committee should be given the opportunity to discuss the recommendation first, to identify which activities should be implemented under that recommendation, and, based on the outcome of that discussion, the Secretariat would develop the project. In that regard, the Delegation agreed with the formulation proposed by India and considered that its formulation be included as an additional principle, i.e. principle number nine.

247. The Chair indicated that the suggestion from the Delegation of India was a replacement for the first item rather than the ninth item. The Chair sought clarification as to whether the suggestion by the Delegation of Brazil, to first discuss the recommendations, would be the ninth item on the sheet.

248. The Delegation of Egypt supported the language proposed by India. In addition, concerning paragraph 6, it pointed out that it was not clear what were the “principles” referred to, as the Committee had discussed the recommendations and no distinction had been made between principles and action-oriented recommendations. It stated that the key message was that all recommendations were action-oriented and had the potential of being included in the

projects. Finally, the Delegation of Egypt supported the Delegation of Algeria, on the need to emphasize that in the project approach, the overall aim of sustaining a balance between regions should be the guiding aim.

249. The Delegation of Algeria supported the statement made by the Delegation of Egypt and reiterated the need to reflect in the non-paper, the importance of having a balance between regions and within regions in project implementation. It stated that that guiding principle should be reflected throughout the project approach and in the non-paper.

250. The Delegation of Germany enquired about the word “modifications” in paragraph 2, and wondered what it meant, in that context, as in its understanding, recommendations would not be modified. In the latter part of the sentence in paragraph 3, the Delegation asked whether it was grammatically correct to say that something would depend on the consideration by Member States, and if it was correct, it asked what would actually depend on the consideration by Member States. The Delegation suggested that it might be more appropriate to replace the words “will depend” with the word “depending”, so it would read “also comes to an end, depending on the consideration by Member States”. On paragraph 5, the Delegation enquired about the meaning of “internal” and “external” costs, and wished to add to that paragraph, an indication that the availability of those funds would be subject to the approval of the Program and Budget Committee (PBC) and the General Assembly. On paragraph 6, it shared the comment made by the Delegation of Egypt, as the paragraph was not clear. On the language provided earlier by the Delegation of India, the Delegation of Germany said that it needed to see the statement in writing before it could give some initial thoughts on the subject.

251. The Delegation of France enquired about paragraph 4, and asked the Secretariat to explain it, particularly with respect to the part of the recommendations that would not be entirely implemented throughout a project. Concerning paragraph 6, the Delegation also had questions as to what exactly it meant. In its opinion, that paragraph seemed redundant following paragraph 4, as paragraph 4 already mentioned that principles would be implemented through activities.

252. The Delegation of Nigeria thanked the Secretariat for capturing all that had been said. In the first place, the Delegation believed that going by its thought process, the kind of things that have been discussed were recommendations that would be in clusters, and then projects that would be in clusters that would be used to implement those recommends, and possible gaps in the implementation whether there could be monitoring mechanism and then follow-up modalities. The Delegation said that if it tried to situate this in its thought process in the document that has been prepared, it would take it then that in paragraph one, the proposal made by the Delegation of India would be very valuable. In the second one that talked about development and implementation of projects, the Delegation said that it would take into consideration what had already been said by the Delegation of Brazil that is to the effect that a project should be county-driven. In other words, even if the Secretariat made proposals on projects, they have to still tally with what countries themselves regard as priorities. That may be what was missing. The Delegation also voiced its agreement with the amendments made and therefore would not go into them in detail. On the fourth paragraph, which talked about the remaining part, there was no need to go further in explaining it. The important thing was that when parts of relevant recommendations were not completed, additional projects would follow up. That should explain it without necessarily giving further details. Additional explanations would create another meaning. Then, also, the Delegation noted that effort was

made to address review of gap and flexibility in projects, while noting also that there would be a problem in that approach. The Delegation was of the view that there would not be any need for paragraph six since the principles would generally guide the implementation. Therefore, there would be no need to be talking about principles as part of the recommendations. Regarding paragraphs seven and eight, the Delegation was of the opinion that bits of how to address any gaps in the implementation are being lost. In other words, recommendations that have made that are clusters that have been implemented but for one reason or another some of them have failed short how are they to be known? That is why delegations have kept pointing out that there was need for monitoring and assessment mechanisms. And then, another question the Delegation asked was; what should be done if gaps were found? It suggested that the follow-up modality is what has been missing there. The Delegation referred to a proposal that had been made earlier by Algeria and supported by some others would be put into consideration. It believed that even though the proposals were to be country driven there should be a fair balance within the regions for projects being identified and implemented.

253. The Delegation of the United States of America stated that it would prefer to defer and listen to some of the other interventions and thereafter take the floor.

254. The Delegation of Italy thanked the Chair and stated that, like the United States of America, it would reserve the right to make some interventions on the issue later in the process of the debate. However, it wanted to make an intervention on two main points. The first point referred to the proposal previously made by the Delegation of India. The Delegation of Italy thought that in order to continue the debate on that point, which it viewed as quite important, there was a need for a written proposal of amendment and comments. The Delegation recognized that the intervention of India was supported by some other delegations and requested those delegations to explain their preoccupations, if their concerns had not been captured in paragraph 7. The second point concerned paragraph 5, in which it shared the point of view expressed by the Delegation of Germany, and stressed the importance of using every resource for the implementation of the recommendation within existing limits and subject to approval by the Program and Budget Committee (PBC) and the General Assembly.

255. The Delegation of Germany reiterated what it had stated earlier in its national capacity. It noted that some of the views and opinions expressed by the Group B resulted from discussions held during the coordination meeting prior to the session. The Group had a very quick reasoning as to why a paper was necessary, as delegations were not aware of any kind of procedural requirements when tackling the Thematic Projects, but were of the opinion that they would immediately start with the substantive work on the five projects before the Committee. However, since a paper was on the table, the Delegation would be interested to know the views of other Member States on what would be the nature of that paper. Should it be considered as a CDIP working document? The Delegation stated that it would be grateful if the Chair could enlighten them on the status of the paper under consideration, and what the Committee was actually asked to consider. It suggested that there should not be a mention of the Thematic Projects approach but rather, that the elements outlined in the document should serve to guide the work of the CDIP, when it dealt with Thematic Projects. The Delegation believed that that would answer the question on whether the paper would be a CDIP guidance paper. The Delegation referred to the first paragraph, and noted that there was a need to identify which paragraph was being referred to, as had been indicated by the Delegation of Italy, or by the suggestion from the Secretariat, and including an alternative suggestion from

the Delegation of India. It would be necessary to identify the paragraph that needed to be considered. The Delegation noted the work done on the original paragraph, that there was a question about the second sentence that stated that the project reflected the shared interpretation of Member States, but wanted clarification on what was exactly meant by “shared interpretation”? Did it mean a need for unanimity or was it the majority line of thinking? The Delegation was of the view that it should be clarified. On paragraph 2, the question remained on what was meant by modifications, since it was thought that the meeting did not endeavor to modify the recommendations. The Delegation said it had raised the issue earlier concerning paragraph 3, and at the end of the sentence, it should read as follows: “depending upon” and not “will depend upon”. The Delegation suggested tackling paragraph 4 and paragraph 6 together, because there was a certain overlap. It suggested replacing paragraph 4 or 6 with the text that was actually based upon paragraph 6. The suggestion would be to delete paragraph 4 and rephrase paragraph 6, in the following manner: “recognition that additional activities may be required to implement the contents and formulation of all the agreed recommendations”. The Delegation repeated that this would be a new paragraph 6, but took into consideration that paragraph 4, would be deleted and probably the numbering would need to be changed accordingly, however the text would read: “Recognition that additional activities may be required to implement the contents and formulation of all agreed recommendations”. The Delegation was of the opinion that the new paragraph 6 would actually capture the meaning of previous paragraphs 4 and 6. For paragraph 5, the Delegation stated that it had already indicated the need to reconsider the formulation to enable it to capture the idea that it was something that the CDIP had already agreed upon, namely, that the resource implications that the CDIP may or may not identify during the course of the deliberations, were of course subject to the approval of the PBC and the General Assembly. The Delegation also noted that it had indicated that the idea would be to replace the first sentence of paragraph 5 with the following sentence: “Implementation costs should only draw funds from the existing financial resources, subject to the preview and approval of the PBC and the General Assembly”. Then the paragraph would continue as originally proposed, but the question would still remain, as also raised during the Group B coordination meeting, as to what was meant in the second paragraph by “internal and external costs” since the Chair had had a quick exchange of views with the Delegation informally prior to that Session. The Delegation expressed confidence that the Chair would enlighten the meeting on that matter. Turning to paragraph 7, the Delegation thought that the issue would be discussed under Agenda Item 8, and not under paragraph 8, because it touched upon procedural issues. Therefore, it would be preferable to discuss and leave it out of that paragraph, as indicated by the Delegation of Italy. It noted that there could also be some overlap between paragraph 1 and paragraph 7. The Delegation pointed out that those comments were somewhat the overall view of Group B.

256. The Delegation of Senegal thanked the Chair and noted that the work of the Secretariat to find a consensus should be upheld. It stated that the meeting was on the right path and was heading towards the goal that everyone sought. A proposal was on the table that was being enriched by inputs from the various delegations and from that perspective, it would be a success. The Delegation emphasized the hope for development in the framework of the implementation of the Development Agenda that should be balanced, inclusive and sustainable, in order to respect the principle of balance in the distribution of projects between the regions and within the given regions, which would guarantee a fairness and effectiveness in the execution of work. The Delegation concluded with its support for Algeria with regard to the inclusion of that principle of balance in the list of principles that would be adopted regarding projects.

257. The Delegation of Canada fully aligned itself with the statement made by the Delegation of Germany on behalf of Group B. The Delegation wished to repeat very briefly, some of the points that it considered as very important, and to clarify the intent of that document on its status or nature. It also strongly supported the suggested changes on the title of the document, which would read “guidance” rather than “conditions for”. In the first paragraph, the Delegation suggested the deletion of the word “original” in the second line. It believed that there was a set of recommendations that had been agreed upon, and did not think those would be changed, whereby the word “original” could give that impression. It also agreed with the comments made on the second and third paragraph. It further supported the deletion of paragraph 4, and the new text that was put forward for paragraph 6. Similarly, it supported the new language of the first sentence for paragraph 5. With regard to the paragraph 7, the Delegation also believed that this item could be discussed under the Agenda Item 8, and requested more clarification in terms of what was meant by “not appropriate ...” in that paragraph on the second line. It also asked what the criteria would be to assess it and if it meant that a consensus would be re-opened?

258. The Delegation of the Czech Republic stated that it supported changing the heading for Guidelines for the Thematic Projects approach, and also thought the paper under discussion was not necessary. The Delegation was prepared to discuss it if there was a wish for such a discussion and the work of the Chair and the CDIP. As far as point 4, the Delegation was of the opinion that it was not very clear and that the formulation was too complicated. It understood the idea, but pointed to the second part of the paragraph which needed to be reformulated, and proposed to change “the recommendations will be formulated” to “projects may be formulated to implement these recommendations”. The Delegation was prepared to discuss and consider the proposal of Group B, but needed some time for an exchange of opinion and to come back to it later. As for point 5, the Delegation thought that it was not very clear on some formulations on the external and internal costs which should be better explained, and noted that it might not be the proper language used in this case. It urged caution when referring to budgetary questions. The Delegation noted that paragraph 7 could somehow be captured by a new formulation of a point made earlier. The Delegation added that the proposal made by the Delegation of India was somehow covered and captured in point 7, which was in the original paper. The Delegation said it would come back to that paper in the next discussion, if there was more information from other countries.

259. The Delegation of Tunisia observed that the meeting seemed to be drifting away from the initial purpose of the exercise, noting that those points were aimed at identifying the guarantees that were necessary for accepting the new approach. In its view, paragraph 5 and 6 were valid, whether based upon the old or new approach. Paragraph 5 stressed the need for funding. Therefore, the title was valid whether it was used in the context of the new approach or the old approach. Accordingly, the Delegation suggested its deletion because what was needed were guarantees on the acceptance of the Thematic Projects.

260. The Delegation of Burundi supported the proposal put forward by Algeria that there should be a balance in funding and the projects that were implemented in the regions, and also within the regions.

261. The Delegation of South Africa stated that some good comments had been made. The Delegation supported the comments made by India, which could also serve as a basis for modifying the first paragraph. The most important point that had been raised by other

colleagues was on paragraph 6. The Delegation agreed with the point raised by the Delegation of Egypt and the Delegation of Nigeria, in terms of the principles. In that regard, it believed that the Delegation of Egypt would also provide specific language on that subject, so it would appreciate that being made available. The second point was of course to support the Delegation of Algeria, in ensuring a balanced geographical and regional approach, and requested seeing something in writing in that regard. Finally, it noted that there were some minor details regarding language clarity, which had been raised by the Delegation of the Czech Republic, for instance in paragraph 5, in terms of the cost of internal and external personnel. The Delegation suggested that perhaps the Secretariat could rephrase the paragraph.

262. The Delegation of Angola indicated that it had two comments to make. The first comment was on paragraph 3. It suggested deleting the word “necessary” to read as follows: “The fact that the project comes to an end should not mean...” deleting “the necessary”. The second comment was on paragraph 5. It suggested that the Secretariat maintain the language and that “financial and human resources would be made available in order to guarantee the full and effective implementation of the Thematic Project”. The Delegation also suggested that in case the Secretariat wanted to leave the proposal made by the Delegation of Germany, it could also say that “the implementation cost should be discussed at the PBC or General Assembly”.

263. The Delegation of Egypt stated that it had five points to make. The first pertained to the nature of the document. Earlier in the discussions, the general drift of the conclusions were that the new methodology was useful. However, it would be subject to particular refinements. Therefore, it suggested looking at that document as the refinements as the Chair had suggested. Based on the recommendation of GRULAC, which was a good proposal, the document be appended to the Chair’s Summary. The second point concerned the first paragraph. As indicated earlier in its first intervention, it believed that both elaborations by the delegations of India and Brazil, were constructive and clarified a starting point for the proposed methodology. As such, it thought that the Delegation of Brazil would be reading out language that had the full support of the Delegation of Egypt. On the issue raised by the Delegation of Germany on issues 4 and 5, particularly on paragraph 6, the Delegation agreed that the language was vague. However, the Delegation did not really believe that it would entail a major change in the structure of the paper, by deleting paragraph 4 and 6. It had indicated that it would prepare the suggested language for paragraph 6 and, if the Chair allowed, would read it. It would read as follows: “Recognition of the equal treatments to be accorded to all 45 Recommendations and that each and every recommendation is actionable”. The Delegation noted that in order to address the concerns that were raised by other Member States with regard to paragraph 4, it should let the Committee delete the references within brackets, so that paragraph 4 would read: “where projects only implement part of the relevant recommendations, additional projects or activities and ...”. The third point related to paragraph 5. The Delegation thought that this was an issue that was considered in the very first Committee it attended at WIPO, under the Chair’s presidency last July, when the issue of funding for the implementation of the recommendations was discussed, at the second session of CDIP. The Delegation noted that there was a considerable discussion on that issue, and one good thing about the fact that progress was made in the first session of CDIP, was due to the fact that perhaps there already existed a language that had a consensus. Therefore, it suggested the particular language from the Chair’s Summary from the second session of the CDIP, with regard to the funding of activities, should be used, as guidance on the role of the PBC and the funding of activities. The Delegation noted that if that language was taken

verbatim, then there was no need to engage in further discussions on that subject because the language obviously had consensus. The fifth point was in relation to a suggestion made by the Delegation of Senegal on behalf of the African Group and originally raised by the Delegation of Algeria, on the need to ensure a balance, which was important consideration that should find a place, noting that it would propose that language.

264. The Delegation of the United States of America noted that, as it was taking the floor for the first time, it would do so on a matter of substance. The Delegation thought it would answer the question that might be on the Chair's mind or the minds of other delegates. Where did the United States of America stand on the Thematic Project approach? The answer to that question was that the United States of America fully supported that approach. There were three reasons why it supported the approach. The United States of America believed that the Thematic approach would increase the efficiency of the Committee's use of time, and permit an accelerated consideration of all recommendations. Secondly, a Thematic approach would lead to a sustained and deeper discussion of proposed activities. As noted before, CDIP should assume the role as a deliberative confident Committee carefully analyzing and evaluating proposed activities. Thirdly, at a time of constrained resources, a Thematic approach would also help to avoid redundant or duplicative program expenditures. Against that backdrop, the Delegation expressed surprise and a little disappointment that by mid-week, the Committee again found itself discussing somewhat less confidently, a document that might not even be necessary. That said, if that document proved to be necessary, the Delegation fully supported the statement of Group B, on the way to enhance it and make it more precise. It also invited particular consideration to paragraph 6, which dealt with the fundamental issue on how to proceed. In its understanding, based on the first two sessions, the mandate of the Committee was to implement the 45 Recommendations. This was to be done through proposed activities that were carefully deliberated upon. The Delegation thought that against that backdrop, the amended language proposed by Group B captured the fundamental way in which the Committee needed to proceed.

265. The Delegation of Brazil noted that the first point it wanted to make was regarding the questions raised by some Member States as to the relevance of the exercise, and then it would come back to the intervention by the Delegation of Tunisia, which made a very clear point that the document was indeed relevant for many Member States, as it would provide them with the necessary assurances that when the CDIP decided to move from the old approach into the new approach, it would be taking the best of the old approach into the new approach. For the Delegation of Brazil, the best of the old approach was really the possibility that Member States had to fairly discuss each recommendation. In that sense, it suggested that some language changes be made. It had already provided the Chair with the text, but would read it for the benefit of other delegations, which could be incorporated into the first paragraph and read: "The implementation of the Development Agenda recommendations shall be based on a thorough examination by the Committee of each recommendation and the identification of appropriate activities to be undertaken. Based on these, suitable Thematic Projects could be agreed upon by Member States, which could include the implementation of more than one recommendation". The Delegation viewed this paragraph as really necessary because through it the Committee would insure that the process would remain Member-driven. That was basically the main concern of Brazil. It observed that many delegations were anxious about moving on to discuss the substance of the projects. For those delegations, it suggested that that anxiety could be easily resolved when the nine projects that had already been prepared and presented by the Secretariat on recommendations 5, 8, 9 and 10, were considered. The Delegation expressed its readiness to discuss those nine projects

and even supported them as they were developed on the basis of activities pointed out by the Member States. That was basically the part that the Delegation wanted to ensure. Firstly, for the Committee to discuss the recommendations and then for the Secretariat to move forward and prepare the projects. Referring to a remark made by the Delegation of Germany, who stated that it was important to ensure that the Development Agenda would be implemented within existing resources, the Delegation expressed doubts for the fact that the Secretariat had proposed a project on a conference on mobilizing resources under the Development Agenda Recommendation 2. The Delegation asked the Secretariat how Member States could be sure that the Development Agenda would benefit from WIPO resources and also from extra-budgetary resources that could be mobilized by the Conference? How could delegations really accommodate the remark made by the Delegation of Germany realistically, the Delegation observed. Referring to the observations made by the Delegation of Germany on behalf of Group B about paragraphs 4 and 6 of the document, the Delegation of Brazil noted that it was really relevant to have a mention of the word “principles” in the document. Of course the “principles” could be implemented, but as the Delegation noted during the first day of discussions, it believed that the Development Agenda was a permanent body that contained principles. Principles should be implemented by the Secretariat. Principles should be implemented by Member States themselves. In that context, a reference to and the recognition of that status of the Development Agenda was indeed very important. The Delegation concluded its intervention by addressing another question raised by the Delegation of Germany regarding the status of those documents, and noted that Costa Rica had made a good suggestion on behalf of GRULAC, when it stated that conditions of negotiation for moving into the Thematic approach, could be reflected in the Chair’s Summary. Therefore, the Delegation stated that maybe the document under negotiation could be part of that Summary.

266. The Chair sought to clarify a point from the Delegation of Brazil. He wanted to know whether the Delegation had captured so much in paragraph 1, that it was now discounting or recommending the deletion of paragraphs 2, 3, 4 and 5. The Chair also stated that he saw the Delegation had a note on paragraph 6 as well, and asked whether it too was a replacement for the existing paragraph.

267. The Delegation of Brazil stated that it was an addition, which it would like to incorporate, and could serve as an addition when the renumbering was done.

268. The Chair suggested making it an alternative, and not an addition, as such might complicate the process.

269. The Delegation of India noted that after listening to interventions by many delegations on the document under consideration, it would appear as if the meeting was stuck and probably regressing, considering the progress that had been made. The Delegation reminded the meeting that it was probably not a waste of time, because for the first time a change of format in executing the Development Agenda recommendations was being considered, which was very important to many delegations. It said there was also the need to bear in mind that not much time was available to digest the document because contrary to the six week notice that was normally required, the documents were given to delegations a little later because of the intervening Easter break. The Delegation thought that it could be a painful but necessary exercise. The document, whether it was called “conditions on guidelines with Thematic Projects” was a very essential document. The time that was spent would probably be necessary. The second point the Delegation wanted to make was about moving on to

substantive results. It echoed the views of the Delegation of Brazil, that it was the agenda item that should have been discussed, instead of the Thematic Projects, if the sequence in the adopted Agenda of the meeting was considered, that was the consideration of the projects under recommendations 2, 5, 8, 9 and 10. It noted that like the Delegation of Brazil, it was willing to look at it, take a constructive and early decision and move forward towards an early implementation. On the proposed paragraph by Brazil, the Delegation expressed its support and noted that the paragraph was essential, because it tried and summarized the core concerns expressed by many delegations about the primacy of the individual recommendations, basically by not putting more importance on the project rather than what was contained in recommendations. The Delegation said that those paragraphs were important and some delegations had pointed out that if the proposed paragraph clashed with other paragraphs, which the Delegation thought was not the case, then it should perhaps be explained in more detail in subsequent interventions. On paragraph 2 that Group B had pointed out, the Delegation clarified that paragraph 2 referred to modifications made by Member States during the discussions to be incorporated. Reference was made to modifications in the project parameters, the project details, and not to the recommendation itself. It was fairly clear that nobody would touch the wording of the 45 recommendations. It was the projects parameters, and the projects details that were being referred to in paragraph 2. Therefore, if greater clarity was needed, perhaps a phrase could be added in line 2 after any modifications in the project details, which would make it clear so that any misconception about the recommendations would be dispelled. On paragraph 3, the Delegation was mindful about the five points made by GRULAC, and stated that it was clear from the statement made by the GRULAC coordinator that those five points had been made as a guideline for the implementation of the Thematic Project approach. It looked at the five points GRULAC had made, the first one stated that the recommendation should not be re-interpreted, and nowhere was that reflected in the document. The other point they made was the follow-up activities, following the end of project, which were considered necessary. It noted that words on “follow-up activities” could not be found anywhere in the document either, and that perhaps there was a need to add it to paragraph 3, where it stated “implementation of Development Agenda recommendations also comes to an end”. Further follow-up activities would be undertaken after agreement of the Member States or after approval by the Committee”. Pointing to the observation made by the Delegation of Germany on behalf of Group B about merging paragraphs 4 and 6, the Delegation of India thought the real focus of paragraphs 4 and 6, were essentially different. The first one was about closing gaps that may be in the Thematic Projects. Paragraph 6 on the other hand, recognized that the principles were also actionable. The Delegation, however, agreed with Group B, that the paragraph was not very clear, but it had some difficulties with the language that had been proposed, notably the phrase that stated “implementation costs should only draw funds from the existing resources”. The Delegation pointed out that in the Summary by the Chair, in the second session of the CDIP, it was stated that “the Director General assured delegations that the appropriate budgetary resources would be made available to support the implementation proposals contained in the Development Agenda”. The Delegation felt that the same language could be used, if preferred by other delegations, but the proposal made by Group B would not be acceptable. The other paragraph that Group B offered in place of the current paragraph 6, “recognition that additional activities may be required to implement the contents and formulation of all agreed recommendations”, the Delegation noted that the word “formulation” did not capture neither the spirit nor the objective of the recommendation as was pointed out, however those could be worked out in mutually acceptable text.

270. The Chair observed that he should not have proposed the preparation of the piece of paper under consideration in the first place, but had made that proposal because he thought the meeting was dealing with a simple issue. He noted that the Thematic approach was acceptable to all delegations, having heard no objections to the proposal. His concern was guided by how the Committee should get from what it was last year, in terms of a process, to the Thematic approach? One or two things appeared to be critical. One was to discuss the recommendations as it was done in the past so that each recommendation would be discussed and the activities that would implement the recommendations arrive at. And that would be called a shared interpretation or to use simple language, agreement of the Committee. Out of the discussions would come an agreement as to the meaning of a recommendation and the activities that would give effect to those recommendations. Nothing new had been proposed than what the Committee had already done the year before, and expected to repeat this year. What would be done now in addition was to look at the activities that overlapped, activities in one recommendation that overlapped with activities in other recommendations. All those recommendations that were similar should be brought together and structured in the activities in a project format. The only new thing that could be done was to bring activities and recommendations with similar or overlapping activities together, and structure the work under a project approach. The Chair thought that the meeting could have come up with three or may be four bullet points that captured that objective. He observed that last year a lot of time was spent coming up with four bullet points, without remembering what was stated exactly, but were discussed within the context of the recommendations. These activities would be submitted to the Secretariat. The Secretariat would add the human and financial costs, and the document would come back to the CDIP on the activities that had been agreed upon, with details of the funding, and the cost implications, that the Secretariat had attached, and then a final document would emerge. The Chair stated that it should be that simple. What was being done or was proposed to be done during the current year was not what had been said and was not a great departure from what was done the year before. The Chair agreed that emphasis should be placed on the premise of the adopted recommendations. All were in agreement that the recommendations that have similarities should be brought together in order to avoid the duplication and overlapping and save cost in delivering the same result. All were in agreement that the proposed Thematic approach, based on project documentation was good. The Chair asked what all the argument was about and why the CDIP always had to disagree? The paper would have been just a paper, but it seemed the meeting was getting into a new process of negotiation all over again, and suggested that if the meeting got to this stage, it could simply go into smaller groups to try and redraft the language. He acknowledged that it was an error to introduce the paper at all, and appealed to the meeting to move forward. The Chair called upon the meeting to agree on the following: (1) That the Committee would discuss the recommendations in the current year as it did the year before, (2) When it was found that there were activities in different recommendations that overlapped or were similar, those recommendations would be brought together under one theme; and (3) Implementation of those activities would be structured in a Thematic Project approach. The Chair noted that the CDIP need not look beyond those proposals nor go back to issues related to funding. Years had been spent on that process already which had been accepted. It was understood that it would be referred to the PBC and the General Assembly. The Chair asked if the meeting had to go through that again? The Chair agreed with the Delegation of Tunisia and noted that the Committee did not have to go through that process again. As regards the phrase "shared interpretation", the Chair was of the view that it meant coming to some common agreement as to what the issue meant and viewed it in terms of the expectation that the Committee would discuss and come to a common agreement. He stated that there were indeed ambiguities in the adopted recommendations, so when the activities were being

discussed, they must be discussed in the context of a shared understanding resulting from a discussion, and he pointed out that Member States had acquired the experience necessary from the year before. The Chair asked the meeting to agree with him that what the Committee wanted to do was simple. If the meeting agreed, it should proceed accordingly. The Chair promised to capture the specific points in his Report which would hopefully satisfy everyone. He stated that each recommendation would be discussed as it was agreed. Where there were overlaps in the activities or similarities between different recommendations, those recommendations would be brought together under a theme, and then the implementation of the proposal and activities would be structured accordingly. Implementation would be structured in a project approach that all Member States would find acceptable. The Chair was not sure at that stage, if dates should be added to the project documents. However, if stakeholders wished, and as he had been advised by experts that a project document must have a start and finish date, that it could be done. It was pure project management theory the Chair noted, that would be respected. The Chair noted that the dates were indicative, and that future work, as the Committee had always had on its Agenda, would allow for the repeat of a project, to add to it, or change it, in any shape or form, as the Committee's mandate had established. The Chair advised that the Committee should not struggle with language to agree on what it should do. Its mandate was clear. The Chair also hoped that Member States could agree to do those three things that were outlined and they were added to the Chair's Summary. By midweek, the Chair stated he was looking forward to getting started on what he was supposed to do, and that was to advance the work of the CDIP. The Chair noted that it was important to make better use of the remainder of the week having most of it on deliberations. The Chair stated that if delegations agreed with him they should not take the floor, but called the meeting to make another start. He proposed to start the meeting by moving to Agenda Item 7, which had three documents. He called on the Secretariat to introduce the document CDIP/3/3, as it provided a foundation on which the meeting could draw, by way of recognizing the work that had already been done on Recommendation 20. Thereafter, he asked the meeting to look at Recommendation 16 that had not been discussed before, so that it could be considered in detail. The original activities proposed by the Secretariat would be found in document CDIP/1/3. Recommendation 16 started at Annex III of page 25. Therefore, the meeting would examine the activities proposed by the Secretariat in the same way that it did the year before. The Chair made two observations at this point, which he said were up to the Committee to agree on or not. The Chair noted the Secretariat's proposal that recommendations 16 and 20, could be combined under a theme that said "IP and the Public Domain". In order for the CDIP to reach that position, it should consider that it may have to discuss the activities proposed by the Secretariat in document CDIP/1/3, on page 25. The work should be relevant to Recommendation 16. However firstly, the Chair requested the Secretariat to speak on Recommendation 20 that had been previously discussed.

271. In introducing the document CDIP/3/3, the Secretariat explained the link with document CDIP/3/4. The Secretariat recalled that in the second session, Recommendation 12 from the list of 19, and recommendations 20, 22, and 23, from the list of 26, were discussed. It also recalled that in order to make quick progress, the Committee in its second session, decided to shift its focus to the list of 26. As explained in the presentation made earlier, the Thematic Projects, in maintaining that sequence, first look to Recommendation 20. The document CDIP/3/3 contained activities with regard to Recommendation 20, as discussed and broadly agreed upon by the Committee in its second session. In document CDIP/3/4, the first project grouped recommendations 16 and 20, as the Thematic Project on IP and the Public Domain.

272. The Chair proposed a procedural approach. He invited the delegations to first look at the recommendation 20 in the document CDIP/ 3/3, contained in an annex, to refresh their memory regarding the activities that they had already agreed upon. This he said would help to see as to how those activities relate to the activities for recommendation 16, as the Committee discusses that recommendation.

273. The Delegation of Argentina wanted to make a general comment that it felt was valid first for recommendations 16 and 20 and all the other recommendations in Cluster B. It stated that the fact that those recommendations were in Cluster B implied that the implementation of all activities under that Cluster were of a norm-setting nature and were to be done in the committees that dealt with such activities. What was central for the implementation of those recommendations was the coordination with those committees. That was why in its statement, GRULAC requested the Director General to produce an annual report to the CDIP on the implementation of recommendations requiring coordination among different WIPO committees. The proposed project concerned with studies and activities implemented a part of the recommendations, but not the central part. The central part had to be implemented by the committees dealing with norm-setting. Therefore, the Committee had to decide how to coordinate the work with the norm-setting committees. The Delegation pointed out that it was necessary because the proposed project did not implement the whole of recommendations 16 and 20, but only the part on norm-setting.

274. The Chair stated that the Delegation of Argentina had presented a way forward for the meeting, but stated that he preferred not to discuss projects yet, but only to refresh the memory of delegates regarding the activities proposed under Recommendation 20, that Member States had agreed upon as a foundation. He would then ask the meeting to look at Recommendation 16, and have discussion based on the activities proposed by the Secretariat on document CDIP/1/3, as had been done the previous year. He stated that the point raised from the Delegation of Argentina was relevant to Recommendation 20, and also Recommendation 16, which had been identified as principles, and which the Committee agreed would be reported on by the Director General.

275. The Delegation of Argentina restated that it wanted to avoid creating a difference between principles and non-principles. It said that what was agreed upon in the Committee were recommendations and not principles. Recommendations had to be implemented therefore all the recommendations were actionable. They were not recommendations containing parts, and were all actionable, according to the Delegation, especially those recommendations dealing with norm-setting. Others might consider them as principles, but as far as that Delegation was concerned, they were recommendations that were actionable and had to be implemented by the norm-setting committees. Therefore, the Delegation reiterated that in these documents additional activities were being considered for implementing the recommendations, but the central activities that would need to the implementation of the recommendations, had to be carried out within the norm-setting committees. Therefore, coordination with these committees was key. The activities that the CDIP might agree upon might not implement the whole of the recommendation. That would only be done when the norm-setting committees were involved.

276. The Chair stated that he was trying to get the Committee to proceed slowly on this matter. He reminded the meeting that he had asked the Member States to look at Recommendation 20 that they had already approved. He said he would allow the meeting a few minutes to look at the recommendation to refresh its memory. The Chair noted that the

matter that the Delegation of Argentina had raised came under Recommendation 16, and as such, would be considered when that point was reached. The Chair urged the meeting to look through the activities proposed by the Secretariat last year in document CDIP/1/3, and see whether the points that the Delegation of Argentina had raised were not captured in the activities proposed by the Secretariat. The meeting would then take consideration of the Delegation's submissions. The Chair stated he was not discounting what the Delegation of Argentina had said.

277. The Delegation of Argentina observed that it was only referring to Recommendation 20, but what it said was valid with regard to the interpretation for the others as well.

278. The Chair noted that he would have a look at Recommendation 16, and all the recommendations were captured in document CDIP/1/3, which was the working document where the Secretariat may add additional proposals. The Chair, therefore, suggested looking at the activities on Recommendation 16, to see what to add or amend as the Committee had been doing since last year.

279. The Delegation of Bangladesh requested clarification in respect of the recommendation under discussion. The Delegation enquired if the Chair intended to return Recommendation 20 at a later stage and still look at the text that had been revised by the Secretariat under the proposed activities. According to the Delegation's understanding, the Chair seemed to have moved on to Recommendation 16.

280. The Chair answered affirmatively that he had moved onto Recommendation 16 saying that he did not hear any comments on Recommendation 20, but on Recommendation 16. The Chair expressed his willingness move to Recommendation 20, if the Delegation of Bangladesh so wished.

281. The Delegation of Bangladesh thanked the Chair for the clarification and stated that if the Chair so wished, the Delegation would speak about the Recommendation 20, and then go back to Recommendation 16, and if there was an agreement, the meeting could move to the project, which was contained in document CDIP/3/4. The Delegation said it would reserve its comments on document CDIP/3/3, Annex to Recommendation 20, and for the time being, it would speak on only one issue on page 2 of Annex II, under bullet point 4. The Delegation stated that the Committee had discussed, in the context of this recommendation, public domain. The Delegation noted that a mention was made of TK and genetic resources, but there was no mention of traditional cultural expressions. The Delegation believed that it was an omission that needed to be corrected, because in the context of the public domain, traditional cultural expressions did have an important role, and many countries were interested in seeing that reflected under bullet point number 4.

282. The Delegation of Brazil stated it had two activities to propose which fitted under both recommendations 16 and 20. The first activity it proposed was for the Secretariat to look into the particular problem of the names related to biodiversity. The Delegation stated it only referred to the names of biodiversity, such as the names of fruit, land and trees, that had been deemed as generic in Brazil, and the rest of the Amazonian countries. The Delegation noted that Brazil shared the Amazonian forest with nine other countries, which were Amazonian countries, and had a huge biodiversity, and there were many names of fruit that were registered as trademarks in third countries. The Delegation gave example of the "Açai" fruit that was found in Brazil, which was delicious and used for making juices, ice-cream, among

other things. The name “*Açai*” the Delegation stated, was found to be registered in third countries, and the problem was that when a generic name was registered as a trademark in a third country, that action impeded Brazilian exporters to accede to that trademark. Only the company that had the name registered as a trademark could operate in that market. Brazil had not only proposed, but had communicated to the Standing Committee on Trademarks (SCT) two years ago at least 5,000 names of biodiversity. The Delegation requested the WIPO Secretariat to look into the possibility of taking that list presented by Brazil and supported by other biodiversity countries. It was a list of names which had nothing to do with the issue of TK and genetic resources, and it requested the Secretariat to look into that list, and see the possibility of developing a database of generic names related to biodiversity. The Delegation observed that it could be one concrete activity that could be implemented either under recommendations 16 and 20, or within the IP and public domain project. The Delegation said that it was a concrete case when it could be observed how the preservation of the public domain, the generics of certain names were really important for developing countries and also very important for SMEs, which were starting to explore the main products that were available in the country’s biodiversity. The Delegation concluded by saying that it was the first concrete activity that it wished to propose to the Secretariat. The Delegation concurred with the suggestion made by the Delegation of Argentina that the Director General should report regularly on the implementation of principles and expressed that the point raised by the Delegation of Argentina relied upon the cross-cutting nature of the recommendations that were related to norm-setting. The Delegation said that it had an evident cross-cutting nature because what they stated was something to be implemented not only by that Committee, but by other WIPO committees. In that sense, the Delegation supported the suggestion made by the Delegation of Argentina, and pointed out that the statement made by that Delegation was indeed important, as it was an issue which would come up again when discussing Agenda Item 8.

283. The Chair asked if the Delegation of Brazil had looked on the right hand side of the paragraph of page 26 of document CDIP/1/3. The Chair stated that the paragraph addressed the point raised by the Delegation of Brazil. The Chair noted that it might have to adjust it in terms of the Delegation’s request to the Secretariat.

284. The Delegation of Chile expressed its satisfaction on the content and mentioned that as the topic of public domain was important for Chile, it wished to make a proposal with regard to that topic. Chile has actually made proposals on this topic in the past. The Delegation agreed in general with the activities that had been proposed with regards to Recommendation 20, in document CDIP/3/3, as in case of Brazil, referred to recommendations 20 and 16, as set out in document CDIP/3/4. The Delegation thought that in recommendations 16 and 20, in general there were three ideas. The first part of Recommendation 16 was fundamental and it was a good suggestion that the Director General could report on to the permanent committees. With regards to the goals of the Thematic proposal, the Secretariat proposed to work primarily on the second part of Recommendation 20, to assist Member States to identify the subject matter that had fallen into the public domain within their respective jurisdictions. The Delegation referred to the first part of the Thematic Project entitled “Brief Description of the Project”. The last three lines mentioned ideas to undertake studies which it supported, but also suggested the deletion of the word “possible” in the last line. It noted that it would help the Member States determine how they could deal with the subject matter in the public domain. The Delegation stated that it took that Recommendation extremely seriously and its Patent Office was working on coming up with periodical reports on things which fell within the public domain,

including for instance, inventions within the public domain that were deemed to be relevant for certain development-related topics with regard to processing information, and trying to facilitate its use. Those periodical reports were published on the website showing which cases had fallen into the public domain. The Delegation agreed with the comment made by the Delegation of Brazil with regard to names relating to biodiversity, and stated that it was well aware of the list that had been presented to the Trademark Committee. The Delegation stated that in the section dealing with “Delivery Strategy” in the part relating to trademarks, it did not reflect the part relating to “Project Description” and “Trademarks”. The “Project Description” referred to the need to incorporate descriptive names and there was also a need to talk about the inclusion of generic names. With regard to delivery strategies for the part entitled “Trademarks” and the subtitle below, the Delegation suggested deleting the word “distinctive.” The idea of the project was that there would be no descriptive or generic words, the Delivery Strategy under the trademarks section did not capture what was set out in the Project Description. It discussed very ordinary violations of trademarks. In the part on Delivery Strategies, there was a mention of pilot projects. The Delegation stated that the projects should be carried out and it would be very interested in participating in such projects and pilot studies. With regard to copyright and delivery strategies, the Delegation was satisfied that there was an update on the voluntary registration survey. The Delegation proposed a global survey that could be sent out to all Member States of the Organization. Although it would be more expensive, it would give a much broader overview. Finally, the Delegation emphasized that those guidelines and tools should be realized. The Delegation referred to the first part of Recommendation 20, “activities related to IP that support a robust public domain in WIPO’s Member States, including the possibility of preparing guidelines which could assist interested Members,” which the Delegation felt would be very useful. With regard to copyright, the Delegation informed that Chile was in the process of introducing various robust sanctions for those who had unduly appropriated names that had fallen into the public domain. The Delegation pointed out that all of those studies had been carried out on the analysis of the benefits of an easily accessible public domain, and that such kind of studies would be very useful. It suggested a study on the idea of double protection. The Delegation felt that that topic was very important and that the benefits and disadvantages should be considered. The SCT had developed, for example, very useful tools on double protection under copyrights and trademarks in that connection.

285. The Delegation of Bolivia congratulated the Chair on his re-election and on his skillful chairing of the meeting, and extended its congratulations to the Secretariat for their unflinching efforts to prepare the working materials. The Delegation followed the Delegation of Chile in working on recommendations 16 and 20, within the framework of document CDIP/3/4, as those were the documents which they had been working on by liaising with their capitals. With regard to recommendations 16 and 20, the Delegation agreed that like other countries, when it came to norm-setting and a cross-cutting process that was used by various WIPO bodies, it supported the proposal made by the Delegation of Argentina, namely, that in future meetings of the CDIP, they could receive reports specifically with regard to recommendations 16 and 20, norm-setting activities on IP. The first part of recommendation 20, was very important for the Delegation, given that in other bodies of the Organization, new norms linked to IP had been developed. The Delegation also referred to concerns specific to its country relating to traditional cultural expressions. It called for clarity with regard to TK and traditional cultural expressions as those were not really in the public domain. TK was part of the community of the indigenous peoples of a great many countries, and in the case of Bolivia, it was even incorporated into its Constitution. It did not fall directly within the public domain. All of those elements had to be taken into consideration by

the IGC, and within that framework there, had to be efforts to come up with a *sui generis* mechanism to ensure the appropriate protection for such forms of knowledge. To date, they had not been able to come up with that *sui generis* mechanism and because of that the Delegation had some questions relating to the need for a database on TK, which could be part of the *sui generis* mechanism for protection for such forms of knowledge so as to avoid cases where such TK could be misused despite good intentions. The database could serve as a better platform for combating undue appropriation of TK and those traditional cultural expressions. Those were questions and concerns that had to be addressed. There was a need to develop specific activities with regard to TK and traditional cultural expressions. In conclusion, the Delegation referred to the importance of coordination with other bodies so as to promote norm-setting activities relating to IP, especially with regard to TK and folklore. It said that it would be a good idea to coordinate with the Committee that dealt with such topics in order to see whether it was possible to develop norm-setting activities that would enable them to extend the appropriate protection of TK and traditional cultural expressions.

286. The Delegation of Egypt expressed that there was a rising consensus on the need to establish an activity pertaining to the coordination of the work of the CDIP with the other committees of WIPO. The Standing committees and the other norm-setting bodies of WIPO specifically implemented the first part of Recommendation 20, which were concerned at that stage on norm-setting activities. In that regard, the Delegation drew the attention to one important tool in IP legislation that would enable all concerned to preserve the public domain pertained to the issue of exceptions and limitations. At least in two of the norm-setting committees of WIPO, there was discussion on that particular issue of exceptions and limitations, where studies that had been prepared in the last session of the Standing Committee on Patent (SCP) and the Agenda Item on exceptions and limitations in the Standing Committee on Copyright and Related Rights (SCCR). As such the Delegation believed that activities pertaining to how exceptions and limitations could be geared to preserve the public domain should figure in the studies being prepared, particularly in the SCP. The Delegation requested an independent study which would be conducted as mandated under the previous SCP session, including as part of its focus, the issue on the preservation of the public domain. Ultimately, there was a need to figure the coordination mechanism between the Committee and the other norm-setting bodies of WIPO. Under that particular Recommendation as well as Recommendation 16, there was an important role for exceptions and limitations in implementing the recommendations.

287. The Delegation of Switzerland joined the other delegations in congratulating the Chair on his election, and expressed that the Committee was reassured that they had really made the right choice in electing him to Chair the Committee. The Delegation also thanked the Secretariat for preparing excellent working documents that had been submitted and the explanations provided to date. With regard to the question of public domain and recommendations 16 and 20, the Delegation commented directly on document CDIP/3/4 and indicated its regrets that it took the Committee a while before it could deal with substantive questions. The Delegation thought that it was important to avoid undue monopolies with regard to IP, things that were in the public domain should not be protected by IP and that should be recalled. Carrying out studies and surveys in order to better understand the relationship between IP and the public domain and the development of appropriate tools such as the creation of databases in sectors where that could be deemed appropriate in order to reach the goals of recommendations 16 and 20, could only be beneficial to all WIPO Member States. In that connection, and with a view to avoid leaving aside an important activity relating to IP and the public domain, they could perhaps complement the proposed activities

by introducing more clearly, the question of quality of titles of protection for IP, that were issued, for that was an important dimension when considering the public domain and it of course applied to the different fields of IP. It was particularly important with regard to patents and beyond the question of dissemination and disclosure of information. The question also emerged relatively frequently with regard to trademarks where titles of protection were issued, as pointed out in document CDIP/3/4, to persons or companies, for example, with regard to geographical names. The Delegation of Brazil provided another example which then led to problems with manufacturers and producers who wished to use that denomination to identify their products of origin. The Delegation stated that it could be a good idea with regard to the findings of studies in the field of trademarks, in addition to that discussion on the quality of titles of protection and developing new instruments and tools such as databases. The Delegation also underscored the importance of the principle of territoriality which was inherent to IP, and also to point out that those databases could never be exhaustive. With regard to the establishment of databases in the field of TK, the Delegation took that opportunity to recall that it supported that kind of initiative and recalled the proposal that was made to set up a portal that would link the existing databases in the field of TK. The Delegation felt that the idea of launching a pilot study to create national databases would help in elaborating a methodology and principle for national databases to be extremely positive as an initiative. With regard to the elements relating to copyright, the Delegation felt that it was important to carry out studies and surveys but not to lose sight within the framework of those studies, of how difficult it was to come up with a voluntary registration system given that it was impossible to have complete registers that ensured the predictability of rights because that depended on the duration of copyright. In order to realize the importance of establishing voluntary registration systems, it would also be a good idea for studies to look at mechanisms for consulting those databases, given the diversity and complexity of the works protected and to ensure that the findings of that research were reliable. With regard to the implementation of those recommendations with the idea of reporting to the other committees, or information provided by the Director General with regards to the principles regarding the norm-setting activities in the public domain, the Delegation felt that it could all be discussed under Agenda Item 8. The Delegation stated that on a preliminary basis, the Committee was mandated to report to the Assembly, and that would be the best way of moving forward in that respect, and every Member State could refer to the public domain when taking the floor in the committees, without preventing them from responding to those issues.

288. The Delegation of Colombia referred to Recommendation 20, and stated that in light of the activity proposed for distinctive signs, it supported the idea of a study on the bad faith registration of distinctive signs. The Delegation believed that the appropriation of geographical distinctive signs was something that had been already covered by other dispute settlement procedures. In the case of sacred signs, it stated that one would not be dealing with bad faith either, but rather something against morale, good custom and appropriate practice. With respect to the proposals made on copyright, the Delegation of Colombia was grateful for the effort that had been made by the Secretariat, in particular as it pertained to awareness raising with respect to copyrights and related rights. It added that the studies on and analysis of national legislation and registration systems were useful in the area of copyright, but nevertheless the Delegation considered that the identification of legal and technical instruments facilitating access to copyright in the public domain was not necessary since in order for works to go into the public domain, it only required a certain amount of time to have it passed. The Delegation emphasized that in Colombia the registration of works was quite wide-spread and was not compulsory for authors. Therefore, the Delegation stated that an attempt to develop a database, which would contain the works in their entirety, would be

something that would be extremely difficult. Furthermore, it believed that public and government institutions were not responsible for establishing which works had gone into the public domain. The onus was on each individual concerned to take into account the terms of protection, in accordance with what was established by the national legislation. In addition, the Delegation was of the opinion that locating material in the public domain and preparing databases on works, which were in the public domain were issues which went beyond the competence of the Organization. The Delegation therefore believed that such activities should be financed by the beneficiaries who were concerned by them. The Delegation then referred to patents, in particular to the activities proposed for the Patents Committee. In that connection, the Delegation felt that it was necessary to propose more aggressive activities which would help countries to develop policies to deal with the use of the technological information held by patent banks, and which were in the public domain. The Delegation concluded by stating that with respect to TK, it was to be noted that indigenous organizations in Colombia had already expressed their disagreement with that issue, and as such the Delegation would not be able to support the activity proposed in that area.

289. The Delegation of El Salvador referred to recommendations 16 and 20. It stated that its Delegation considered the work being carried out on the public domain to be a very positive step, in particular as it related copyright and related rights. The Delegation reiterated the fact that copyright and related rights were protected in a very particular way, including in accordance with the Bern Convention, and that there was no need to register the works for the rights to be enjoyed. The Delegation congratulated the Secretariat for the immense amount of work it had accomplished in particular in the area of voluntary registration. The Delegation added that in the case of El Salvador, the country possessed very little information on voluntary registration, but the country did recognize the protection of all works, as soon as they were created in accordance with stipulations of the Bern Convention. The Delegation believed that the study being suggested should be carried out, but it should not be considered as an exhaustive list. The Delegation suggested that other documents that had been used or which were being worked on should be investigated, as they may prove to be extremely useful. The Delegation then addressed the issue of trademarks and referred to distinctive commercial marks. It believed that consideration needed to be given not only to bad faith registration, but also reasons for cancellation or refusal of marks, and that of course in close collaboration with nation IP offices. On the issue of patents, the Delegation wished to ensure that the work which had been accomplished so far by LATIPAT was taken into account. The Delegation saw that work as extremely useful and expressed hope that it would be included. On TK, the Delegation agreed entirely with the initiative presented to by the Secretariat. However, it felt that it was essential to take into consideration the work which had already being done by the IGC. The Delegation underscored that the said Committee had produced a lot of documentation and reached major conclusions, and as such that work should be taken into account when implementing the project.

290. The Delegation of India referred to recommendations 16 and 20, and stated that each of those recommendations consisted of two parts and therefore there were two aspects in Recommendation 16, and two in Recommendation 20, to be implemented. The Delegation noted that in document CDIP/3/4, the implementation of the second half of the Recommendation 20, had been focused upon. The Delegation stressed the importance that it attached to preserving and enriching the public domain in the interest of the larger community. However, it added that given the varying interpretations and nuances as to what constituted the public domain, the Delegation felt that before getting involved in any concrete work program under that recommendation, it would be important to arrive at a conceptual

understanding of what constituted a public domain. After arriving at such a definition, the Delegation believed it would then be necessary to define what the preservation of a public domain meant. Whether preservation meant creation of conditions that allowed public domain to survive or the creation of conditions that also allowed it to expand and enrich itself from various sources of sustenance? The Delegation stated that there was a need for more conceptual clarity on the concept of preservation of public domain, and that such a perspective would in turn lead to a consideration of the public policy aspect of public domain. It added that it would be the norms in the form of public policy that should nurture the public domain. The Delegation then proposed that a study be prepared as had been suggested in Recommendation 16 that would deepen the analysis of the implications and benefits of a rich and accessible public domain. With respect to the approach for implementation, the Delegation stated that the proposed project in document CDIP/3/4, did not appear to accept public domain as a body of knowledge that was capable of self sustenance. In fact, it believed that the project viewed the public domain in only two ways. One, by way of knowledge going out of IP protection, and two, the ownership of knowledge and expression was unknown. In that context, the Delegation was of the opinion that TK and traditional cultural expression would stand a risk of being considered in the public domain, and consequently be available for free use. In the case of copyright, the Delegation believed that the scope of the proposed study to be limited. It suggested two specific additional areas that could merit some examination; (1) Measures possible to preserve and repopulate the public domain in the context of imposing limitations on copyright law; and (2) Protection of traditional cultural expression from misappropriation in the form of adaptation. In other words, claiming new expression of an existing idea or modification that was possibly violating moral rights in such expression. With respect to patents, the Delegation believed that there could be a possible merger of both issues under a single category since in its view, the risk to TK essentially emanated from the patent regime. In that context, the Delegation suggested three points. (1) There was a need to examine the strengthening of post grant opposition regimes in the context of consultation of public domain and TK; (2) There was also a need to examine the use of penal provision for insufficient disclosure of the included TK; and (3) The examination of ever greening and patent tickets in the patenting system so as to repopulate the public domain and limit the impeding of the creation of new knowledge. The Delegation suggested that in the proposal of the development of a pilot national TK database, an objective and in-depth analysis of how national TK databases protected TK should precede the database development. The study could also look at the issue of public domain against the back drop of biodiversity legislation in different countries that provided for *sui generis* systems of TK and benefit sharing for products that were derived from the use of TK. The Delegation associated itself with the statements made by the delegations of Argentina, Brazil, Chile and Egypt, with respect to norm-setting in recommendations 16 and 20. It believed that the normative cross-cutting requirement of the recommendations should inform the work of other WIPO committees and in norm-setting processes. Those recommendations should be communicated to other WIPO committees and the committees should be asked to report back to the CDIP in relation to their activities including technical assistance activities. The Delegation of India recognized that the coordination mechanisms were discussed under Agenda Item 8. However, it expressed the desire to see the coordination issue referred to as an actionable point in the work program under the recommendation being discussed. The Delegation concluded by seeking clarification as to how improvements in the IPC and PCT minimal documentation would help achieve the objective of that recommendation.

291. The Chair reminded delegations including the Delegation of India, that lengthy interventions should be submitted in writing.

292. The Delegation of India thanked the Chair for the reminder and stated that it would submit its statement in writing.

293. Speaking on behalf of the EU and its 27 Member States, the Delegation of the Czech Republic referred to the relationship of the CDIP with other WIPO committees, which had been raised by other delegations. The Delegation stated that it had a common view of the issue, and it would be presented under Agenda Item 8 where appropriate. However, it cautioned that the silence of the Delegation during the discussion under Agenda Item 7 should, therefore, not be understood as having consensus on the matter.

294. The Chair thanked the Delegation of the Czech Republic for the reminder and stated that although he had made a remark after the statement made by the Delegation of Argentina, he wanted to reiterate that discussions on coordination activities should take place under Agenda Item 8. He stated that in the discussion on projects, it was essential to have across the board, acceptable and implementable ideas coming out of discussions so as to move forward. The Chair added that once coordination mechanisms had been resolved under Agenda Item 8, all other coordination issues pertaining to projects would fall into place.

295. The Delegation of Brazil referred to the issue of names associated with the Amazonian biodiversity and stated that there were many examples of Amazonian generic names of roots and other products which had been erroneously raised as trademarks in third jurisdictions. The Delegation submitted that the misappropriation of Amazonian generic names damaged the interests of the population of Brazil and other Amazonian countries. In that connection, the Delegation wished to recall the list of 5,000 generic names which was presented by its Delegation to the SCT in 2006. It believed that the list should be mainstreamed into the project before the Committee, and suggested three actions to the International Bureau. (1) The publication of the list on the WIPO website as well as distribution of the list to trademark offices around the world. The publication of the list would allow other countries to assist in updating the list and provide information to trademark offices so as to avoid the grant of erroneous trademarks; (2) The Investigation and carrying out of research on the misappropriation of generic names associated with Amazonian biodiversity; and (3) The elaboration of an impact assessment of how the misappropriation of names of the biodiversity would negatively impact on the forest community as well as SMEs that intend to sustainably exploit the largely unknown flavor of the Amazonian forest. The Delegation believed that to be a concrete example of how the misappropriation of the public domain and the registration of generic names as trademarks could directly affect poor populations in developing countries. The Delegation elaborated that the fruit of Amazonian forest were largely unknown, even in Brazil, and as such, the registration of the name of a fruit as a trademark would completely close the market and prevent the development of small businesses in the Amazonian region. It added that the Amazonian region in terms of nature was a luxurious region, but the population of that region lived in very poor conditions. In that connection, the Delegation requested the Secretariat to take its three proposed actions into account. The Delegation of Brazil then referred to the development of databases on TK and reiterated its position that the misappropriation of TK and genetic resources could only be effectively addressed by a disclosure requirement in the TRIPS Agreement. It added that there was a need to amend the TRIPS Agreement in order to require patent applicants to disclose the source providing country of inventions, based on TK and genetic resources. The Delegation reiterated the proposal by Brazil and another 108 countries in the World Trade Organization (WTO) along similar lines, and added that a database could be used to compliment disclosure requirements

and that the Secretariat could look into the eventual conditions of access to the content of such a database so as to avoid misappropriation. It added that the Secretariat should also look into how alternative licensing schemes for preserving the contents of the database from misappropriation and for enhancing its content. The issue of misappropriation needed to be carefully thought through, and it is for that reason the Delegation of Brazil had objections to the proposal from Japan.

296. The Delegation of Ecuador strongly supported the statement made by the Delegation of Brazil and stated that an eventual database would not only be useful for accessing general information on trademarks and distinctive signs but also for the declaration of cancelled or void trademarks. The Delegation referred to document CDIP/3/4 and stated that it was important to add a paragraph on well-known marks which, due to their use they had become generic and thus had fallen into the public domain.

297. The Delegation of Pakistan expressed its contentment with the fact that the Committee had finally entered into discussions on substantive issues and, confirmed that it was for that reason Pakistan had refrained from the procedural discussions during the past two to three days. The Delegation noted that in past discussions many delegations had referred to principles and actionable recommendations. It felt that the actionable recommendations were important, but also understood that the nature of those activities was such that they would keep evolving based on the level of development of a particular country. With respect to the principles, the Delegation felt that they would make the real difference in the work of different committees in WIPO. The Delegation stated that in its opinion, the real aim of the Development Agenda was to make a difference in the work of different committees of WIPO and as such, the principles were going to be constantly part of the work of WIPO. The Delegation added that it would be making specific proposals on the implementation of the principles in the following agenda item. On the subject of the public domain, the Delegation believed that there was a need for a study that would address and analyze the implications and benefits of a rich and accessible public domain. The Delegation stated that the study could take on a horizontal dimension which would address all IPRs, look at different sectors and analyze how a rich public domain could be beneficial, not only to promote extensive knowledge in technology, but also to promote innovation and creativity. The Delegation considered the public domain to be the raw material used by creators and innovators to develop new works of technology. It felt that through examples from different sectors, the study could illustrate how a broad access to that raw material was central to the inventive and creative processors. The Delegation elaborated that the study could also highlight issues of concern such as the protection of research tools that might result in shrinking the public domain thus potentially undermining innovation. With respect to digitization of TK, the Delegation believed that digitization was not the only or adequate response to the misappropriation issue and that before embarking on the project of digitization, WIPO needed to analyze the gaps in the existing models of digitalization so as to avoid repeating the same mistake in future projects. On the issue of the study regarding copyrights, the Delegation referred to document CDIP/3/2, and recalled that its understanding was that following the study, which had been suggested by the Secretariat, a database on work in the public domain would be developed by WIPO. The Delegation pointed out that no mention was made to that effect in the current project proposal and requested that the necessary modification be made.

298. The Delegation of Canada referred to Annex I of document CDIP/3/4 and noted that there was no international consensus on the definition of the public domain. It submitted that the issue of what should or should not be considered in the public domain varied from country

to country and the Delegation therefore agreed with the Delegation of India with regard to the additional clarity that was required in that respect. With respect to the delivery strategy of the project for implementation of the recommendations in question, the Delegation stated that it would appreciate having information as to whether reports would be prepared with the information that had been compiled from the copyright surveys. It added that studies on copyright and related rights in the public domain, should take into account the many initiatives and tools which were not necessarily the initiatives of government but rather of institutions such as libraries and archives. The Delegation sought clarification on whether the impact of norm-setting on those organizations would also be taken into consideration in the study. The Delegation suggested that Member States be allowed to review and comment on the study recommendations for further work to be undertaken by WIPO, before publication. As it pertained to trademarks, the Delegation of Canada also sought clarification concerning the reference to bad faith appropriation of distinctive signs and possibilities of preventing such practices. In fact, the Delegation was not clear on whether the intent of the recommendation was to assist Member States identify subject matter that had fallen into the public domain. With respect to TK, the Delegation suggested that a thorough evaluation of the pilot exercise be carried out before developing a methodology that would be readily applicable, in order to assess the results achieved and, the impact of such a database. The Delegation also sought clarification on some of the elements of the budget for those Thematic Projects, namely the reference to the conference for the amount of 30,000 Swiss francs and the category entitled "Other". The Delegation then suggested that a budget breakdown by project, for non-personnel cost, would be helpful in further identifying and assessing resource requirements. The Delegation further suggested that the summaries section of the document could also include a breakdown of the personnel costs, so as to distinguish between the cost of existing and new human resources where applicable.

299. On behalf of Group B, the Delegation of Germany informed the Chair that Group B supported his earlier ruling and statement which stressed that issues pertaining to coordination mechanisms be dealt with under Agenda Item 8. The Delegation stated that at that stage, Group B did not see a rising consensus that such a mechanism would be implemented. However, the Delegation confirmed that it would stick to the conclusion of the Chair's summary from the last CDIP Session, which stipulated that during the current CDIP Session, the Committee would start discussion on those issues.

300. The Delegation of the United States of America stressed that for example, remote and obscure geographic place names of one country were not necessarily known in another country. As a result, the distinctiveness analysis would ultimately have very different outcomes in those different jurisdictions. The same applied with respect to cultural references in one country that were unknown in another country, and the distinctiveness analysis in those two different countries would, therefore, be very different. Thus, the United States urged caution in the drafting and conclusions of any study undertaken on this topic. The Delegation of the United States of America thanked the Delegation of Brazil for reminding the Committee of the extensive discussion of its proposal on the non-exhaustive list of customary names used in Brazil associated with biodiversity.

301. The Delegation of Bangladesh referred to Annex I as well as to all the projects that had been submitted so far under recommendations 9 and 5 and recalled that some of them had been identified with possible risks and possible mitigation strategies. The Delegation wished to propose that all these projects incorporated a section where the risks would be identified and mitigation strategies also recorded for assessment and monitoring functions. It proposed

that a separate section for each be done through a supplementary informal paper. The second point concerned TK, the fourth component of the project. It stressed that it was happy to see that the pilot exercise would be done for the establishment of a TK database. It noted that this was mostly related to patents and accessing them, but that there was also the idea, as stated in document CDIP/3/3 part IV – under proposed activities – about eventually facilitating creation of national TK databases and other databases. It called for a study or a comparative study on the existing databases or those that were being tested and created to be done, before the pilot exercise itself. That would provide wider information on the various attempts that had been made and would actually help many countries, not only one, as the pilot project would do in the short run, but by bringing out best practices and offer a menu of choice or possibilities that individual countries could find useful in their context, it added. With particular reference to traditional cultural expressions and TK, it reminded the Committee that, as Coordinator of LDCs, the Permanent Representative of Bangladesh had held an ambassadorial meeting. There was a report on the two studies which had been undertaken on TK and traditional cultural expressions, a mapping exercise, for two countries, namely Bangladesh and Senegal. In that meeting the LDCs ambassadors had questioned whether there were other countries interested in similar studies. The Delegation highlighting that the Bangladesh and Senegal studies were nearing completion and within existing budgetary resources, proposed for studies to be undertaken on traditional cultural knowledge and traditional cultural expression in two more LDCs. It believed that this was not a cost intensive effort and that there was a possibility of doing it within existing resources. It, therefore, strongly suggested these two additional studies to be undertaken. Finally, with reference to page 5 of Annex I, 1.2 –project outputs, it stressed that when the output was a survey of private copyright documentation systems and practices, it wondered whether this survey could also contain a small analytical part that would evaluate the findings at least in a preliminary evaluation of the findings.

302. The Chair drew the attention of the Committee to page 3 of document CDIP/3/4, which stated “the project will focus as a first step”. He stated that some amendments would be made following the suggestions of the delegations heard earlier on that day, yet did not expect that everything could be reflected in this first project. He highlighted that it would capture all of what was considered acceptable in terms of what had been proposed and what others had said in terms of, particularly the issue raised by the Delegation of Brazil and the response made by the Delegation of the United States of America, which might need further discussions. He recalled that there had been lots of studies called for under this project, and although he believed that a few more studies could be added, which he expected would increase the cost, he wished to stress that this was just a first step.

303. The Vice-Chair stated that so far the discussion had been very helpful and very detailed in respect of the questions which were of considerable interest and importance both to developing and developed countries. He hoped that they would be able to bring this part of the discussion to a fruitful conclusion.

304. The Delegation of Barbados supported, amongst, other things a study relating to the bad faith registration of trademarks concerning signs of cultural significance, or geographically descriptive signs. Increasingly, signs of culturally significance and geographically descriptive signs of small-island developing States such as Barbados were being used to market products in other countries. This would have an impact on the access of the SMEs to the markets of those countries. The Delegation requested the Secretariat to examine the bad faith registration

of signs of cultural significance and geographically descriptive signs, as proposed in the project document.

305. The Delegation of Brazil, with reference to its proposal regarding the issue of names associated with the biodiversity, stressed that its country treasured the principle of territoriality of IPRs. The Delegation believed that the distinctiveness of a name or of a sign was something that could only be judged in national jurisdictions by the Trademark Office. It further stressed that this distinctiveness was according to the time and the jurisdiction or to that specific market. This was the reason why it was very careful in presenting its proposal because the only thing that it requested was to increase the availability of information to trademark offices, not encroaching upon the principle of territoriality. It underscored that the list presented at the Standing Committee on Trademarks, which it wanted to be published on the WIPO website, was merely requesting WIPO to provide more information to Trademark offices. It also wanted WIPO to distribute said list to the Trademark offices, in order to allow trademarks examiners to have a more informed decision when deciding on trademarks. It had also requested WIPO to investigate and produce an analysis of impact of how the registration of trademark of names associated with biodiversity can impact populations in developing countries. Highlighting that, to its opinion, producing statistics was something which did not affect at all the principle of territoriality. The Delegation did not quite understand why the Delegation of the United States of America objected to its proposal which did not imply the very sensitive issue of distinctiveness. Reiterating its earlier statement “pilot exercise for the establishment of a TK database”, the Delegation stressed that it could not support this proposal because it was being discussed elsewhere in WIPO and elsewhere outside WIPO. It therefore did not believe that they should recognize, accept a specific proposal that was being discussed elsewhere and in a way to legitimize that proposal here in WIPO, and could not support this proposal since, if one called for a “pilot exercise for the establishment of a TK database”, why not have also a pilot exercise for the establishment of exclusion requirements. The Delegation was of the opinion that it could not legitimize one country’s proposal and ignore what 108 countries were proposing elsewhere, which was unacceptable.

306. The Delegation of Australia thanked the Secretariat for drafting the proposed projects in document CDIP/3/4 on recommendations 16 and 20. It welcomed the studies and analysis in this project plan as a useful contribution to its understanding of the public domain and a good start in a big field. This was a suitable way to organize their work which would of course be on-going in fully implementing the recommendations. The Delegation also wished to acknowledge the comments made by the delegations of the United States of America and Brazil on the need to avoid duplication in the committees. Finally, it also wished to thank the Chair for his helpful and constructive comments in taking the core business of the Committee forward.

307. The Delegation of Indonesia wished to comment on the Thematic Projects Annex I. The two recommendations 16 and 20, although showing similarities, emphasized different aspects. Both recommendations showed similarities on the need to promote norm-settings in support of public domain, which indeed are elements that are mutually reinforcing. However, it believed that Recommendation 16 emphasized on the analysis of the necessity to have a deeper understanding on the implications and benefits of a rich and assessable public domain, while Recommendation 20 emphasized on the formulation of guidelines. The Thematic Projects should capture the aim of the Recommendation 16, namely, under text “studies that could deepen the understanding as the usefulness of the public domain to economic, social and cultural development”. It therefore was of the opinion that such analysis be conducted

beforehand, which could afterwards serve as a basis for formulating norm-setting and guidelines. On the component of TK, it called for the analysis on the defensive protection measures and the public domain to be strengthened in order to prevent the misuse or misappropriation of data that could eventually run against the very intention for the protection of TK and folklore. It wished to call for reassurance that the elements that appear in the Thematic Project should not be considered exhaustive, that it should take into account all the essence of the recommendations in the course of its implementation whether through these Thematic Projects or in another phase of projects.

308. The Delegation of Chile stated that all the proposals made were very valuable. It reiterated the importance of the need to have a study on implementing the second part of Recommendation 16, in other words, “deepen the analysis of the implications and benefits of a rich and accessible public domain”. This was the Study which would be the corner stone of all the activities to be undertaken and tasks to be carried out proposed by the Secretariat and by Member States. It also agreed with the Delegation of Pakistan, among others, that a Study could start with patents and copyright and then perhaps later expand in order to be realistic, taking into account everybody’s concerns. It was not a question of it being exhaustive, which in its opinion was not necessary. It considered the problem of definition for example as important, but it could also be complicated to come up with a definition of public domain. It further stressed that there was not an international definition, yet viewed the proposal from the Secretariat as a good one.

309. The Delegation of Pakistan wanted to flag a concern before the Summary was made by the Secretariat. After carefully listening to all the discussions regarding public domain, its concern was that a pretty valid point had been raised by a couple of delegations regarding defining the public domain. The Delegation’s concern was that they could discuss and define and keep defining this public domain for the next five years. It wondered if this should stop WIPO from undertaking the work which was proposed. In its opinion, it should not. It reminded the Committee that the discussions were of a general nature. There was a *de facto* definition or understanding of the public domain. There was not even a concrete definition of open source, but all knew what it was. The general contours are well-known. The same was almost true for the public domain. So the question or the concern was, pending a final definition of the public domain, should all the projects or the works which were being undertaken in that area, which might not be very clearly defined, should they wait, or should they be continued? In the Delegation’s opinion, they should continue because if they continued to work on these areas, ultimately probably the work in these areas would help in defining the public domain. So it could be termed a chicken and egg debated, but in its opinion they should continue the work on that. The Delegation felt the discussion was sliding a bit into that area so it requested the Secretariat to take this concern on board when submitting its final conclusions.

310. The Chair stated that the difficulties they had come across should not be a stumbling block to the continuation of discussions and debate.

311. The Secretariat sought to summarize the discussion stating that all the comments and suggestions would be included in the report. It thanked the delegations for their suggestions and very constructive comments as well as the additional suggestions. Referring to the project proposal, the Secretariat stated that most of the proposals and items included in the document received general support with a few exceptions. The actionable items which were generally supported, the Secretariat would immediately implement them. For other items,

which the Secretariat was about to mention, they would need to be either modified or their direction of implementation would be revised significantly. As far as the new proposals or additional proposals or additional comments and suggestions, as much as possible, the Secretariat would try to absorb and incorporate those into the project. The Secretariat informed that it would not provide specific information on how the proposal would be revised and implemented, however, all comments and suggestions would be duly reflected in the course of project implementation. As far as coordination was concerned, the Secretariat assured the Committee that the actionable items under this project would be coordinated closely with the staff members responsible for the respective Standing committees and also IGC as far as TK and traditional cultural expressions, and genetic resources were concerned. Regarding the TK database, the Secretariat recalled that one or two delegations had opposed or expressed reservations on the proposal to undertake the pilot exercise as proposed under component 4 “traditional knowledge” on page 3 of Annex I of document CDIP/3/4. In this regard, a few other delegations had made very useful comments to the effect that alongside with other surveys and studies, it might be useful to look at the existing TK databases which were currently running and operated by certain countries and stakeholders of TK. Because those TK databases might have already given certain impacts, whether they might be negative or positive impacts on local society and the national economy, as well as the experience and lessons learnt could be shared with other countries. So the experience and information contained in the survey might facilitate further discussions on the question whether a TK database could help the preservation and identification of subject matter which had or which should have fallen into public domain. Therefore, the Secretariat offered to reformulate this proposition by suggesting that a survey of the existing TK databases be conducted in a number of Member States so as to clarify and analyze the impact of TK database on the stakeholders of the TK and also the national economy. The impact might need to be analyzed in connection with the availability of the TK database, the terms of reference of the TK database, who should update it, who should be given access to it and how the data in such a database could be commercially utilized or licensed. Those conditions could be included in the survey to the extent possible. The Secretariat agreed with the interventions that the TK database was one of the complimentary tools and was not everything to solve the problem of TK issues. However, as the Chair had emphasized, this was a first step to undertake the project. The Secretariat believed that this survey of fact-finding and clarifying current status of the existing TK database should be very useful to the subsequent discussions on this issue. In connection with TK this was a significantly revised proposal now that the Secretariat was proposing for general approval.

312. Continuing, the Secretariat informed that a new proposal was made by the Delegation of Brazil in connection with trademarks and the non-proprietary names associated with biodiversity in the Amazonian region. It recalled that this proposal had been orally made and consisted of three components. The Secretariat recognized that it could have responded in a better way if such a proposal had been presented in writing prior to the meeting and even included in the Secretariat’s proposal. However, it wished to respond to the proposal made by the Delegation of the Brazil rather positively, yet with caution. As far as the first component of the proposal was concerned, the publication of a list of 5,000 of non-proprietary names associated with biodiversity, the Secretariat did not have any technical or financial problems in publishing that list on the WIPO website. It was technically doable and the Secretariat would appreciate if the Delegation of Brazil could provide it with the updated list of those names, if this proposal was indeed approved by the other Member States. The second and third elements of this proposal concerned investigation of cases of misappropriation and also elaboration of the impact on the SMEs. Here the implication could be significant and also it

might need extensive resources to undertake this kind of analysis and investigation, if the Delegation of Brazil wished the Secretariat to undertake a universal survey going beyond Brazil. The Secretariat presumed that the intention of the Delegation of Brazil was to provide specific cases or anecdotal episodes of those misappropriation cases in Amazonian countries. So if the Delegation of Brazil provided the Secretariat with such information, it could reflect that additional information in the study which would be conducted and prepared for the trademark element. This was so far the reaction to the new proposal made by the Delegation of Brazil.

313. The Secretariat further stated that several delegations had referred to the second part of Recommendation 16 and suggested that, in addition to the six studies, the Secretariat should undertake the overall across-the-board study pertaining to the public domain in general. While agreeing in principle with this suggestion, the Secretariat stated that with the limited resources and time, which was very tight, for undertaking the already approved six studies, they should perhaps wait before the delivery of the initial six studies, on the basis of which discussion on further action, including the request for the general study, could take place. This approach might have a merit because the across-the-board study would also be able to take advantage of the results of those studies separately conducted. The Secretariat stated that there were a number of specific questions and clarifications sought, but due to the shortage of time, it could not cover them all. It, therefore, offered to address a few suggestions on the database in connection with trademark, rather the TK.

314. On the suggestion made by the delegations of Switzerland and of the United States of America on the portal of TK database, the Secretariat stated that this suggestion would be taken up as the normal activities of WIPO for review by the Program and Budget Committee to investigate and explore the possibility of enriching and enhancing the current Patentscope® database, to expand it to other types of IP such as trademarks and TK. The Secretariat added that portal meant a gateway to the existing national database of TK. It further added that other comments and useful suggestions would be reflected in a study and implementation of the project, as well as some questions which had been raised on the way of calculation of resources. Moreover, the scope of TK could be expanded according to some delegations to include traditional culture expression and genetic resources. The Secretariat would be inclusive as much as possible and would take into account traditional cultural expression as well as in the future after the first stage of discussion. These studies would be prepared in anticipation of further discussion on guidelines, as well as the compilation of best practices which would also be included in the scope of the future project.

315. The Vice-Chair thanked the Secretariat for summarizing the debate, responding to almost all the questions asked and all the comments made. He added that some new projects would obviously also have to be included as part of the future activities planned by WIPO. The Vice-Chair wished to stress that these activities were merely the beginning, the very first step in implementing the Development Agenda and the Chair was of the opinion that the Committee had taken a giant step. It was moving towards what would really be the achievement of the dream for many developing countries and LDCs. The Vice-Chair also wished to take this opportunity to state that this was an excellent opportunity for developing countries to propose or suggest activities and it would also be very useful for Member States to propose them before the meeting. He encouraged all Member States to look forward to the fourth session of the CDIP and propose any projects they may have and which may be discussed before said session in order to make further progress. That would certainly help the Committee to make the best possible use of the time that would be available in that session.

316. The Delegation of Bangladesh thanked the Vice-Chair for leading the meeting and for the wise comments made, both in terms of the early submission of projects for the next CDIP session, and as a first step for the future. The Delegation also thanked the Secretariat for the presentation, which took into account its suggestion, namely the study on the existing database in the revised proposal. The Delegation was also satisfied that the scope of Component 4 had been widened to include traditional cultural expressions, which in its view, was of particular importance. The Delegation was aware that all the other specific proposals made could not be all taken into account, but wished to see them reflected in the Summary by the Chair. The Delegation reminded that there had been no comment on the section on risks and mitigation strategies and it hoped that due note had been taken on the Project Output 1.2 in which the survey could also include an analytical section.

317. The Delegation of Brazil recalled that when the decision to move to the so-called project based approach had been taken, the Committee had attempted to have certain assurances that the discussions on the project would depart from the fact that the projects were open, and that Member States were allowed to include changes to the project and to suggest additions and deletions. Based on this, the Delegation requested the Secretariat to refrain from saying that proposals by Member States should have been submitted earlier in writing. Moreover, the Delegation was of the opinion that the Secretariat should also refrain from saying that there was no money, and that the project had not been foreseen before. The Delegation stated that the whole project remained open, and once the Committee agreed on it, a decision on having more or less money could follow. The Delegation, reiterated its call for the Secretariat not to mention that the proposals should have been submitted in writing. It then thanked the Secretariat for its Summary. The Delegation believed that it was a more balanced approach if one had a pilot exercise for studying and surveying existing databases rather than establishing a pilot database. On its proposal, the Delegation of Brazil recalled the three elements of the proposal, namely, the publication and distribution on the WIPO website of the 5,000 names; the investigation; and the survey. The Delegation added that it would provide the Secretariat with a list of cases of misappropriation associated with names of biodiversity in the hope that the Secretariat would take that list as a point of departure for undertaking a broad investigation and survey.

318. The Delegation of El Salvador congratulated the Secretariat on its excellent Summary, and enquired about the coordination and cooperation in the Secretariat, more particularly, whether the LAC Office would be participating in this project.

319. The Delegation of India referred to the comment made by the Delegation of Brazil about this being an initial discussion, and taking into account the fact that Member States had not had much time to process these detailed project documents, and noted that expecting written proposals in advance would have been probably misplaced in this context. Moreover, considering the short notice Member States had been given, the Delegation considered that very good progress had been made and in that spirit it welcomed the Secretariat's detailed response to the issues raised earlier on that day. The Delegation also had a few queries. First, when the Secretariat mentioned the inclusion of traditional cultural expressions, it thought it had heard the phrase "in the future". The Delegation stressed that it should be incorporated in the present project. There were also a couple of points the Delegation of India had made on including the issues on limitations on copyright law in this study and it wished to know if this would be factored in. Furthermore, it believed the Secretariat had mentioned that there would

be six studies in this Project. For sake of clarity, it called the Secretariat to indicate which ones those were.

320. The Chair reiterated his requested that lengthy statements to be submitted to the Secretariat in writing so as to ensure that what was lost in quick dictation could be obtained from the notes. He reminded that it could not be guaranteed that everything said would be taken on board in that project, but the focus of that project was just the first step. Whilst some studies and activities were added to that project, based on the discussions, any activity or any studies that could not be added there in that first step would be added at a subsequent stage. However, all of the information would be captured and used as appropriate. The only caveat was that a judgment had to be made when a request was made for A, B, C and there were comments which expressed difficulties with C in which they could comfortably go ahead with A and B and there may be a need to come back and discuss C further. But nothing that had been said would be discarded or lost. The Chair assured that the project document would be amended appropriately, meaning that everything that could be taken onboard in that project would be done. Some things would have to be deferred based on the fact that that was just the first step in addressing those two recommendations. There would be further steps and based on one or two areas where there were some difficulties coming from some members that would lead them to be a little bit more cautious in doing one or may be two of the things requested of them.

321. The Delegation of Brazil mentioned that in the discussions the previous day, a decision was reached to change the method of work that the Committee had followed so far and to take a chance and to pursue the Thematic Project approach to which the Delegation of Brazil had many concerns. The Delegation's concerns were however captured and responded to by the three golden rules that the Chair had laid down the previous day. But what concerned the Delegation at that juncture was that before deciding to adopt the Thematic approach and when selling the Thematic approach to Member States, the Secretariat was very clear, stating that nothing was agreed upon, everything could be changed or modified, the projects were not written in stone and the whole project was only a proposal. Member States could change it howsoever they wished. And when proposals were made on the first project, two things were heard from the Secretariat. The first one was that this Delegation should have submitted its proposal before in writing; and the second thing was that there was no money available for implementing what this Delegation was proposing. So the Delegation's concern was that there should not be double standards; one standard when selling the approach and another standard after the approach had been approved. The Delegation's understanding was that everything was open where Member States could change whatever they wanted in the project. The Delegation said that it would make the change as the projects were discussed and the Secretariat should take note of whatever it proposed. And regarding the money issue, the whole project, including the money foreseen for the activities, was only an indicative figure. If the Secretariat believed that they needed more money to implement whatever the Delegation proposed, they could amend the project and present the new sum, add the new value and subtract from the money that they had foreseen and they could present it at the next session. The Delegation hoped his understanding was in conformity with the Chair's three golden rules laid down the previous day.

322. The Delegation of the United States of America expressed pleasure in continuing the discussion of Agenda Item 7 and the thematic project, "IP and the Public Domain", and welcomed the opportunity to further reflect on the proposal by the Delegation of Brazil. The Delegation wished to share some of its thoughts on both the substance and the process related

to the submission of that proposal. With respect to the process, some delegations had suggested that the process for tabling proposals for the consideration by the Committee was entirely unfettered. At the first session of the CDIP, the Committee adopted the rules of procedure that incorporated the general rules of procedure that governed all WIPO committees. The Delegation invited the attention of fellow delegates to Rule 21 on proposals by delegations. Under that rule, proposals for the adoption of amendments to the drafts submitted to the General Assembly and all other proposals might be submitted orally or in writing by any delegation, but the General Assembly could decide to debate and vote on a proposal only if it was submitted in writing. Unless it decided otherwise, the General Assembly should discuss or vote on a written proposal only if it had been translated and distributed in the languages in which the documents of the Body were considered submitted. The Delegation did not intend to engage in a series of rule-fettered discussions. However, when a major departure from those rules was thrust upon it, it felt it necessary to respond. Not only was the process under which the proposal submitted apparently in contravention of the committee's agreed upon rules, even assuming that the proposal was properly submitted by the Delegation of Brazil, it did not appear to have attracted a widespread discussion much less the consensus needed to go forward. The Delegation submitted that proposals for due deliberation by the CDIP ought to be submitted in writing, with appropriate time for the delegations to analyze and respond. Proposals ought to be subject to informed deliberations and should lead to consensus recommendations. With respect to the substance of the proposal at issue, the Delegation reserved its judgment until it had time to duly deliberate on the proposal, but on a preliminary basis, the proposal appeared to be structurally weak. The Delegation said that it supported fact-based analysis, but a study that would begin with anecdotal evidence submitted by the proponent of the proposal did not suggest a fact-based, neutral analysis upon which members of the Committee could make informed judgments. With those considerations in mind, the Delegation submitted that the amendment was premature and it looked forward to a sustained, robust debate on the proposal when it was appropriately submitted and following full and due deliberations by the committee.

323. The Chair proposed avoidance of conflict, as the Committee was not in a process that was substantially different from what it was doing the previous year. In the previous year's sessions, first and second sessions, the Chair was not aware that Members were asked to submit proposals in writing before they could be considered. Members based discussions on document CDIP/1/3 which was the work of the Chair and the Secretariat, listing activities that were considered to give effect to the adopted recommendations. Members made their comments including requests for additional activities or amendments to activities; the Secretariat took those comments into consideration and came up with an amended document appropriately priced human and financial resources. They came back to that Committee with sometimes minor adjustments. But they were able to approve that document and the Secretariat went ahead and implemented. That part of the process was to be adhered to for that year. The only difference was that once they had defined recommendations, rules, activities or similar ones overlapped, they would seek to deal with those recommendations together, meaning that they dealt with the activities that would give effect to those recommendations together. The second difference was that the Secretariat would structure the activity in a project format. The Committee had the proposed project format which the previous day received very good and quick discussion on recommendation 20 and 16. Some members focused on the activities separately. Some members focused on the activities that were structured in the project document and they had a good discussion that should lead them to a revision of the project document which would entail some revision to the pricing which they would want the Secretariat to implement. They had had enough of a discussion the

previous day on the process and they applauded the conclusion that was reached. That was the conclusion that was reach. The Chair said he did not know Rule 21, but he understood Rule 1 as meaning that they should bring their best, continue to bring out the best spirit, the best endeavor to advance in that work in the way that they had been doing over the past three years. The Chair did not know what happened before then, but wanted Rule 1 that sought best endeavor and full cooperation to advancing that work. He recognized that there would be differences but when they had to rely on other rules to restrain behavior, it took the spirit out of the CDIP. The spirit in the CDIP was to discuss while the Secretariat took note of the discussions. Some things could be taken into the projects, and that could be done comfortably while some things cannot be done that way but the Secretariat would explain the reasons. The Chair did not want to get into a conflict over that issue, but should there be a difference between the request from the Delegation of Brazil and that of the Delegation of the United States of America on how things were done, the Chair called for the three parties to talk over. The Chair also felt that if the dialogue was continued in that forum, he feared that Rule 1 would suffer, with Rule 1 being more important than Rule 21.

324. The Delegation of Brazil agreed to follow Rule 1. It said that looking at the projects and the whole process of implementing the Development Agenda, and the whole process that they had been engaged in for the last two years of requesting the Secretariat to make things, there were only four models of things that the Secretariat could do. The first modality was in improving WIPO website; the second modality on making a publication; the third modality on making a workshop; and the fourth modality was providing a survey. That was the whole thing that they had been discussing so far. They had been agreeing on workshops, agreeing on improving the WIPO website, new portals, new databases and they had been talking about having publications and conducting surveys. Those were the basic four modalities of activities that the Secretariat needed to carry forward to implement the Development Agenda. That morning the Delegation had proposed its first proposal on modality one which was on improving the WIPO website. The Delegation asked for the list that Brazil had presented to be put in on that website and then it moved to the second modality. The Delegation asked for providing an investigation and a survey on the specific case of the list but agreed that there was nothing original in its proposal. The Delegation drew inspiration from what was written there in that section of Trademarks, it was on bad faith, appropriation of distinctive signs and possibility to prevent such practice. The Delegation drew inspiration from there and based on that proposed that the Secretariat undertook a specific study of cases of misappropriation, of generic names associated with the biodiversity. The Delegation also understood that they had until the end of the week and in November they were going to keep on proposing things to the Secretariat. The Delegation stated that the activities it could ask for were to organize workshop in Brazil, improve the website, make a publication, and provide them a survey. The Delegation stated that now whenever it proposed an activity, the United States of America wanted it to be submitted 30 days in advance. But that was not the spirit in which it decided to move on and to discuss the project approach. The Delegation pointed that the Chair accepted its mistake when the previous day it presented that paper and then decided to withdraw it. The Delegation of Brazil too had committed a mistake when it decided to move on to the project-based approach. The Delegation suggested abandoning the project-based approach, taking into account the resistance by the Secretariat, and the resistance by developed countries to accept proposals to the project. The Delegation faced resistance to the first proposal and the first amendment, and suggested the complete abandoning of the Thematic approach and move on to the old way in which they had been working so far, because that was not what was agreed upon the previous day.

325. The Chair requested the Delegation from Brazil not to insist on abandoning that approach for two reasons: one was the challenge it had encountered in the last few minutes could have occurred the previous year. It could have occurred the previous year, but the fact that it occurred this time was not relevant to the Thematic Project approach. The Chair hoped that there was some misunderstanding that the Secretariat would have made in terms of the comments that had been heard before lunch. The Chair apologized for that and felt that the Director General wanted to address that as well. The Chair clarified that it was certainly not the situation. The Chair sought assurance from the Delegation of the United States of America to move on as done in the previous year with the discussion that led to the amendments and then go back to the Secretariat in the same way that was done the previous year in order to settle that issue.

326. The Delegation of the United States of America sought to be clear about Rule 1 and the vision for the Committee as a body. It viewed that body as evolving into a confident, deliberative body that could undertake debate and analysis about proposals to implement the 45 agreed recommendations. There were some delegations in that room that had one view about the way the Intellectual Property system might bring the benefits of development to all corners of the world. There were others that differed in their approach. The view of the United States of America was that that body ought to be a marketplace of ideas for the inter-relationship of IP and development. That was its Rule 1. It was only with the greatest reluctance that the Delegation was forced into a position of looking towards a more rigid Rule 21. The proposal had been submitted without the benefit of advance notice or informed deliberations among committee members, and the Delegation therefore remained uncomfortable with the proposal, even as it looked forward positively to that Committee as a marketplace of ideas to discuss the inter-relationships of IP in development particularly as they had been set forth in a very promising set of proposals tabled by the Secretariat.

327. The Delegation of Brazil said it believed in having a marketplace of ideas and was also a market believer, but what it did not believe in was in having red tape bureaucracy. So if they wanted to have a marketplace of ideas, let the delegations put forward the ideas, without bureaucracy, without asking delegations to present proposals in writing in advance. In that sense the Delegation was with the United States of America.

328. The Delegation of South Africa said that while it desired to assist the Chair in solving the problem it was now more concerned by listening to the conversation. The Delegation first shared the concern of Brazil. The Delegation then stated that it understood from the Chair's conclusion the previous day that the project dealt with two recommendations, namely recommendations 16 and 20. But the activities for the Recommendation 20 had not yet been agreed to or finalized. Delegation felt that Member States should be allowed to add activities, and debate them, but the responses they got that morning from the Secretariat and that from the Chair himself was that that could be done at a certain point of time at a later stage. The Delegation sought clarification whether the Committee was accepting that document, as was or the Delegation was confused about the process.

329. The Delegation of Argentina said that with regard to the activities recommendations 16 and 20, and beyond the project, the coordination mechanism to be discussed under Agenda Item 8 would be applied across the board. which they relate to, under Agenda Item 8 dealing with coordination with the WIPO committees who carry out norm-setting that would apply to recommendations 26 and 20 amongst others, if they were to be applied across the board.

330. The Director General sought to address the statement by Brazil that there was resistance from the Secretariat. The Director General agreed with the Chair's summary of how the Committee was approaching that and what delegations could or could not do in so far as it concerned him. The Director General clarified that the Organization's task was to implement what the Committee would like to see done with the Development Agenda and so there was no question of resistance in any way whatsoever on its part. The Director General regretted the misunderstanding as he thought that was indeed the case. He said that the Secretariat's attitude in putting forward those documents was to make a good faith attempt to suggest to the Committee for its consideration one way of implementing which it understood would not be a complete way and would always be subject to evaluation and to an inter-active process in which the Committee would naturally improve the documents and through a process of evaluation and inter-active evaluation, the documents would be evolutionary. And they would over the course of time be added to in accordance with the Committee's wishes, but WIPO's task was simply to implement what the Committee would like to do with the Development Agenda. Of course, occasionally a unanimous view might not exist but the matter could be discussed as suggested by the Chair. Concerning the financial considerations, the Director General stated that what the Chair thought was absolutely right, that those being evolutionary documents would be added to and subtracted from in the course of time. In accordance with their evaluation the budget would be adjusted accordingly and they were all on the same page in understanding that those were indicative budgets and that those indicative budgets ultimately made their way into a pot which needed to be decided upon finally by the PBC or the General Assembly, in the final instance by the Member States.

331. The Delegation of Nigeria expressed that the problem seemed fundamental, and emphasized that the Delegation of Brazil had every right to make the proposals it made and likewise the United States of America too had every right to refer to the rules. The Delegation referred to the Director General's statement that the Secretariat implemented their decisions, and did not decide anything. It was the delegations that decided, while the Secretariat went forward to implement. The proposal made by the Secretariat was to enable the Committee to come to conclusions. Once the Secretariat had made the proposals, the Committee was supposed to give it the ownership and the ownership was the decision that the Secretariat implemented. The Delegation felt that one of the problems faced was that there were too much elaboration in those activities and projects.

332. The Chair said that the discussion on recommendation 16 and 20 and the project proposals associated with those recommendations and the discussions the previous afternoon and that morning went well. The Committee had encountered some misunderstanding at the conclusion stage of that discussion. The Chair and the Director General had sought to clarify the misunderstanding and understood concerns of the delegations of Brazil, the United States of America and Nigeria, and based on the smooth run on that first project, the Chair agreed to take into consideration all of the interventions made and adjust the project document accordingly, including the indicative funding and costs and that should be, to enable them to get to them a revised document. The Chair cautioned not to expect every single proposal to be reflected in that revised document, as that was just a start which had been reflected in the project document itself. But he assured that as the Director General had said, their wishes as broadly expressed will be taken into consideration as they had further revisions to projects as they went forward. All the Chair sought was a happy conclusion to that discussion on recommendation 16 and 20 on that first project and start on the second project, which was recommendation 7, 23 and 32 in the same way that they dealt with 16 and 20 and they would

make sure that at the conclusion of that discussion there was no misunderstanding that could cause any problems.

333. Speaking on behalf of LDCs, the Delegation of Bangladesh said that it had made a concrete proposal, and it had so far heard no objections and no concerns had been raised. The Delegation stated that there was a need for revision in the project document for identifying also the key WIPO sectors involved and links to WIPO programs. So that should also be revised in accordance with the proposal that the Delegation made.

334. The Chair felt that all had settled their misunderstandings and they would be able to move to the second project document. The Chair then called on the Secretariat to introduce 7 and 12 and Annex II to document CDIP/3/4.

335. The Secretariat mentioned that the Annex II to document CDIP/3/4 grouped three recommendations, namely recommendation 7, 23 and 32. It recalled that amongst the seven recommendations in the list of 19, Recommendation 7 had been discussed by the Committee in the past. The revised work program of Recommendation 7 was contained in the Chair's Summary for the second session of the CDIP. Recommendation 23 was discussed by the Committee in its second session and the document before them document CDIP/3/3 contained the revised work program or activities as discussed by the Committee and the Secretariat, on the basis of those discussions, had revised those activities. Recommendation 32 has not yet been discussed by the Committee and the activities pertaining to that recommendation, as proposed by the Secretariat, were contained in document CDIP/1/3.

336. The Chair invited the Committee to look at the activities associated with Recommendation 7, refresh their memory on those activities that they had agreed to in the Chair's Summary for the second session of the CDIP. If there were any delegations not in possession of the Chair's Summary for the last meeting, then they could get a copy of those relevant pages 1, 2 and 3. With respect to Recommendation 23, they should have the revised activities in the document CDIP/3/3.

337. The Chair enquired whether any Member State wished to make a comment or ask a question on Recommendation 7. The Chair drew to the attention of the meeting that Recommendation 7 was already discussed last year and that the activities therein were agreed to, but if there were any comments or questions on that, they would be entertained now before moving to the next recommendation.

338. The Delegation of Uruguay sought clarification from the Secretariat on one point in the document under consideration so that its understanding of things was correct. The Delegation stated that in the Chair's Summary and Annex to the report of the second session of the CDIP on Recommendation 7 on activities information, it stated that WIPO would provide for legislative assistance as regards anti-competitive practices in the context of licensing contracts. The Delegation further stated that it had looked at the document CDIP/3/4 and analyzed the activities proposed therein and it had noticed that there was no reference to legislative assistance in the context of the interface between IP and anti-trust law. It requested the Secretariat to clarify that point.

339. The Secretariat referred to page 9 of Annex II of the document CDIP/3/4, second paragraph from the bottom. The Secretariat explained that the activity was not directly reflected by the project components because legal and technical advice was a normal on-going

activity of the International Bureau. It would continue being carried out upon request of Member States on a routine basis. Such advice was also linked to recommendations dealing with public policy and flexibilities which were outside the scope of that particular project even if inter-related to it.

340. The Delegation of Costa Rica recalled that at the last session of the CDIP, as indicated at page 6 of that document, delegates had discussed anti-competitive practices and in the description of that project, it saw more references to franchises license and policies. The Delegation sought information from the Secretariat as to where it could find the analysis of the abuse of permanent market positions and cartels to prevent access to markets or to the emergence of new technologies.

341. The Secretariat replied that the project was not aimed at analyzing anti-competitive practices in general, but only those that were linked or were directly associated with IP. Therefore the project only referred to the practices that were abusive of IP that may have an anti-competitive impact. Replying directly to the question, the Secretariat noted that there were two specific components of the project that foresaw that kind of analysis and in particular, the possibility of exchanging of experiences between Member States that had dealt with that issue internally, while its second component referred to a study on IP and competition in selected countries and regions and the third component referred to meetings on IP and competition at the regional level. But there was another component which was only described, but had been left open when it came to topics or themes. The Secretariat said that it would be more than happy to receive suggestions on specific topics in regards to the components mentioned in Agenda Item 5 which was to organize a Geneva-based symposium on emerging new challenges on anti-competitive use of IP. It said that if delegations had concerns about specific issues that they would like to be treated specifically, then that would be the right place to cover those matters.

342. The Chair said that he would like to request delegations that when a question was raised to please point to the document, the page and the paragraph that they were referring to so that when the Secretariat was responding to those questions the delegations could follow them clearly.

343. The Delegation of Thailand said it was actually referring to the Recommendation 23 as part and parcel of the project that was under discussion. However, looking at page 4 of document CDIP/3/3, it noticed that all or most of the activities were Geneva-based and most of it was not addressed to the needs of the appropriate audience or target which was the SMEs and those enterprises in developing countries and LDCs that would be able to receive the knowledge and understanding on how to use IP competitively. The Delegation wondered whether it could receive some clarifications on that issue from the Secretariat.

344. The Secretariat noted that the Project approach was being developed to provide a holistic treatment of all recommendations. The Secretariat was mainly concerned about ensuring that it did not lose the nuances of each recommendation. Therefore, the Delegation of Thailand would probably not find a specific component of that project that specifically dealt with Recommendation 23, but there were 7 components of that project that would be dealt with under that Recommendation. The Secretariat also drew the Delegation's attention and that of the Committee to item 1 on page 3 of Annex II. Item 1 of the project introduced the issue on WIPO training programs on technology licensing. The Secretariat said that WIPO, in particular the Patent Division, had carried out for years a program on training

negotiators in the area of transfer of technology. There was a tool kit with an explanation of best practices and some recommendations on licensing that was prepared. The novelty in that project would be the inclusion of specific concerns on anti-competitive clauses in licensing agreements. What the Secretariat would try to do essentially with the assistance and cooperation of Member States when teaching or training negotiators or future negotiators, would be to include training to detect clauses that either were blatantly competitive or may have an anti-competitive impact. So that was the spirit of item 1. Item 2 also spoke of the issue or may speak to the issue of anti-competitive clauses in licensing agreements because these studies would explore or assess experiences and practices by countries and would necessarily look at national laws and national practices in licensing agreements. This was linked to the component of item 7 dealing with publication of studies and proceedings of regional meetings.

345. The Delegation of Chile expressed its general support for the project and agreed with the activities proposed by the Secretariat. The Delegation said it was looking at document CDIP/3/4, for example Recommendation 32, where activities were proposed which would faithfully reflect what was there. It agreed with Costa Rica and recalled that it held related discussions in the last meeting of the Committee. It believed that the objectives of the Thematic project as reflected on page 3 did not faithfully reflect Recommendation 7. It also believed that the sense of these three recommendations were two-fold. Firstly, working towards competitive practice but also considering anti-competitive practices. And while the issue of anti-competitive practices was a very important part of Recommendation 7, it did not see the word included in the objectives anywhere. For example, in the activities proposal and delivery strategy in point 2, the study needed to address anti-competitive practices not just referring to licenses which was the emphasis given there. Not just the emphasis but there was a sole focus on license granting. Now with regard to proposed activity 1, the Delegation asked whether the tool kits and publications for training programs mentioned in the project were public or whether they were made on an ad hoc basis for certain activities or whether it was a combination of both of these. It noted that there was considerable interest in Chile in these publications and tool kits and it would like further information on those. In activity number 2, the Delegation said it had nothing to propose but a question to ask with regard to the criteria for selecting countries. The Delegation believed that this was something that Algeria had raised on the previous day at the meeting and it was very important that regional representation was ensured. The Delegation assured that there was no reason to believe that it would not participate in these activities that were already found to be very useful. The Delegation also stated that its views were the same with regard to activity number 3 relating to holding of regional seminars and meetings on this issue. It was of the view that these were very important and obviously it would like to participate in them. Financial help for holding such meetings in developing countries would be better although it understood that the organization's resources were limited. The Delegation stated what was most important was to emphasize that there should be a better reflection of anti-competitive practices and ways to reflect that in the objectives of the Project. For example, it might be considered whether Article 10bis of the Paris Convention, on unfair competition, could be used as a model. But perhaps that provision was very old and needed to be updated. These were matters that needed to be taken into consideration.

346. The Secretariat agreed with the Delegation that probably the Project put too much emphasis on licensing agreements. It was known that anti-competitive practices could be bilateral or unilateral (for example, refusals to license when associated with some other circumstances that make the practice anti-competitive). So, sometimes the IP owner could

rely on his market power to abuse rights without the need of the contribution of a third party. What the Secretariat would suggest in a revised version of the document was to eliminate the sentence “the focus would be primarily on the competitive effects of different licensing provision” from item 2. In that manner the emphasis on licensing agreements could be eliminated. Regarding the question on whether the tool kits were public, the answer was yes, they were WIPO publications, so they were available, they were translated into different languages and necessarily the revised version would also be published and translated. As to the regional representation, the Secretariat agreed that it was one of its main concerns so it would discuss that with Member States. The Secretariat restated that its activities were demand-driven; therefore it would be waiting for the requests to come from Member States. The Secretariat also pointed out to the list of activities and time schedule at page 7 for holding of the regional or sub-regional meetings and noted that already one had been held for the Asian countries in the Republic of Korea. So there were four other regions to cover. Therefore, the Secretariat had taken this regional coverage into consideration already. To conclude, the Secretariat pointed to Article 10bis of the Paris Convention, which was about unfair competition and not about competition law. Therefore, one could of course include unfair competition into the broad notion of competition to the extent that one could include IP in the whole notion of competition. But in this case, the examination of anti-competitive practices might lead to examination of anti-trust practices, to use the American legal terminology. The Secretariat concluded that unfair competition would be outside the scope of this study. There were some areas of anti-trust that could touch upon the two fields, for example, dumping. Dumping could be seen as act of unfair competition, but it could also constitute an anti-competitive practice. The Secretariat added that the legal framework for work on IP and competition law was elsewhere: in *Article 5(A)(2)* of the Paris Convention, which was introduced at the revision of the Hague, in 1925, and was indeed a dated provision that might no longer reflect the concerns of Member States. But at that time the Secretariat was not thinking of proposing an assessment of the appropriateness of *Article 5(A)(2)*, but rather implementing the three competition policy-related recommendations of the Agenda for Development.

347. The Delegation of Egypt stated that under Agenda Item 6, when discussing document CDIP/3/5, it had raised the issue of the sharing of experience on anti-competitive practices in the various jurisdictions. It noted that the Secretariat had pointed out that it would elaborate on this issue under Agenda Item 7. The Delegation’s particular question and suggested activity that touched upon recommendations 7, 23 and 32 was first of all to ask if WIPO had a guide in the sense of a published or an available document about the sort of various treatments of the anti-competitive effects of IP and how this was being treated in different jurisdictions, particularly how this pertained to the use of compulsory licensing under anti-competitive practices as well as some of the anti-competitive nature of licensing agreements. The Delegation requested to know if a guide existed and if it was being used in technical cooperation activities. If it did not exist the Delegation said it would propose as an activity, that WIPO could develop such a guide. This pertained in general to recommendations 7, 23 and 32. The Delegation also stated that it had some comments on the drafting of the project document but at this stage, following the procedure of just commenting on the recommendations at the first stage, it would leave at that.

348. The Secretariat replied briefly and stated that it did not actually have such a guide as mentioned by the Delegation of Egypt. However, the legal framework to do so existed because *Article 5* of the Paris Convention referred to abusive practices of IP. It did not refer

to anti-competitive effects, but it referred to the abuse of IPRs. In this case the Secretariat noted that it was in the hands of the Member States to decide on a course of action.

349. The Delegation of Brazil reiterated the importance that its Government attached to the issue of competition policy. IP and Competition policy was indeed a crucial strategic and indispensable element of the WIPO Development Agenda and those elements had been reflected in 3 of the 45 agreed recommendations. The Delegation believed that the essential component of the project before the Committee must be to ensure that WIPO technical assistance and legislative advice incorporated the topic of IP and competition. When delivering technical assistance activities, WIPO should take that into account and provide developing countries with as much information as possible and inform them on the neutral basis what they can do to nationally implement robust competition legislation. The Delegation stated that it had a few specific comments to make. The first one was regarding page 3 under item 4 concerning a global meeting on emerging copyright licensing modality, and asked if the Secretariat would comment on the realization of that meeting. It, however, proposed to include a simple word in that paragraph, which was the word “free” where there was a reference to proprietary software, and another reference to open source software, and incorporate the word “free software” here to ensure that this global meeting would be as pluralistic as possible. And if the meeting really wishes to be pluralistic, it could not ignore a large community of free software developers and users. The Delegation also stated that it had a more specific comment to make under Agenda Item 2 on IP and competition in selective countries and regions. It wondered if the Secretariat could provide further information on how those countries and regions would be selected. The Delegation also made a suggestion regarding Recommendation 23 whose scope was broader than the issue of competition itself. The recommendation pointed out the need for fostering creativity, innovation and the transfer and dissemination of technology to interested countries and in particular, developing countries and LDCs. It stated that it would like to encourage the Secretariat to take that into account and to incorporate that broader approach when carrying out that project. And on the item 2, the Secretariat could identify possible tools and measures that countries were implementing with a view to fostering creativity innovation and the transfer and dissemination of technology to developing countries. It also added that the scope of this third item be broadened to encompass a comparative analysis of national legislations, noting that the developed countries might have in general a more robust competition legislation than developing countries and in that particular regard, it believed that developing countries might have a lot to learn from their more robust regime of competition. So a comparative analysis would really allow for an enhanced understanding of how the competition policy and legislation varied from country to country.

350. The Secretariat briefly commented on the proposal by the Delegation of Brazil to broaden the scope and include the comparative analysis of practices and experiences. It assured that this was exactly the spirit of the exercise conducted by the Secretariat in that field. But it noted that those experiences and practices could not be isolated from the laws. Regarding the mechanism of selection of countries and regions which had been raised by the Delegation of Chile, the Secretariat stated that the process would be demand-driven and would need to look at countries and regions that have already acquired some experience in the area of anti-competitive practices in the area of IP. Brazil for example has a competition authority for the last 47 years. It was first established in 1962 and very recently the Supreme Court of Brazil held an opinion extremely important and innovative in the area of anti-competitive practices in the area of IP. So the Secretariat would look at specific countries and specific regions that have this experience. The idea was to share experiences.

It was the relationship in those countries where there were two authorities that might have attribution in the area of IP and anti-competitive practices that is competition authorities and IP agencies. There are some countries where the IP agencies look at anti-competitive clauses in licensing agreements. How would those authorities cooperate; how would they share their attribution; their competence was something that of course, would be looked at.

351. The Delegation of the United States of America was pleased to share with the members of the Committee, its views on the activities under the Thematic Project on IP and competition policy. The Delegation of the United States of America believed that any WIPO activities related to the complex relationship between IP law and competition policy should be guided by certain limiting principles -- namely the normative principle, the non-duplicative principle and the policy neutral principle. The activities in this area should avoid norm-setting leading to binding international agreements and should not stray into areas that went beyond the limited scope of the agreed recommendations. The Delegation further explained that under non-duplicative principles, the activities should be carefully crafted to complement rather than to duplicate programs and activities in other international fora. Regarding the policy neutral principle, the Delegation noted that in light of the fact that competition policies vary widely among countries and regions, the United States of America believed that WIPO activities in this area should be policy neutral, drawing on differing national and regional approaches to illustrate rather than to prescribe specific policy approaches. With those general limiting principles in mind, the United States of America also sought clarification and discussion among delegations on a number of specific issues. One, what involvement if any, would competition authorities, organizations or experts have in the proposed activities? Two, had any such activities or persons been involved in past WIPO competition related activities? Three, how did the Secretariat envisage making the project operational? Four, what would be the focal point of the audience in the project, would they be National Competition Authorities, National IP Authorities, or perhaps even IP Licensors or Licensees? Five, would the project deal with all types of IP including patents, trademarks and copyrights? And six, in seeking to broaden the discussion, had Member States consulted with their own national competition authorities on the activities proposed in this project? If so, do those authorities agree that WIPO is the appropriate forum for this project? The Delegation of the United States of America would like to place its views on this project within the historical context of WIPO's engagement with IP and competition issues. An information document prepared by the Secretariat for the second session of the CDIP stated as follows: "To date there have been very few requests from Member States for technical assistance in the field of IPRs and competition policy apart from WIPO's involvement in meetings in which the topic was included in the program". The same document went on to state that "So far WIPO has not received any specific requests for assistance on matters of competition policy and its interface with IPRs". Given the complexity of these issues and given this background, the United States of America said it remained skeptical whether WIPO was the appropriate forum for all of the activities proposed in the project. If on the other hand, WIPO were to undertake studies and hold meetings on this topic, the United States of America encouraged the Secretariat to consult with international organizations having proven expertise in that area. Finally, for many of the reasons discussed in the above points and principles, the United States of America was not prepared to support the proposal by the Delegation of Egypt for WIPO to prepare an interpretative guide on IPRs and its anti-competitive effects.

352. The Chair asked if the Secretariat would like to respond to the suggestion by the Delegation of Brazil on free and open source software.

353. The Secretariat stated that in respect of the proposed global meeting on emerging copyright licensing modalities, and the suggestion that free software be also mentioned in the operative language where the varying forms of software creation, licensing and protection models are mentioned namely proprietary source, the answer would be yes. The Secretariat would not exclude free software but it was an interesting point because as the process moved into what was characterized as the third generation of free and open software creation and conception in the mid 1980's there were interesting divergences and differences of approach between free and open source software that were being taken particularly with respect to copyright licensing. The provisions of GNU licensed version 3 served as an example. It would be very interesting to include free software as well as open source because those were interesting issues to consider so the answer would be yes.

354. The Delegation of China observed that it was a very good idea to have a better understanding of the interface between IP and competition policy, as a means of responding to the use of IP in the formulation of policy of competition. The Delegation thought this was very necessary and hoped that WIPO would assist the developing countries particularly the LDCs so as to provide more information in that field.

355. The Delegation of Argentina pointed out that Recommendation 23 was contained within the document and also it was a recommendation that was approved by the Members States who were involved in the group that developed standards for the recommendations. The Delegation then referred to the proposals from the "Group of the Friends of Development" that among other things, also proposed exchange of national experiences. As far as the Delegation understood, that was an activity that had been accepted and in fact there even invitations to experts had been made on the subject. It therefore requested to know what happened to that proposal from the "Group of Friends of Development".

356. The Secretariat responded very briefly to the comments made by the delegations of the United States of America and Argentina. It noted that some if not all of the comments of the Delegation of the United States of America were addressed not only to the Secretariat, but also to the membership. As such it would not respond to those other aspects. It agreed fully with the three general principles laid out by the Delegation of the United States of America, but it did not see them as limiting the scope of the subject. On the contrary, when the principles would be non-normative and policy neutral, it would give a much broader array of possibilities if the work was bound by normative purposes. However, extreme care and caution would need to be exercised so as not to appear biased and be limited by this bias. It agreed that policy neutrality was the best way to go. On the specific topics, the Secretariat stated that it expected and hoped that competition policy agencies would participate in those discussions. As regards the second question from the Delegation of the United States of America whether such agencies had been involved, the Secretariat recalled its intervention on Monday whereby it informed the meeting that so far, the Secretariat had been involved in only one conference specifically dealing with competition policy and it was held in the Republic of Korea in Daejeon where representatives from 13 countries participated. For those countries that have competition authorities, these bodies were invited to the conference as well as national IP authorities so that they could share their various experiences. On how the Secretariat envisages the delivery of the project, it explained that these projects were like the others but the present project in particular corresponded to the essential nature of an international Organization, which is to provide a forum to discuss the emerging issues. As to who will be the target audience, the Secretariat stated that it will comprise policy makers, competition authorities, IP authorities, users of IP, lawyers, economists, other international

organizations, non-governmental organizations, and so on. It noted that it would be an open exercise that provided opportunity for understanding and sharing of the experiences. As to what kinds of IP will be discussed, the Secretariat stated that it would involve all kinds of IP. The Secretariat noted that the idea of consulting Member States in the discussion to involve other agencies is a matter to be decided by the Member States themselves. As regards the consultation with other with the International Organizations with expertise in the area of competition policy, WIPO will do so as it is linked to the general principle that it agreed with, which is the principle of non-duplicative efforts. WIPO would not repeat what other International Organizations have done; therefore it will consult with them. The Secretariat cited the relevant example of the invitation extended to a staff of the of the Secretariat of the WTO to attend the conference organized last year in the Republic of Korea who shared the experiences of the working group in that organization. Regarding the question whether WIPO was the appropriate forum to discuss this subject, it left to Member States to decide.

357. The Chair stated that as was said before, the main objective of at least two of the activities was to make it possible for Member States to share their experiences. Referring to the invitation of experts he said that that was something that was outside the project. The idea of bringing experts to the CDIP and to speak about competition policy, that was a procedural matter that still had to be discussed and organized internally and it was not included in the project.

358. The Secretariat thanked the Chair and addressed a part of the question from the Delegation of Argentina. On the last page of document CDIP/3/3, the last activity, said “subject to the approval of the Committee, experts on the interface between IP and competition would be invited to address the Committee”. It was included and if the Committee agreed, they would be undertaking that activity in the future.

359. The Delegation of Colombia thanked the Chair and said it agreed with the recommendation. It believed that it represented an important concern with regard to the issue of IP, which related to the use of exclusive rights granted by the patents and other forms of IP. It believed that certain elements could be addressed as such the issues relating to TRIPS Agreements or anti-competitive conduct. However, document CDIP/3/3 Annex II suggested a number of comments, which it believed with regard to the proposed activities in that recommendation had already been mentioned. The negotiating models it believed had to be established by individual and from that prospective, Colombia did not believe that the control over creative work should be lost. It would be important therefore to ensure that financing was available from government. It added that developing countries did not have sufficient resources in the area of communication media, they had potential in literary and artistic work, which were important for production media and communications. The Delegation therefore reiterated its position in saying that the Organization should not call upon Member States to adopt for one model of negotiation taking into account that the public sector of each State was not the political driver in promoting open-source software, but it was the private sector which was responsible for that work, governed by the principles of free competition.

360. The Delegation of Egypt stated that it wished to move to recommendation 32 which requested WIPO to provide an opportunity to exchange information relating to national and regional experiences on the links between the IPRs and competition policies. First it had a methodological question relating to this recommendation and then a substantive proposal to make. Methodologically, if the Secretariat could share with them how it had gone with regard to the practice of sharing information and the exchange of national and regional experiences

with regard to particular IP issues. Specifically had WIPO, in conducting such an exercise, produced publications that included a comparative approach, and had it created a database of various national legislations and policies on particular areas. The Delegation thought that its methodological question would enable them to tackle the essence of Recommendation 32 better. The second part of its question related to the substance. It believed there were merits in creating, not only a guide book in the various IP and anti-competitive practice approach in different jurisdictions, but it believed in the Collection of Laws for Electronic Access (CLEA) website. It believed that an improvement to such a website would be to include laws that deal with the anti-competitive effects of IP. It believed that this would provide a more holistic approach on how different Member States provided treatment to the issue of the downside, the problematic aspects of IP, and it wished to particularly suggest perhaps a sort of a database on compulsory licensing that had as their essence anti-competitive practices. The Delegation stated that there was a very good program of cooperation on IP in Egypt with some of the Member States present. Unfortunately, those programs did not entail anti-competitive practices. The Egyptian Law 2002 issued in 2001, which was the current applied IP law had particular articles dealing with compulsory licensing as they pertained to anti-competitive practices. It was important for their experience that they developed policy in IP and anti-competitive practices and that they realized what other jurisdictions were applying in this regard. And perhaps some of the Member States, particularly those who had the tradition of issuing compulsory licenses would be able to contribute to this undertaking by WIPO because at the end of the day that had the benefit of providing a balanced approach to IP.

361. The Delegation of the United States of America apologized for taking the floor again, but did want to take the opportunity to thank the Secretariat for its thoughtful responses to its many questions. There had been particular interest in its Capital on that particular issue, so its Delegation would take those thoughtful responses back to Washington for further review and analysis. It also wished to mention that it would, at an appropriate time, seek a bilateral consultation with the Delegation of Egypt to determine whether their guide amounted to a simple compilation of laws, which the United States of America would have little or no objection to, or whether it comprised a more interpretive guide with a particular policy orientation, which would raise questions for them.

362. The Delegation of Brazil supported the proposal by Egypt. It believed that in that particular field the developed countries may have had a more robust and more developed system of promoting competition, and legislation also more oriented to promote competition, and it believed that it would have a lot to gain from shedding light upon national legislations and compiling those national legislations and making them available on the website. The Delegation thought it would be in the interest of the whole membership and also the stakeholder community that worked with WIPO. So in that regard it wished to support the proposal by Egypt.

363. The Secretariat responded to the comments from Colombia concerning the sponsorship or creation of software in public and private sector. In relation to that project, the meeting that it intended to organize did not really go into the issue of who financed production of software but more on the different copyright licensing modalities. And specifically the issue of a public sector support, public sector policies for software development, may be included in terms of discussion on the different licensing modalities but there would not be a separate subject of policy analysis or approach during the global meeting. The meeting was just to really illustrate the different ways that copyright licenses were devised in relation to proprietary software to other forms of copyright content without indicating, at least from the

point of view of the Secretariat, a policy preference one way or the other. It was very much a first cut to assemble information on different licensing options and practices, and on the basis of the meeting and the results of the meeting then the Member States could decide for themselves if a certain policy direction should be considered in the framework of the Committee or a further WIPO activity.

364. The Secretariat then addressed the comments by the Delegation of Egypt and firstly to its methodological question. The Secretariat stated that the experience it had so far in the field of competition policy was obtained in the Seminar it organized in Daejeon the previous year, and where it took the initiative of providing or making possible for Member States to share their experiences. It was a 3-day Seminar. The first day and a half were dedicated to normal lectures followed by Q&A sessions, and then one day and a half sessions with the representatives from the Competition Authorities and IP Agencies from different countries represented there to give their testimony, sharing of their experiences in implementing competition law policies in association with IP. It had not published that information; just collected the presentations into a CD-ROM. It had not shared it publically because it was a testing of the waters. But it was going to do this, of course, during the project so in a more consistent and coherent manner. Regarding the substance the guide book was a matter for Member States to discuss. Referring to the proposal to broaden the CLEA website and include competition law that was something that the Director General would announce soon. There was an initiative to revise CLEA and make it more consistent, more activated, more reliable, and in that case it was going to have specific topics on competition law. Referring to the database of compulsory licensing, experiences and practice, the WIPO Secretariat was organizing database with examples of licensing agreement clauses and in those clauses were anti-competitive clauses. But specifically on compulsory licenses, it thought that it would be difficult to have a broad and exhaustive list of compulsory licensing practices in countries because there were very many different ways of approaching compulsory licensing. The best known and probably the easiest way to detect a compulsory license were to identify compulsory licenses granted by countries in an administrative procedure. But in many cases, compulsory licenses were granted by Courts in duration of an infringement law-suit. In that case it was extremely difficult to go case by case and identify the compulsory licenses. What it would propose if the Member States agreed, would be sampling compulsory licenses cases. So it suggested to identify several instances or several modalities and then discuss the particular details of each case.

365. The Delegation of Costa Rica stated that in light of the document and the activities provided, it considered there had been a good effort made by the Secretariat in order to bring form to the activities in the form of the recommendations and the project. It was an experience which was beginning and had not lasted many years but over time was sure that in each one of the meetings and each one of the countries would be able to present administrative and judicial decisions, which related to anti-competitive practices and IPRs. It suggested a way of compiling such cases so that members through the internet or some other means could find out about the cases that had been resolved, what ruling should have been made. Quite often cases were duplicated from country to country, and so if through WIPO exchanges could be made, this could lead to eventual bilateral agreements.

366. The Secretariat summarized the main points made in its activities following the seven components but wished to add the remarks and suggestions made by Members during the very interesting and relevant discussion session. To start and broaden the scope of the shared experiences it would not look only at licensing agreement, but at anti-competitive practices in

general. It was absolutely clear that it was not looking at normative exercise. This was a non-normative exercise. Its aim was non-duplicating the efforts of other organizations, and this was its mandate, its major obligation as international civil servants, it would be policy neutral. In the second remark, the same point would depend on discussions to be held among Member States. Its last remark was that it would rely very much on experiences of Member States and following the suggestion by Costa Rica, it would take the proactive role of asking Member States to submit their experiences. It would think of some sort of survey or questionnaire so that it could obtain a broad sampling, without promising to be exhaustive but it could probably obtain a very good and broad picture of practices by Member States.

367. The Delegation of India took the floor stating that it got the impression that it was reaching the end of discussions on the recommendation. The Delegation wished to echo the thoughts of Chile and Costa Rica that the objectives mentioned in document CDIP/3/4 did not adequately reflect the spirit of Recommendation 7, and it preferred that the language be altered to better reflect as it did not hear any particular reference to that suggestion from the Secretariat. Perhaps the sentencing, the aim should be specific stating that WIPO should promote measures to countries to deal with IP related anti-competitive practices, should be there and not just merely to promote an understanding of the interface of IP and competition policy. Also the scope of recommendation 7 in its view went far beyond IP licensing practices. This needed to be reflected in the brief description of project section because it saw that some elements of recommendation 7 were not there. The Delegation noted that the literature on analysis of the interface between IP and competition policy had generally focused on the experience of a few developed countries. Since a one-size-fits-all approach would not be the best one, the sharing of experiences and best practices could fall short of expected results for developing countries. It therefore suggested that work on the three recommendations and recommendation 7 in particular, be rooted in developing countries' experiences, particularly the LDCs due to the specific nature of the challenges faced by them. It could also be reflected better in the section 2.3 on delivery strategy. In that context it wished to see greater north-south exchange of experiences in the workshops that were planned and wished to suggest that in the studies that were proposed, the need to look into a specific sector. The Delegation was very interested if a sectoral analysis such as the drug and pharmaceutical sector. The bio-technology sector, nano technology sectors, etc., could also be looked at. This could be very helpful since the IP and the competition policy interface varied from one sector to another. Looking at the document CDIP/2/4, where against the Recommendation 7, there was a very detailed explanation of what kind of legislative assistance and advice could be given to developing countries and LDCs on request. It mentioned specifically 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. The Delegation thought that it would be helpful to keep this elaboration in the end of the project document. This was a suggestion that it would leave with the Secretariat, but if would be possible to incorporate, it thought it would be useful.

368. The Chair agreed that the requests seemed reasonable and valid, and unless he heard any objections, he thought they could be incorporated.

369. The Delegation of Egypt wished to refer to its earlier comment on the project document as a whole, retaining exactly to the point alluded by the Delegation of India, that it believed that the seven objectives did not capture the spirit of the recommendations, particularly Recommendation 7, so it wished to add a voice of support to that. The Delegation wished to note that it welcomed the bilateral consultations with the Delegation of the United States of

America, but just to clarify that the proposal from Egypt was to produce a guide book on not only the legal aspects because that pertained to the second proposal that it provided for an activity, which was to update the CLEA database. On the guide book it believed that it specifically pertained to IP and anti-competitive practice as it pertained to policy experience in not only pertaining to compilation of laws but actually on policies as to how different jurisdictions had dealt with the problem. It still presented this and if the Delegation of the United States of America still objected to having it as an implementation activity for Recommendation 32, then it would have to present its objection. It could still do the bilaterals, but it wished to explain that this was the nature of the activity being proposed from Egypt. Referring to the idea that it proposed updating the CLEA website to include legislation pertaining to anti-competitive practices, it welcomed that the Director General was proposing to have an initiative; however it would have liked an activity to be included in carrying out this Recommendation. It added that it would be interesting to see what the Director General proposed but it wished to specifically mention this as a Member State recommendation and it asked that it would be reflected in the project. Finally, on a more conceptual issue, the Delegation said it was concerned about references to other work in other Fora. It was not aware of the multilateral fora that discussed IP and anti-competitive practices that would hinder WIPO in engaging that issue. And as such it did not believe that the Secretariat should be constrained in its efforts to caution to a multilateral effort that did not exist. It wished to express that the Secretariat should be unhindered in its examination on such issue on the interrelationship between IP and competition policy.

370. The Delegation of India wished to note its satisfaction with the work program outlined under the recommendations and it wished to thank the Secretariat for the very well-considered and put together activities. Referring to the statement made by the Delegation of Egypt, it wished to add that it supported the work programs in that Cluster, and it thought that merit detailed study regardless of whether it has been done elsewhere or not.

371. The Chair asked for clarification if the Delegation of India really meant whether it had been done elsewhere or not, asking if it had been done elsewhere whether WIPO should still do it again.

372. The Delegation of India clarified that it was agreeing to the point made by the Delegation of Egypt that if the subject of IP and competition law had been dealt with elsewhere, it was not aware of it, and the area that had been specified there met with its expectations and it saw merit in undertaking those activities.

373. The Delegation of Argentina referred to Recommendation 23 and as far as it understood it above and beyond the project, which would only be implemented partially giving that it was a recommendation of Cluster B, which was norm-setting. So in Item 8 of the Agenda on coordination mechanism with the WIPO committees responsible for norm-setting, the mechanism agreed upon would also apply for this recommendation to be implemented fully.

374. The Delegation of the United States of America stated that in depth expertise on the complex interface of IPRs and competition policy, was being done by UNCTAD, by the intergovernmental committee of experts, by the OECD, and coordination work was ongoing by the International Competition Network. It also more broadly reaffirmed its view that in the period of constrained resources for WIPO for the Member States around the World, and in a period where the demands upon this Committee for focused work with a predictable and tangible outcome were greater than ever, it would reaffirm its non-duplicative principle that

the activities of the Committee should be carefully crafted to compliment rather than duplicate, programs and activities in other international fora.

375. The Delegation of Nigeria stated that the current argument was not going anywhere. It agreed that on anti-trust laws and anti-competitions laws there might be other intergovernmental processes that may be doing work on it, but that did not stop them taking a decision to explore the idea. What could happen would be that even if others were going to work on it, there would be collaborative arrangement in which those in the Secretariat related with those that were doing work on it to come up with something that may be adapted to what it wanted or what it was requesting. Even when others were doing the same thing, it was never exactly the same as requested or as the decision implied. The Delegation wished to clarify that if the Committee took a decision and there was on-going work in other intergovernmental fora then the Secretariat would liaise with all those fora, to see what they had done and see to what extent the Secretariat would do in order to accomplish the specific request or recommendation.

376. The Chair wished to look at it before making any decision and thought they had had a good discussion on recommendations 7, 23 and 32. The Secretariat had given a brief summary and the Chair was pleased that there had not been any objection to any of the activities proposed but just some requests for amendments, which would be made. There had been a couple of problems with a couple of proposals which would be looked at to try to come to some compromise. One was that they would require a response from the United States of America. The second one, which was specific to the guideline, was that he would try to find a balance between the expectation and the concerns. He would also try to see if he could find a balance between this non-duplication. It was a sensible principle but it took the point that Egypt, India and Nigeria had made. He would look to see if there could be sensible way of dealing with it. They would have to be able to define the specific difference that developing countries wanted from WIPO and different from what. In the Chair's opinion it made no sense duplicating but sometimes there were differences that could be seen in some requests as compared to others.

377. The Representative of ES Europe thanked the Chair and on behalf of the Free Software Foundation Europe (FSF) wished to congratulate the Chair for having been re-elected as Chair of the CDIP and thanked him for his kind consideration and allowing NGOs to speak. It also congratulated the Secretariat for the work on the implementation of the Development Agenda, which was clearly being pursued with constructive engagement. It followed the deliberations of Member States with great interest and had a number of comments pertaining to the issues related to SME Empowerment, Innovation, competition, as well as IT deployment by WIPO. Mindful of the time, it would limit its oral intervention to issues of competition policy and requested to be granted permission to submit its full written statement to the Report which had been provided on the table outside the meeting room. ES saw a gap for the product addressing recommendation 7, 23 and 32 regarding the interface between exclusive rights and competition. As discussed throughout the previous Standing Committee on the Law of Patents SCP/13, exclusive rights and competition were strongly linked in the area of standards and open standards for information technologies in particular. Due to the ubiquity of IT and its enabling role for economy as a whole, these competitive issues leverage their effects into all sectors of economy and were therefore central for the project. It believed that it would be useful for the project to be connected with the work of the SCP and take into account the work of competition authorities in that field as well as the European Commission's initiative for interoperable delivery of European E-Government Services to public administrations,

businesses and citizens, the IDABC. Another relevant source of information was the findings of EC on abusive behavior regarding standards in the work observer market, and the on-going investigation regarding abuse of web standards. It also submitted to the Secretariat that the records of the European Court of First Instance (CFI) provided a practical evidence regarding dominant vendors attempt to assert exclusive rights as grounds for refusing to supply competitors with essential inter-operability information. Regarding the Global meeting on emerging copyright licensing modalities, it welcomed the balance and inclusiveness that the Secretariat showed in the inclusion of free software. As correctly highlighted, the free software model had been evolving over the previous twenty years into what was now a multi-billion dollar industry for which Gardener Group expected an adoption rate of 100 percent before the end of this year. It would, therefore, submit that free software had already arrived in the main street of this industry and submit that while it still the fastest growing model, it might no longer be merging.

378. With regards to the project on IP, Information and Communication Technologies (ICT) and the Digital Divide, the representative of the Free Software Foundation Europe (FSFE), made suggestions, beginning with a reference to the United Nations Conference on Trade and Development (UNCTAD) Information Economy Report 2007-2008. The report emphasized how growth and innovation enabled by Information and Communication Technologies (ICTs) across all of economies outweighed growth and innovation in the ICT sector itself. The second point highlighted was the role of Open Innovation Models, which were responsible for the majority of innovative leaps, as also shown in the studies of Mr. Eric von Hippel, Professor and Head of the Innovation and Entrepreneurship Group, MIT Sloan School of Management. He said that from it, one could derive two important principles that should guide their work: Maximizing ICT ubiquity and availability, which would maximize innovation and development across all sectors of the economy, and secondly, protecting the ability of all people around the world to innovate. He pointed out that it translated into a necessity to avoid the creation of an “innovative glass ceiling” through barriers on market entry, in the form of barriers to access to standards, ICTs, and other prerequisites for an open competitive market. He went on to say that Free Software offered unique benefits both in terms of ubiquity of technologies, as well as in facilitating innovation through extensive rights for all users, all of which were thereby enabled as potential innovators for the type of leapfrogging innovation described by Prof. von Hippel and the UNCTAD Information Economy Report. Therefore, the FSFE urged harnessing the full potential of ICTs and the WIPO Technical Assistance activities, by ensuring explicit provision of Free Software competency, through the project in the spirit of the inclusive, balanced approach mandated by the Development Agenda and the referenced World Summit on the Information Society (WSIS). For that, FSFE offered its support through the network facilitated by its legal department. With over 190 participants across 27 countries and four continents spanning a broad spectrum of interests engaging in Free Software, the network appeared to be the largest legal support structure for Free Software in the world. On the network, the world’s leading experts from the academic and private sector worked on state of the art issues and developed best practices for commercial development and deployment of Free Software. The FSFE believed that access to that information would be useful for WIPO and its Member States and suggested foreseeing the creation of a channel for that kind of information as part of the project.

Agenda Item 6 (continued)

379. The Chair proposed that the Committee went back to Item 6 to deal with document CDIP/3/INF/2, which was a report of progress on the already adopted recommendations which were now structured in a project format, namely 2, 5, 8, 9 and 10. The Chair hoped that they could deal with it quickly as it was just a report, a review. On Item 8 there would be a discussion on the coordination and mechanism. The Committee would then go back to Item 7, Annex III of that document CDIP/3/4, the three recommendations dealing with ICT and the digital divide, recommendations 19, 24, and 27. The Chair stated that under that item the delegations of the Republic of Korea and Japan had made some suggestions and had submitted papers in the past and he wanted to give them each an opportunity to introduce those papers when they went back to Agenda Item 7. Then there was Item 9, which was future work and finally he hoped that he could share with everybody the first draft of the Chair's Summary which should be discussed and approved before the close of the meeting. The Chair then proposed to start by asking the Secretariat to introduce the document under Agenda Item 6.

380. The Secretariat explained that the document under consideration was document CDIP/3/INF/2, and that the Committee would recall that at its second session held the previous year, it had approved activities for the implementation of recommendations 2, 5, 8, 9 and 10. The document under consideration contained 9 projects, due to the fact that Recommendation 10 encompassed various elements which were diverse in nature and to capture all those ideas they had to prepare multiple projects on Recommendation 10. He continued that the Committee would also recall that following its recommendation to the General Assembly, an amount of 8 million Swiss francs had been approved for the implementation of those recommendations. This amount of 8 million Swiss francs was supposed to cover additional human and financial resources required. However as mentioned on page 2 of the document under consideration, following consultations between the Chair of the Committee and the Director General, the amount of 8 million Swiss francs would now be spent only with regard to the financial resources required, that is for the activities. This project had been prepared on the basis of a proposal made in the General Assembly whereby the Organization had indicated that it would follow a project-based methodology which would make the work of the implementation of the Development Agenda more methodical in nature. The implementation of these projects had already started and that is why the document was for information only. Regarding Recommendation 2, the Secretariat mentioned that a draft concept paper prepared for this purpose was available outside the meeting room, as well as a revised program for the conference. The Secretariat further informed that there was a consultation meeting scheduled for May 18 and the documents would provide the basis for those consultations.

381. The Chair suggested that the best way to deal with this subject matter would be to look at the project as the detailed examination of the recommendations had already been done, so he suggested to look at the projects one by one and refer to the recommendation which was also included at the top of each project document and then provide any comments and questions. The Chair suggested starting with the first project in Annex I which addressed, and was designed to implement, the adopted Recommendation 2.

382. The Delegation of Uruguay started by thanking the Secretariat for doing so much work in order to formulate approved Recommendation 2. The Delegation had a question concerning page 3 of document CDIP/3/INF/2 and item 2.3 "Delivery Strategy" In paragraph 2 quoting "during the period from March 2009 until the CDIP in April 2009 the Secretariat will engage in a series of consultations to obtain feedback on the concept paper

and on the revised conference agenda, as well as to approach a wide range of donor institutions to seek their support". The Delegation asked whether these consultations had been held and if so what conclusions had been reached during the course of them.

383. The Secretariat answered by saying that there had been consultation meetings held since the previous October; there had been an informal consultation meeting on the subject in December. Since then there had been a number of regional briefings of a more general nature which had been included on the agenda, and it had also met with some of the development agency representatives based in Geneva. The draft concept paper and the draft revised program had only just been finalized and it was a bit late in that process. Both these documents were for consultation purposes and were available outside the meeting room and in order to allow everyone the time and opportunity to consider the documents and to consult with their capitals; another informal consultation meeting would be convened on Wednesday, May 18, to receive more feedback on the documents. The Secretariat added that the documents were very much in draft form so it looked forward to, and welcomed, any comments or suggestions. The intention was that when the documents were in a more final form they would continue to use them with key constituents and stakeholders, so referring to the timetable of March and April, there had been consultations but there would also be more intensive consultations held in May, June, July, through to the actual Conference dates itself.

384. The Delegation of Indonesia referred to the number of risks involved in undertaking this project which were outlined on page 3. The first one was a lack of participants in the Conference. The second risk was that there would be sufficient participation in the conference but no new resources available. The third risk was that no financial support was established in WIPO of IT for LDCs etc. The Delegation asked what the Secretariat foresaw happen if those risks were to materialize.

385. The Delegation of India commented on the brief description of the project on page 1 of Annex I, in the third sentence which stated that it was in order to help countries benefit from the IP system. The phrase used was "benefit from the IP system". The Delegation thought that it did not faithfully reflect the objective of Recommendation 2 which stated "to promote, *inter alia*, the legal, commercial, cultural and economic exploitation of IP in these countries". The Delegation saw it as also including in the sense of legal exploitation meaning helping the countries make full use of the TRIPS flexibilities such as the transitional period for LDCs, and therefore seemed inadequate to capture it as simply being about the benefit of the IP system. The Delegation thought it may be useful to elaborate a bit more. Similar concerns arrived with regard to objective one where again the term "benefit from the IP system" was used. It also thought it would be useful to add that any resources generated from the Donor Conference should not lead to cherry-picking, which was picking only certain recommendations for implementation and that it would be helpful to state the principles clearly because they had been discussed before and therefore would be a good idea to reflect them in the project document.

386. The Chair responded saying that the second point raised by the Delegation of India and the point raised by the Delegation of Indonesia were complementary because if there were risks in not achieving an acceptable or reasonable or desirable level of funding support then those risks would be reflected in how the projects were implemented and may very well be not cherry-picking but prioritization and phasing of implementation so he would wait to hear from the project managers, but the two interventions seemed to connect.

387. The Delegation of Angola thanked the Secretariat for submitting the report on the approval of the conference and referred to page 5 concerning the 20 per cent increase in available resources. It wanted to ask the project manager, was the 20 per cent compared to what was over and above the 8 million Swiss francs because when holding a donors' conference they had to set the objectives to say they would be increasing 20 per cent, but with respect to what? With respect to over and above the 8 million Swiss francs of the WIPO budget because this 20 per cent figure was a little bit vague and the other aspect it wanted to look at was about the reference base and donor countries, as for the conference to be successful there should be at least 20 donors if they wanted to have any real hope in terms of funding, otherwise they could be spending money for nothing. It also wished to know to what extent the current financial crisis, which had greatly affected a number of countries, had been taken into account as it might affect the donors' conference when it came to raising additional funds.

388. The Secretariat said it would be brief in its response and that it could go into more detail on these questions at the informal consultation meetings on May 18, 2009. Concerning the question of risks, the Secretariat indicated that there were a number of objectives for the project and for the conference. It was clear that the achievements of those objectives were not entirely within the hands of the Project Manager or the Organization that they needed donors to attend and to contribute. So the purpose of identifying the risks was just to be aware of them and to take any possible steps to mitigate them, which was the intention of the consultation process. By developing the concept paper and the program in a way that appealed to the broadest range of donors and which would also still be relevant to the needs of developing countries was intended to mitigate that risk. The Secretariat indicated that a substantial amount of work had already been done in talking to some of the donors. It was difficult to assess participation at that stage, but they would continue to work to make sure that they had as many representatives as possible. On the issue of the wording in the objective, the Secretariat fully took the point that was made, and said that what had been done there was to use shorthand instead of the long version which appeared in the recommendation and perhaps they need to reflect upon that and modify it. The Secretariat suggested that it be modified in the context of the concept paper rather than the project document so they would have an opportunity to revise and reflect that in that document. Concerning the question on cherry-picking, the purpose or the motive of having a Conference was to support WIPO's assistance to developing countries. In determining how and what support that it had to be linked to what the needs of the developing countries were and that should determine where they sought to get donor funding but again that this was an issue that could be dealt with in the concept paper itself. Referring to the point made by the Delegation of Angola, the 20 per cent increase was based on how much money WIPO currently received from its existing donors. WIPO currently had 9 funds-in-trust donors, who the previous year had contributed 7.4 million Swiss francs to WIPO's work. By the end of 2009, it would know what the total figure was in type of voluntary contribution for the period 2008-2009 so the intention was that by the end of 2011 there would be a 20 per cent increase compared with the current biennium. That was what WIPO was aiming for. It was a target that WIPO should push itself towards. For the conference itself and for the future WIPO needed to attract a great deal more donors not just its current traditional donors which tended to be IP offices, but the development agencies, the multi-lateral and bilateral donor community. So a large part of the conference was about making WIPO visible to these organizations and getting access to the funding that they had available. The Secretariat added that it would be happy to go into more detail on that subject at the consultation meeting on May 18. It pointed out that on page 2, paragraph 2

under “introduction to the issue on the project description” the current nine donors were listed and the figure of 7.4 million Swiss francs also appeared there.

389. The Delegation of Argentina asked, with reference to the brief description of the purpose of the project in the first paragraph, whether the purpose of the project was to convene a Conference in Geneva?

390. The Chair confirmed that as indicated in the 2 documents available outside the meeting room, the revised program and the concept paper, that the Conference would take place on November 5 and 6, 2009, in Geneva.

391. The Delegation of Brazil requested a brief clarification on whether or not the issue of the conference being open-ended was already in the document or in the draft, as he had not had the opportunity to read the draft paper and wanted to have this clarification.

392. The Chair confirmed that the issue had come up in previous discussions during informal consultations on this project that the event should be open-ended and that it should be held in Geneva and that was certainly the intention. He added that if it did not come across clearly enough in the project document it was probably because this was an automatic assumption on his part and they maybe needed to reflect that more clearly in the concept paper.

393. The Delegation of Brazil said it would appreciate if it could be clarified in the document that the conference would be held in Geneva.

394. The Delegation of Morocco made a comment on the document stating that in the introduction, the first sentence which started with “In Africa”, it wished to add “as planned pursuant to Recommendation 2”, or as provided for in Recommendation 2 because it seemed that the high priority would depend upon the funds that were collected at the conference whereas the recommendation provided that the high priority should be thanks to budgetary and extra-budgetary resources. The Delegation also wanted to know if there would be an agenda for this conference and when they would receive it.

395. The Delegation of Egypt referred to page 3 under “review and evaluation” the first item of the review referred to a report to CDIP in April 2009 on feedback from consultations, and wanted to have an idea on whether this report had been issued or if not when would it be issued.

396. The Secretariat responded by saying that the reference to the Recommendation 2 in the introductory paragraph of the concept paper was something that could be amended in the process of developing that document. It indicated that the agenda of the conference, together with the concept paper and the revised draft program for the conference were all available outside the meeting room. Referring to the question on the report of the consultation process, the Secretariat indicated that there was not currently a report, that what they had been doing was consulting and taking comments to help develop the program both in the regional briefings and in other consultation meetings. At that moment what they had was the oral report which they were giving on the status of the project but indicated that they could also give more detail on May 18 on the same subject.

397. The Delegation of Guinea asked a question concerning page 3 of Annex I on delivery strategy, referring to the possibility of a risk of not finding funding for the LDCs and it

wished to know if the Secretariat had already embarked on consultations to try to invite the contributions from the special funding mechanism for the LDCs.

398. The Secretariat replied that it was currently trying to identify which donors would be relevant to approach in terms of contributing to such a fund to discuss with them how it could make this fund attractive and what the work plan would be, so they were in the process of identifying where to try and mobilize resources to put into a fund for LDCs.

399. The Chair asked that attention be given to the next project which was associated with Recommendation 5.

400. The Delegation of Senegal voiced a concern it had pertaining to page 3 Annex I, which was not far from the item that was raised by the Delegation of Guinea, at the end of the paragraph it stated that “financial support of donors is indispensable.” The Delegation sought clarification as to whether this would mean that without the support from the donors that the fund would not actually be set up.

401. The Secretariat responded that what it had attempted to do was stick closely with the Development Agenda Recommendation 2 which requested the establishment of a Fund-in-Trust for LDCs, whether or not that FIT attracted funds depended on the donor community’s readiness to do so, so the intention was to establish a fund and to consult widely and to mobilize resources to put money into that Fund. However it was necessary to do that consultation process, they needed to identify the donors and they needed to be successful in getting the funds into the Fund.

402. The Chair invited the Committee to turn to Annex II on IP Technical Assistance Database.

403. The Delegation of El Salvador thanked the Secretariat not only for all the documents it had received which were very useful but the document that they were focusing on at that time was highly informative, very comprehensive and the Delegation wished to thank the Secretariat for the draft on Access to Databases, which was very important to them in their IP office. The Delegation considered furthermore that the new interface of the WIPO website would be very important for their patent office and the various projects. The Delegation wished to raise a question with regard to the database. The Delegation explained that in the website, it understood that it would contain all types of information that would be important when it came to examining patents. However, thanks to the efforts by WIPO in favor of their office, they already had information on a compilation of patents that came in on a periodic basis, and thanks to the Spanish Office they had received a compendium of information of this type. The Delegation wished to know what sort of additional information, what exact information, would this project actually contain and what was its current state of advancement.

404. The Delegation of the Dominican Republic thanked the Secretariat for the drafting of the comprehensive document which provided a host of details which enabled them to understand in which way these projects would be implemented. The Delegation had a question regarding the calendar for the execution of project 2, as indicated on page 6 of Annex II the project had already started and he wished to know whether or not in the second quarter it would be possible to meet the expected dates, the milestones of this project and the various timeframes. It informed that the Dominican Republic would be very interested and

honored if one of the pilot projects could be implemented in the Dominican Republic, as stated by other delegations, the Delegation of the Dominican Republic also gave great importance to these matters and they were working very hard. It added that this would make it possible to strike a regional balance so that all the delegations and countries could benefit from these projects.

405. The Delegation of Indonesia referred to the budgetary matters of WIPO and how the Organization was conducted. It mentioned that on page 1 of Annex II, the stimuli would be built using internet-based technologies and open source software, that there would be no additional cost in that respect, but it was also mentioned that the project budget will be 300,000 and 490,000 etc., so it understood that it was going to be the budget that would be out of the system-development. The Delegation then referred to page 7 for the budget “all of the budget components were for the other components” and asked the Secretariat to explain further what it meant by “others”.

406. The Delegation of Algeria referred to the database and stated that any database would have to be useable and Member States had to be able to take full advantage of it. The Delegation wished to know whether there would be access to the database in English only or would it also be available in other working languages. It was aware of the limited resources available to the Secretariat but it wondered whether it could begin at least with English and French as they were the two main working languages of the Organization subject to the appropriate articles of the Organization’s Rules of Procedure. In the Annex it stipulated that the database would be updated on a regular basis. The Delegation sought clarification as to what was meant by regular basis and how often it would be.

407. The Delegation of Tunisia referred to a link between recommendations 5 and 9. Recommendation 5 spoke about the general information on existing technical assistance activities while the Recommendation 9 spoke about future needs in terms of technical assistance activities, and it wished to know how this project linked both aspects of recommendations, as the first one was existing activities and the second one was future activities needed by developing countries.

408. The Delegation of India had two specific queries. One referred to the information that would be available on the website, whether there would be any categorization between information available and in the general domain, and those that required further authorization. The second question was whether training programs, seminars, public meetings, forums, if they were held in the context of training in developing countries or LDCs, would they be linked to this website.

409. The Delegation of China hoped that the technical assistance database and future project documents would be provided in Chinese so as to help its Delegation to participate better in the activities.

410. The Delegation of Argentina referred to Annex II page 4 in the English version where it said “Indicators of Success in achieving project objectives” and wished to make a point that in the second paragraph where it said “a database is for WIPO internal use”, that “WIPO internal” be taken out so that it read as “database to be used by users.” The Delegation stated that the project objective said that institutional knowledge for all technical assistance activities would be available for use by WIPO and other interested parties. “WIPO and other interested parties” indicated that it was not only going to be used by WIPO staff members,

and as they were not going to be the only users of the database the Delegation suggested to change it to “database used by users”.

411. The Representative of the Centre for International Environment Law (CIEL) thanked the Chair for the opportunity to comment and looked forward to other organizations being given the opportunity to comment on the following section, IP and ICTs. It referred to Annex II of Recommendation 5, in terms of the content on what would be on the database he saw no reference to something that had been requested before which was that the database should include the set of model options that WIPO provide as part of its legislative assistance. This was the full panoply of options nothing specific being generated for Member States, this was simply the sweet that WIPO provided under Patent Legislative Assistance, Copyright Legislative Assistance, TK and Indigenous Knowledge Technical Assistance. It also had a concern about the implementation element under delivery strategy under the risks and assumptions. There was an option provider between bulk update and systematic update. It wished to respectively suggest that an effective, systematic update would be the most useful to both internal and external users, understanding of course that took up more man hours, but for transparency sake and for being timely that would be the most useful to Member States and observers. Finally, more generally on the approach to the recommendations, it wished to note that it was important that any studies conducted be empirical and based on statistical work and especially that they be peer-reviewed not only internally, but externally and that they all be published.

412. The Secretariat responded to the question about participating in pilot projects and countries wanting to participate and explained that the project was for WIPO Headquarters to build a database to capture all its development activities and that it would be setting up an internal team in the areas which delivered these activities to start specifying and detailing the system design and requirements and expected that at some point after the development of the initial phase one of the project that they would then invite all Member States to give feedback on the information in the database. It had already been mentioned during the meeting that some source of information would like to be seen so he would welcome very much feedback from the Member States as they went forward with the project. Responding to the question from the Delegation of Indonesia on the budget, the answer was that the 300,000 Swiss francs was to employ two IT consultants to build the database, and the 490,000 Swiss francs was an internal budgeting technique where staff were redeployed within the Organization to share the cost of that staff member so the 300,000 was to be paid to the IT consultants and the 490,000 Swiss francs was to cover the redeployment of the internal professional staff member. Referring to the question from the Delegation of Algeria, the Secretariat stated that there were two issues with language it was very important to separate them. The first was the look and feel of what you saw on the screen or the interface you saw when you accessed the database, and it was hoped that that at least could be delivered in English, French and Spanish which is often the practice. Referring to the question from the Delegation of China concerning the Chinese language, the Secretariat confirmed that Chinese was an official language of the UN and that it was an important question for the International Bureau to consider how far it could go with the interface. The second and more difficult question, in terms of budgetary matters and long term sustainability was the content of the database. Looking at the report for example which was given to this meeting in 2005, referenced in this document, it was an activities list from 2002-2005 and was only available in English. To translate a 560 page report into six languages had substantial implications for WIPO. The Secretariat took the point but thought it needed to separate the difference between what was inside the database and what languages it was in and the actual interface and certainly on the interface side it

thought it should try to get it into the six languages eventually if possible, but again this was a budgetary consideration. Responding to the Delegation of Tunisia about the links between projects numbers 5 and 9, the Secretariat that the databases themselves had nothing to do with each other and that the only link was that the two IT consultants and the project manager would be the same for both projects. The Delegation of India had asked a very important question on data access, confidentiality, etc. The question of confidentiality already existed, there were certain activities taken over by the organization which had already been mentioned, legislative advice, TRIPS flexibilities which was extremely confidential. The International Bureau had to make decisions together with the Member States involved whether that data was even mentioned in the database because once it is put into an online database you ran the risk of it being hacked or being accessed without authorization so this was definitely on the agenda to work out what can and cannot go into the database. All activities which were of a general nature, seminars, training, etc. would be entered into the database. Due note was taken of the comments made by the Delegation of China regarding languages. Argentina had mentioned that on page 4, the project indicators, data accessible as specified by both internal and external users. Firstly for internal users was the institutional knowledge within the house so not only the access by the outside world to the database would be measured but it would be necessary to use this database internally when planning future activities. If anyone was using it internally then the management would ask questions as to why one was not looking at what had been doing in certain countries when planning the next program and budget so it was important to look at both types of access because there were different customers and they had different reasons for looking at the data. So that particular indicator was linked very much to the institutional knowledge aspect of the project and the resulting database. Responding to CIEL about the access to the model options that it was not an activity per se that was reference data or information that would be useful, this could be taken on board, it was not particularly difficult to capture that into a database and make a link but it was not actually an activity. Bulk update versus systematic was an internal question being discussed because it had very different implications for the work processes within the Organization. The Secretariat agreed that systematic update made the data much more readily available and timely. Regarding the studies, the fact that they were being reviewed or not had nothing to do with this particular project.

413. The Delegation of Angola wanted to ask the Secretariat for more information. On page 2 it said “for the building of the system we will use Internet based technology which is accessible or WIPO will license therefore there will be no additional costs” then in the budget implication there were others, 200 and 100, the Delegation requested more details about that.

414. The Delegation of Nigeria stated there was no extra clarification in respect of the project objective. In the project objective it was said that a database would be used by WIPO internal users and then in column three it spoke about data being accessible to both internal and external users. So if project objectivity was to be done in terms of knowing whether the databases were used by only WIPO internal users it would be missing the mark because then that would not be the true reflection. The Delegation felt that it should be for both internal and external users or just external users because they were the ones that were going to use it to see that it was successful.

415. The Delegation of the Philippines felt that the database was very useful and wanted to know if the Secretariat intended to submit an annual report in the database that analyses comprehensively the information such as the trends of technical assistance, geographical concentration and other important information that the Committee can use to evaluate.

416. The Secretariat said that it would just reply to the general questions. On the question of the detail of the budget, the Secretariat stated that this was a practice taken from the existing program and budget. When external consultants were used they appeared under “others” category and the indicated cost pertained to their salaries. The software and the databases would either use existing licensed platform or open source so there would be no additional cost for software or hardware or databases. So it was only for the labour costs of the IT consultants that was reflected. Regarding the question from Nigeria the Secretariat stated that if one looked at the objectives for the project, the very last sentence or line on page 5 where the objective to solve the issue of transparency was addressed that was where it expected the database to be used by external users. In other words Member States had asked WIPO to be very transparent on technical assistance activities and it was making a database, but if they did not use it then it would be an important measurement or if they used it a lot that would be an important measurement. Hence, a little split there for the users. The Secretariat had no problem with including the word external and internal together at the same time as it just wanted everyone to use it. The question raised by the Philippines was outside the scope of the project and thus was a question for the International Bureau, if it would do any sort of analytical work. The scope of the project was to build a database to capture the data and make it available.

417. The Delegation of Bangladesh saw merit in the project and indicated that there were a few areas where there had to be some kind of clarity and display of information, for example, on legal advice that had been provided. The Secretariat further stated that even if the subject of the legal advice was disclosed this could be sensitive and how would the Secretariat address this concern. Talking about external users, the Delegation enquired if these users were only Member States or did it go beyond, would it be open to everybody or would there be some kind of code access or some kind of monitoring to see who could see this and who could not.

418. The Secretariat stated that sensitivity was linked to the question of access. The Secretariat’s understanding had been that everyone would have access, everyone who had Internet connectivity would have access. Based on that understanding answer to the question of sensitivity would be that information probably would not get into the database at all. The Secretariat noted that in the introductory paragraph to this project which had been mentioned by Member States it was stated that anything which was deemed to be sensitive would only get into the database with the permission of the Member States involved. The Delegation stated that and legislative advice or other types of sensitive TRIPS-related work would be best kept out of the database. That was the safest way forward. WIPO would not attempt to set up a codified access.

419. The Director General added that the answer was provided in the recommendation itself quoting “WIPO shall display general information on all technical assistance activities on its website and shall provide on request for Member States, details of specific activities with the consent of the Member States and other recipients concerned for which the activity is implemented” so the recommendation itself provided the guidance that it would be the Member State itself which would determine.

420. The Delegation of Bangladesh thanked the Director General for the clarification and said that reading the recommendation again, at the time of adoption, it was its understanding that nothing would go on the website without the consent of the beneficiary state concerned.

It could be interpreted in different ways. It was the Delegation's understanding, and it wanted to have it on record that the general information on all technical advice would go on the website regardless of a determination by the beneficiary state and then only when it came to details of specific activities the consent of the Member States concerned would be sought.

421. The Director General stated that WIPO could do as the Member States wished in this regard. He read the recommendation as making a distinction between general information which was unspecified or aggregate information and specific details, and specific details it seemed to him, in the terms of the recommendation, required the consent of the Member States concerned.

422. The Delegation of Argentina wished to comment on two things., Firstly that it preferred that the database could be used by external and internal users, and secondly concerning the figure whether it was for consultants who were hired specially for this project, and if so, why was it under "Others" and not in the appropriate section.

423. The Secretariat wished to supplement what had just been said concerning the projects that when it provided the details of the budget it had followed the structure in the Program and Budget of the Organization. It referred to the Program and Budget document and the field "others" therein and explained that the content of what came under "others" was exactly the same as the project document. So it had just followed the same structure as in the P&B document. In the Program and Budget of the Organization if a consultant was hired it went under "others", so the same practice had simply been repeated here.

424. The Director General explained that the operative heading to look at was "contractual services" so the vision of expenditure was travel and fellowships which was normal standard WIPO budget terminology; contractual services and equipment and supplies, and within contractual services there were sub divisions and contracts for services of consultants which were reflected in the other line of contractual services.

425. The Delegation of South Africa had a couple of questions on Annex 3 and started with the first point on page 3, 3(b) stating that in terms of the discussions held the previous day and based on recommendations 16 and 20 the paragraph would have to be amended to reflect the decision or discussions that were made the previous day where it would be changed to a survey of existing databases. The Delegation requested clarification on what had been mentioned in that paragraph regarding the initial number of databases already been added and how that would complement the work done on 16 and 20. The Delegation then referred to page 5, risk no 2, where it said "lack of, or reduction, in political commitment". It wished to seek clarification on the word "political" commitment as it felt it should just be "commitment" and did not know how political commitment would relate to the project. On page 4 on point no 6, where one of the risk factors was that the project would depend on a local IT infrastructure and at the bottom of the page where it said that if it was not included in the proposed budget for the project. The Delegation wished to ask a question as to whether a country that did not have the local IT infrastructures that would require such and it was not appearing on the budget, how would this be managed or taken into consideration by WIPO? Finally the Delegation also wanted to ask on page 7 in terms of project objective 4, to have a clarification on the point where it said "as a successful achieving objective, increase in the number of filed IPRs" was this patents only or all IPRs in general and asked if they could further elaborate the achieving project objective because the main recommendation was focused on trying to assist countries to have access and support in specific databases, etc.

426. The Delegation of El Salvador referred to Recommendation 1 and pointed out the project was very interesting for its national office especially for patent examiners and it suggested that it would be good that that type of information also be made available to the meetings of the heads of industrial property offices and that could provide better feedback when it came to some needs that their examiners had.

427. The Delegation of Uruguay referred to project delivery and had three questions of a formal nature one of a conceptual nature. The Delegation stated that on page 1, annex 3, where it referred to personnel related expenditure in the project budget, there was a figure in Swiss Francs but the Delegation did not find any details or breakdown of the budget. The Delegation wished to know how the funding for personnel would be actually spent and if the Secretariat could give information on the breakdown of that amount. Additionally, in the project calendar of 36 months there were some dates but there was not the actual execution calendar. The Delegation referred to page 3, 2.3 delivery strategy no. 2(b), “access to be given to eligible countries to patent cooperation treaty, minimum non patent literature, and to gradually add further journals in due course” and thought it would be good if there was an execution calendar for that activity. Another question of a formal nature, the Delegation observed, was that Recommendation 8 read as “in order to facilitate access of national patent offices in developing countries”. But on page 2, 2.2 the stated beneficiaries were individual inventors, small and medium sized enterprises, industry, researchers and technology centers, universities, academia, IP professionals, government policy makers etc., and there was not any mention of IP offices which were mentioned in the recommendation itself. On the matter of substance, the Delegation stated that the beginning of Recommendation 8, “request WIPO to develop agreements with research institutions and with private enterprises with a view to facilitating the national offices of developing countries” was to request that agreements be concluded with research institutions as well as private enterprises and that this was found only on page 3, in 2.3 delivery strategy, 3(a) where it mentioned about negotiations with commercial providers and model contracts. The Delegation felt that there was a bit of disconnect with between the recommendation which was approved by the General Assembly and the activity which was being proposed for this project.

428. The Delegation of Argentina requested WIPO to develop an agreement with private enterprises with a view to facilitating national offices of developing countries to access the specialized database for the purpose of patent search. The Delegation stated that in the indicators where there was a mention of the number of agreements that had been concluded, details about the institutions and private enterprises with which the agreements would be concluded should also be provided.

429. The Secretariat responded to the questions first asked by the Delegation of El Salvador concerning what additional information would be made available through that project and what was the current state of progress. The Secretariat stated that the additional information came in several areas. First, a WIPO program which was going to be called “access to research for development and innovation the ID program” would make available scientific and technical journals, which was copyright material, currently held by private enterprises. This information was, of course, available to IP offices, but often at a considerable cost and that the project would make that information available at much more advantageous costs than was currently available. The Secretariat further informed that other new information which would be made available through that project in the later stages would be the access to privately held patent databases which again were available currently at a cost but where it was

hoped to negotiate preferential access for patent offices of developing countries. The current progress was that they were in the final stages of negotiation for the R&D project which the Secretariat hoped would be formally announced soon. The Secretariat referred to the questions asked by the Delegation of South Africa, regarding the wording of the risk on political commitment, and stated that perhaps political was a strong word but it referred to the commitment from the highest level of the office concerned. It was not necessarily political in terms of the government but political in terms of the senior management of the office concerned. Referring to a question about local information technology (IT) infrastructure, the Secretariat stated that while this project could not address all of the issues of delivering services to developing countries, it had linkages with many other programs already running in WIPO, in particular, the IP Office Automation Program, and other projects under the Development Agenda. If an office where there was a demand for a service like this but had no Internet connectivity then the project team would work with those other WIPO programs to try to fill that gap. The Secretariat referred to objective number 4 on increasing the number of filed IPRs and said that the objective primarily meant the patents and utility models because, in the end, that project intended to deliver *via* the IP offices, services to research institutions and increased access to that information should eventually lead to an increase in the number of IPRs filed. That, of course, was not the only objective, but it provided something concrete which could be measured over a long period of time. Referring to the point raised by the Delegation of El Salvador, the Secretariat informed it would take into account the needs of examiners and would be very happy to present further information to the delegates. Referring to questions raised by the Delegation of Uruguay regarding the breakdown of the budget, the Secretariat informed that as discussed under the previous project it had followed the WIPO program and budget format, resulting in some large aggregate numbers. The Secretariat further informed that it was intended to hire two consultants to undertake missions and training activities in Member States as part of that project. Another consultant would be hired to conduct a needs analysis to databases and there would also be a provision for national and regional workshops and training activities to promote the new services in the countries. As regards the execution calendar, the Secretariat explained that the schedule was dependent on some external factors and that it had not been possible to do a detailed planning of exactly what would happen and when. As regards which journals could be made available and when, and the Secretariat stated that it was dependent on the progress of negotiations with the publishers which were progressing reasonably well. The Secretariat added that it would add more as those negotiations progressed and over the entire period of the three years of the project. For the other activities when particular things would be done, that again would be dependent on the readiness of offices and countries to participate in the program and currently it did not have details on very many offices in that respect. Referring to the question about beneficiaries beyond the IP offices, the Secretariat stated that the intention was not just to promote the use of IP information in IP offices, but to use the IP offices as a vehicle to promote that use for research and development. Therefore, in the project document the Secretariat had included activities which targeted those other entities, but the intention was always that this would be done through the IP office and not directly as part of the project. As regards the suggestion to refine the indicators by adding the number of agreements and the number of commercial providers, the Secretariat mentioned that that suggestion will be taken into account.

430. The Delegation of Guinea made two comments on CDIP/3/INF/2, page 2. The first comment pertained to 2.2 objectives, paragraph 1 under objectives, taking it that the overall objectives and proposed outcomes aimed to contribute to the reduction of the knowledge gap, there was an error in the French document, *les avoirs* which did not come across clearly in the

French document. The second comment referred to 2.3 delivery strategy, (a) a needs analysis for each developing country Member State which focused on national patenting activity as well as IPOs and user needs. Under that subparagraph (a) the Delegation believed that for the sake of coherence, after developing countries, there should be a mention of the LDCs, the reason was that looking at subparagraph (c), there was an explanation in the footnote given pursuant to paragraph (c), this was WIPO's assistance to developing countries and countries in transition for establishing a national industrial property information system. It was for this reason that the Delegation considered the need to mention under subparagraph (a) on looking at delivery strategy, to specify that they were talking about developing countries and especially the LDCs.

431. The Representative of Third World Network (TWN) wanted to address two annexes and the first point was in relation to annex 2 where they wanted to stress the importance of making sure as much material as possible with regard to technical assistance was made available for general viewing. For example, in annex 2 it was not clear the kind of general information that would be made available but they thought it would be useful, the information about the program, name of speakers, presentations and materials distributed during seminars, training, in any public meetings be made available on WIPO's website. They had looked at the meetings that were held outside Geneva in 2008 and out of the eight meetings there was only information about one meeting and the eight meetings did seem to be of a general nature. They hoped the information about meetings of a general nature could be uploaded as soon as possible. They also wished to support CL's intervention that it would be very useful to have some idea of the type of elements that were being proposed during technical assistance provided on legislative assistance as TWN had come across several draft laws that had been proposed by WIPO and the provisions did not really vary from one law to another. It would be useful to have an idea of the type of elements that were being proposed. The second issue referred to the project in Annex 4, and its concern because the project suggested outsourcing of technical assistance to donors and partners. It believed that any technical assistance provided should be subject to the Development Agenda principles for example Recommendation 1 which said that technical assistance must take into account the priorities and special needs of developing countries and it also believed that it was very important to have safeguards and mechanisms put in place to ensure not only compliance with the Development Agenda principles but to also ensure that the technical assistance was neutral as well as provided a full understanding of the full use of TRIPS flexibilities.

432. The Delegation of Angola asked about the setting up of the centres for technology innovation support in Annex III, page 4 and mentioned project related risks noting that a lot of African LDC States had problems when it came to accessibility to bandwidth and the Delegation asked if this problem could be solved through the setting up of technology innovation support centres but the cost of implementation was not included in the document. It also asked how the Secretariat planned to help such a number of countries that did not have such centres as sketched out in the document to afford them access to the database.

433. The Delegation of South Africa wanted to clarify that their question on page 3(b) on the database had not been answered, and also the point which was mentioned on the political commitment phrase on page 5, the Delegation preferred that the word political be deleted and rewritten in the way that the Secretariat had explained.

434. The Delegation of Argentina repeated its earlier comment concerning the provision of specialized databases and the need to have the possible cost, model contract and other details of the service providers.

435. The Delegation of the United States of America had a few specific comments on the project which involved specialized databases access and support. The Delegation thanked the Secretariat for the entire suite of projects for implementation of recommendations 2, 5, 8, 9 and 10, which it found well structured, highly informative and very useful in advancing the work of the Committee. The United States of America strongly supported the development of a WIPO TK and genetic resources database. The United States of America also noted with approval the survey of existing TK databases as an important first step towards the development of a WIPO portal to other TK databases. It was an extremely useful approach for its patent examiners. The Delegation believed that a TK portal that was well documented with respect to dates and sources, easy to use, and that was managed by a single office, would be an efficient approach in responding to the challenges presented by TK. More specifically it suggested that the list of target beneficiaries found in section 2.2 objectives, Annex 3 on page 2, should be expanded to include members of the public and TK holders. With respect to providing access to copyrighted non-patent literature the United States of America would seek further clarification on the costs associated with providing such an access.

436. The Delegation of Bangladesh expressed its strong support for the comments made by the delegations of Guinea and Angola. These concerned LDCs and in Recommendation 8 the national offices of developing countries especially LDCs and in the project generally. In the project there was eligibility criteria, there was an access criteria there were also certain levels of technical requirement on the ground that would predetermine how to implement this project. This was all stacked against the LDCs and so it wished to appeal to the Secretariat to incorporate something that would proactively address and support the needs of the LDCs in the project document.

437. The Secretariat first addressed the matter of LDCs and the technical requirements regarding the questions raised by the delegations of Guinea, Angola and Bangladesh. The Secretariat apologized for the shorthand which had been used from time to time in the document. The intention was certainly the developing countries, especially LDCs, and one of the signs was that they were hoping to negotiate privileged access for LDCs to some of these programs, in particular access to scientific and technical journals which would be on a more privileged basis for LDCs than for other developing countries according to the negotiations made so far with the commercial providers. The Secretariat stated that it would include that more explicitly in the document to meet their concerns. Regarding the question of the technical requirements and especially access to bandwidth and the costs which were not included in this program, the Secretariat reiterated that it was indeed true and wished to repeat the statement made earlier. It stated that this project could not solve all the issues in one program, that there were languages and provisions and projects in other Development Agenda recommendations, and that under the umbrella of the WIPO programs to provide assistance in that regard they would work closely with those programs. The Delegation of South Africa had raised a question on TK databases and the Secretariat was of the opinion that the wording of this could be reconsidered in light of the other discussions that had been held over the previous days. There were also a couple of other comments on adding some more wording from the Delegation of Argentina to add more detail to the model contracts and the number of contracts concluded, as well as the question from the Delegation of the United States of America on the cost of providing access to copyrighted materials. Under the programs which

were run by the other UN organizations such as the World Health Organization (WHO), Food and Agriculture Organization (FAO) and United Nations Environment Program (UNEP), publishers agreed to provide access essentially for free to LDCs or to what they called 'band 1', which broadly corresponded to LDCs, and for a very small fee of around US\$1,000 per institution per year for what they called "band 2" which was the lower middle income countries according to the World Bank criteria. That cost was paid by the institutions themselves, not by the organizations, so the cost to the institutions and to the organizations involved in the program was very low and the Secretariat hoped it would have a similar program at WIPO.

438. With regard to the question raised by the Delegation of South Africa on sub-paragraph 3b, Annex I, document CDIP/3/4, addressing the issue of public domain, the Secretariat confirmed that following the previous day's discussion, it would no longer undertake a pilot exercise as described under number 4 on page 5, Annex I (CDIP/3/4). This pilot exercise was to be replaced, as clarified by the Delegation of South Africa, by a study and survey on the existing TK databases. Regarding Annex 3 of document CDIP/3INF/2, the project for specialized databases access and support, under 3(b), the Secretariat stressed that this was a different project which provided for a portal of WIPO which would establish a hyper link to the traditional databases which had already been established by certain stakeholders and groups of TK. According to their request, WIPO had been asked to establish a portal which would link to those databases, and this portal was suggested and proposed here. The Secretariat concluded by saying that if concerns were raised the said portal would of course be reviewed.

439. The Delegation of South Africa stated that its only concern was that there would now be a survey on existing databases and, if the Delegation had understood clearly, this was a project on existing databases so it wished to see if there was a way to complement the two activities. It believed that the survey would be looking at these and other interesting databases on this and, therefore, be able to provide clarity on the issues of the public domain so it wondered if this was the right time to do such a portal.

440. The Delegation of Brazil supported the comments made by the Delegation of South African on the issue and stated that regarding this issue adjustments should be made in conjunction with the discussions held the previous day. Particular attention should be paid to the coordination mechanisms between the activity under this project and the projects under recommendations 16 and 20, it added.

441. The Secretariat stated that since there were two voices expressing concern on the possible implication which might prejudice future discussions, it would probably reschedule the launch of the portal. The survey on the existing TK databases would be shortly prepared and, in conjunction with that survey, it would also present the demonstration page of the portal so that Member States would give the green light to launch such a portal together with the consideration of the survey on existing TK databases.

442. The Delegation of Guinea wished to revert to the first question it had raised, in relation to page 2 of Annex 3, objectives, and enquired whether or not the question had indeed been answered. In the first paragraph, the French version was slightly different from the same paragraph in the English version, it added, stating that the translation of "the overall objectives and proposed outcomes in to contribute to the reduction of the knowledge gap" in English stated "*avoirs*" in French instead of "*savoir*" since "*avoirs*" meant assets.

443. The Delegation of Uruguay stated that it had some doubts regarding the Secretariat's comments. As far as the agreements and negotiations were concerned, Recommendation 8 "*requests WIPO together with enterprises and research institutes to work in order to facilitate access for national offices in developing countries especially LDCs and regional and sub-regional organizations*". From what the Secretariat had declared, and if the Delegation had understood correctly, the negotiations that took place were for LDCs, which suggested that offices in developing countries linked through WIPO for the contracting of commercial uses with respect to the databases had been left out. The Delegation also stressed that with regard to these contracts with commercial providers, which would bear the costs, some 340,000 Swiss francs, it wondered what role WIPO would play in respect to the negotiations with commercial providers.

444. The Delegation of Sri Lanka agreed with the point made by the Delegation of South Africa, and suggested that the Committee should look at the survey and the results, after which it could go into the database and work towards implementation, in order for the countries to know exactly what they could do with regard to development and TK.

445. The Delegation of South Africa thanked the Secretariat for its new proposal which met its concerns. It hoped that the relevant wording with regard to the issue would be amended throughout the document and in Annex 3, and stated, that it was the ideal way to proceed.

446. The Delegation of Bangladesh referred to its previous comment on Annex 2, and acknowledged its appreciation for the explanation provided by the Secretariat, which stated that legal advice contained certain sensitivities. Therefore, the Delegation proposed something specific in the brief description of the project, after the second sentence in the fifth line of Annex 2, page 1, and proposed adding a small sentence stating that "information on legal advice provided, would be included with the consent of the recipients".

447. The Secretariat referred to the question raised by the Delegation of Uruguay on whether the programs would be available to developing countries as well as to LDCs. The Secretariat informed that the programs that were being negotiated with the database providers would be for LDCs and for developing countries. With regard to the second part of the question related to the cost of access to the databases, it did not have details on how much it would cost to access the databases, however, it would negotiate costs which could be borne by the offices themselves. Further information would be given on this as the project progressed.

Agenda Item 8: Discussion on coordination mechanisms and monitoring, assessing and reporting modalities

448. The Chair proposed that discussion be halted on CDIP/3/INF/2 and that it be switched to Agenda Item 8. He reminded the Committee of the relevant part of the General Assembly's decision on the mandate. He stated that one of the things the Committee was meant to do was "monitor, assess, discuss and report on the implementation of all recommendations adopted, and for that purpose it should coordinate with relevant WIPO bodies". The Chair suggested that they had before them the language of the mandate, and they were aware of certain constraints and challenges, in particular the inability to interfere, or the need to be careful with their relations with other bodies, as well as the need for the Committee to understand that it could not mandate another committee to do anything. He saw this as a challenge which should be discussed and reminded the Committee to focus on the objectives.

449. The Delegation of Egypt wanted to inform the Committee that the African Group had a statement to present on the issue of coordination and, that a presentation would be made upon the return of the delegate of Senegal.

450. The Delegation of Pakistan stated that its proposal with regard to coordination, follow-up and evaluation mechanisms should be included in the Chair's Summary as recommendations for consideration by the General Assembly. More specifically, the Delegation elaborated on the recommendations and suggested that the General Assembly proceeded as follows: (a) instruct all WIPO committees to mainstream all Development Agenda recommendations in their work; (b) request the Director General to make opening remarks at the start of the Standing Committee on Patents (SCP), Standing Committee on Copyright and Related Rights (SCCR), WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC), Program and Budget Committee (PBC), Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications (SCT), Advisory Committee on Enforcement (ACE) and the Assemblies of Member States of WIPO meetings – adding that in his remark, the Director General might emphasize adherence to and implementation of the Development Agenda recommendations by the respective bodies; (c) all reports, studies, documents, negotiating texts prepared by the Secretariat, and the consultants should be in accordance with Cluster B, Recommendation 22 of the Development Agenda; (d) the Chairs, Presidents of SCP, SCCR, IGC on GRTKF, PBC, SCT and other assemblies would report to the General Assemblies with the assistance of the Secretariat on the implementation aspects of the Development Agenda recommendations; (e) Member States and the General Assembly may give guidance to the Chairs and Presidents of the different bodies, for the effective implementation of the Development Agenda recommendations, if any; and (f) implementation of Development Agenda recommendations may be included as an agenda item of the General Assemblies.

451. The Delegation of Germany provided a preliminary view of how Group B considered that Agenda Item and how it should be tackled. In that context, the Delegation believed that the starting points were the mandate of the General Assembly, what had been incorporated into the Summary of the last CDIP session, as well as what had been reiterated the day before. More specifically, the Delegation stated that during the current session there would be initial discussions on how to coordinate the Development Agenda, in terms of reporting, monitoring and assessing. The Delegation added that for the Committee, there was a bottom line or general principle that the undergoing coordination process would respect existing organizational structures and WIPO rules and procedures, and that all the committees involved would act on an equal footing, that is to say, there would be no hierarchy or supremacy involved, and that coordination was meant to promote the collegial relationship between the respective committees. The Delegation did not wish to see the introduction of new bureaucratic red tape structures or functionalities, nor duplicate reporting lines. It further underscored that coordination, as outlined, should be of a flexible and pragmatic nature. The Delegation further stressed that it was very important for Group B that such coordination be carried out in a resource neutral way, taking into consideration the financial implications, the issue of accountability and the prudent use of financial resources, especially in times of scarce financial resources. The Delegation deemed it useful if the Secretariat could report to the Committee on the already existing coordination procedures in that regard.

452. The Delegation of the Czech Republic, speaking on behalf of the EU, wished to express its view regarding the relationship of the CDIP with other WIPO committees, an issue which had been raised by the other delegations. As mentioned previously, it reiterated that the CDIP should fulfill its role within its mandate as a forum in which Member States could discuss and debate development issues. The General Assemblies should remain the final decision-making body for implementation, taking into account the resource implication, advice coming from the PBC with regard to the norm-setting activity. All members of the Committee agreed that other committees should report to the General Assemblies rather than to the CDIP, yet that the CDIP should remain aware of the work of the other committees. In this respect, open-ended consultations, such as those held by the CDIP Chair prior to the CDIP meeting, were just as helpful with this matter.

453. The Delegation of Nigeria believed that the meeting was discussing a monitoring mechanism, something that would help to know the extent of implementation, however, it stated it was being made to understand that the purpose of a monitoring mechanism was to have a relationship with other bodies of WIPO. If that was the case, it was not a monitoring mechanism. The Delegation of Nigeria believed that the best option for the Committee was not to impose a new system on the Secretariat, but to present proposals to the Secretariat upon which to elaborate, knowing what was feasible on the ground. It, therefore, encouraged first making a decision regarding a recommendation which had already been adopted by a monitoring mechanism, and upon that, calling on Member States to make proposals with a deadline for the Secretariat to elaborate a monitoring mechanism taking into consideration what already existed, followed by a modality for a follow-up mechanism. All these were proposals put before the Secretariat, upon which they would consult and which the Committee would consider at its next meeting. It did not wish to elaborate on any mechanism since it would be the task of the Secretariat. The Delegation underscored that the Committee needed to be aware of what had been done and what had yet to be done, and how to follow-up those things that had not been done.

454. The Delegation of Costa Rica, spoke on behalf of GRULAC, and wished to reiterate its opening statement which stated that the Director General should prepare an annual report to the CDIP on the implementation of the recommendations, which required coordination between the various WIPO committees.

455. The Delegation of Pakistan stated that despite the fact that the Secretariat had already elaborated the existing monitoring and reporting mechanisms, and although a couple of briefings had been held prior to the CDIP meeting, there were still some Member States which called for further clarification on how the existing monitoring and reporting system was done. In response to the issue raised by the Delegation of Germany on financial resources, the Delegation of Pakistan was not of the opinion that there was a need for additional financial resources for establishing said monitoring mechanism. Similarly, another point had been made regarding the hierarchy among committees and doing everything according to the rules of procedure. The Delegation believed that this proposal addressed this concern, that the CDIP was not asking other committees to report to it, rather it was requesting an extra condition to the General Assembly to request the other committees to report to the General Assemblies so the head body remained the General Assemblies and not the CDIP. CDIP had all the prerogatives and rights to make recommendations on what it felt was important to the General Assemblies for its consideration, it added, yet it was up to the General Assembly to structure the committees or otherwise. It stressed that the role of the CDIP should be in accordance with its mandate.

456. The Delegation of Senegal stated that the African Group had looked at the issue under consideration, and the Group had given some thought to the proposal for a possible mechanism for coordinating, monitoring and evaluation of projects implementation of the Development Agenda. The Group felt that this might take the form of a working group whose membership would include officers from various WIPO committees. Given the technical complexity of such a mechanism and also, given its importance, the Group informally got in touch with a number of other delegations to seek to broaden the thinking on that question, and to garner comments and suggestions from other groups and delegations. The Group would now hope that other groups and delegations, would submit as soon as possible, their proposals on the establishment of such a mechanism, to handle coordination, monitoring and evaluation of the Development Agenda. The African Group also believed that all relevant stakeholders should be invited, to submit as promptly as possible, any proposals that they may have, to this mechanism. Once that had been done, the Secretariat would then compile all the proposals submitted, and make the compilation available in good time, to allow delegations to consider all the proposals. The Secretariat should then undertake informal consultations on the various proposals, preferably before the next session of the CDIP. The Secretariat would then summarize the outcome of its consultations, and that summary would be contained in a document to be submitted during the November 2009 session.

457. The Chair underscored the need to get these proposals compiled as quickly as possible so that they could be considered within the framework of informal consultations.

458. The Delegation of Pakistan sought clarification regarding the proposal made on behalf of the African Group, by the Delegation of Senegal, according to which Member States would be invited to submit their comments for discussion during the next session of the CDIP in November. This would mean that if a decision was made by the General Assembly, it would be made in 2010, and not in 2009, because the CDIP would convene after that period. The Delegation stated that the work of all the committees that implemented the recommendations of the Development Agenda, should take into consideration the instructions of the General Assembly of 2009. The Delegation stated that a process should be established for proposals already submitted, in order to avoid being delayed by another year.

459. The Delegation of Thailand echoed similar concerns to that of the Delegation of Pakistan, and made reference to the mandate that established the CDIP, that from the very beginning, the CDIP was established to monitor and implement the Development Agenda recommendations. It stated that establishing another working group could make matters more cumbersome and agreed with Pakistan, that it saw no reason to delay the implementation of the activities thus far agreed, by another year.

460. The Chair observed that there had been a number of good contributions all of which had merit, and noted that the fastest way to get a consensus on the approach was to focus on the Pakistan proposal, which reflected some elements of the African proposal, noting that the ideas were the same, although in different languages. The Chair also noted that Group B had reminded the meeting of the constraints and boundaries, which should be remembered. The Chair concluded that bearing in mind the constraints that Group B mentioned, the meeting should focus its attention on the Pakistan proposal and whether the 6 points if appropriately modified, could be used as a basis for discussion and the way forward.

461. The Delegation of Egypt stressed that from the outset, while it appreciated all the proposals that had been presented, it would nevertheless like to present some initial points that it deemed necessary on that issue of the Agenda Item 8. The Delegation believed that there were principles that it thought the Committee should take note of, and could find merit in. The Delegation believed there were six points that would guide the Committee in undertaking consideration of that Agenda item. The first point was regarding the mandate. The Delegation specifically noted the General Assemblies decision to establish CDIP, and referred to three specific items for that Committee to undertake. It noted that the second item, paragraph (b), specifically gave the Committee the task of monitoring, assessing, discussing and reporting, on the implementation of all recommendations, and that for that purpose, it would coordinate with the relevant WIPO bodies. As such, it stated that the Committee had a mandate to coordinate with all bodies, and that in order for the General Assembly's decision to be implemented, mechanisms had to be put in place to implement that mandate. Secondly, the Agenda item under consideration was of a dual nature and concerned two issues, namely, the coordination issue, and the monitoring, assessing, discussion and reporting aspects. The Delegation took note that in its initial work, the session had agreed to change the Agenda Item 8 to reflect that, rather than just have an agenda item on coordination and reporting, but that it would include monitoring and assessing. Thirdly, the Delegation noted that it was a Member-driven exercise, as rightly pointed out by the Chair, but remarked that the meeting had not received the documentation from the Secretariat, because it believed that it was beyond the role of the Secretariat to provide information or proposals on a Member-driven process governing relations between Member State bodies. The fourth point made by the Delegation was to support the statement presented by the Delegation of Senegal, on behalf of the African Group, where it emphasized on the proposal to establish a deadline by which proposals on those two aspects of coordination and monitoring, assessing, reporting and discussing, were presented with regard to the issue of coordination. The Delegation believed that proposals should be made available by Member States only. With regard to monitoring and assessing, it believed that proposals should be received not only from Member States, but from interested stakeholders as well. Following that deadline, the Secretariat would be requested to prepare a compilation, after which informal discussions would be engaged on that proposal. The Delegation's fifth point, specifically with regard to monitoring, assessing and reporting, was that the exercise should be conducted under the principles of independence. It believed that there should be experts in IP development that would be able to appraise, assess and monitor the work of the Organization, and in the implementation of the Development Agenda. Finally, the Delegation stated that it believed that according to the interpretation of the decision of the General Assembly, that implementing that particular mandate of coordination included the possibility of institutional and procedural modifications. The Delegation said that it believed that in further establishing and completing that mandate, further institutional and procedural arrangements might be necessary.

462. The Delegation of Nigeria expressed its appreciation for the efforts of the Chair to complete the deliberations on time. The Delegation believed that the interpretation of the Delegation of Egypt with regard to the mandate of the Committee was very valid, but noted that any mechanism put in place in respect of follow-up and assessing the implementation would require inputs from the Secretariat. In other words, as mentioned earlier, Member States should be called upon to provide their proposals on this issue. Regardless of the excellent proposal provided by the Delegation of Pakistan, sometimes even excellent proposals may not necessarily be complete proposals. There may be one thing to add here and there, and every group or Member State had the right to make further suggestions. Based on this, the Secretariat, knowing what was available, would then come out with something

that would enable the CDIP as a governmental group to make a decision. The Delegation acknowledged that there was urgency in the Committee's work, as far as monitoring, coordination and implementation were concerned, but that nevertheless, it should not make the Committee simply go in one direction without making sure that it was of one accord. It may be important to start right away, but it was equally important to also recognize that the mandates given to the Committee did not in any way explicitly state that any method it adopted, must go back to the General Assembly, because the mandate had already been given. Assuming that the matter had to go to the General Assembly, the Delegation understood that a decision could be taken in the Committee on an issue, which could be implemented, until formal decisions were taken. What was important was that the Committee agreed on a method to go forward. Once that agreement was reached, it could mandate the Secretariat to go ahead with implementing it. The Delegation stated that in trying to make haste, the Committee could not afford to ignore the very simplest of solutions before it.

463. The Chair referring to the point made by the Delegation of Nigeria assured that it was not a question of haste, but a matter of starting the discussion. Since he was not sure when the Committee would finish the discussion once the discussion started, Member States would need to become aware of the boundaries and the issues involved. If a decision or agreement could be reached, the meeting would move forward on that basis, but if it did not, the discussion would be taken forward into the next session of the CDIP. The Chair observed that there were a number of issues that had been heard, and he hoped that the time would come when all the points could be narrowed down, and a decision reached.

464. The Delegation of South Africa noted that it would not want to repeat what had been said already, but agreed with the Chair that the decision reached in the last session, was to start discussions as it seemed to be emphasized by the delegations of Nigeria, Egypt and Senegal. The Delegation stated that it would probably be easier if a document could be produced, which would present some elaborations of what the Delegation of Senegal had highlighted on behalf of the African Group, followed by Egypt and Nigeria, in terms of requesting Member States to provide their submissions in writing, and then allowing the Secretariat to compile a document for further discussions. Similarly, in accordance with the Chair's suggested steps in looking at the proposal from the Delegation of Pakistan, it could be taken into account, although it seemed to focus solely on the coordination aspect, while there would be a need to do some strengthening in terms of monitoring and assessing. The Delegation of South Africa stated that proceeding in this manner would be helpful.

465. The Delegation of Algeria associated itself with the statement made by Senegal on behalf of the African Group and stated that the establishment of the said mechanism was set out to satisfy the first point of the CDIP mandate. It was therefore an important point that needed to be taken into account. A number of delegations had spoken on the question of feasibility of the mechanism, given the current international economic situation, and the financial resources available. The Delegation was of the opinion that within the African Group, the discussion had reflected the fact that this mechanism did not really have any financial impact, and it was important not to allow the financial crisis to block the implementation of the Development Agenda and the coordination of its implementation. Following the Secretariat's consultations with members of the African Group, the Secretariat had reassured the Group that the financial crisis had not yet had any repercussions on the organization's revenues. If such were not the case, then the Member States would surely be informed accordingly, and other possibilities for finding suitable remedies would be looked at. The Delegation said it was aware that WIPO was one of the wealthiest UN agencies, so its

role in the area of development should in no way be reduced. The Delegation also said it would like to respond to a number of concerns which had been expressed by some delegations, which related to their understanding that there was a hierarchy introduced to the Committee as a result of this proposal. The Delegation saw things differently, and it believed that the committees were organized horizontally, as underlined many times during its time as Coordinator of the African Group when there were attempts to put the CDIP in an inferior position within the hierarchy. That move was rejected and therefore any measures towards establishing such hierarchies within the Committee structure would also be rejected. The CDIP reports directly to the General Assembly and this procedure must remain so and be respected. The Delegation noted the concerns about the duplication of work already underway in other committees, and stated that requests for the Director General to submit reports to the CDIP made by some members, should be seen as part of the internal work of the Secretariat, and the mechanism to which some members were suggesting was an external one. It should be recognized that an external or outside view was important, given that the process had to be guided by the Member States. Another issue was on the question of feasibility. The Delegation said it was aware that it was unlikely that the meeting would reach a final decision in this session, therefore initiating a constructive conversation should be emphasized. It therefore agreed with what the Coordinator of the African Group stated regarding the holding of informal consultations with Member States, and to invite them to submit proposals before the Fourth Session, so that the mechanism could be put into place.

466. The Delegation of Morocco thanked the Chair and noted that the CDIP already had a very clear and precise mandate. The problem was how the mandate should be implemented. It supported the other delegations who requested proposals to be submitted to the next session of the CDIP reflecting what had been said to date and what would be said subsequently. The Delegation was of the view that it was important to focus on the following four points; firstly, the form of the body that would be given this mandate, secondly, its membership, thirdly, its attributions, and fourthly, the working aspect of the body. The Delegation said it had an idea with regard to each one of these points. With regard to the form, it suggested that it should be a working group. As for its membership, it suggested that all relevant WIPO bodies and stakeholders should be represented. With regard to financing and the other characteristics of the group, the Delegation suggested that the first thing to do was to follow-up and ensure that the working group was able to access all sources of information, which would enable it to fulfill its mandate. In regard to its objectives, one very important point to consider would be coordination. If it was to be effectively coordinated, then it had to be a working group for proposals and collaboration. It was not something that fitted at any point into the hierarchy. It needed to consult right across the board, and be like a nursery for consensus building, right across the Organization. With regard to its functioning, the Delegation called for the adoption of a transparent and an open working method for this group.

467. The Delegation of Tunisia thanked the Chair and said it would like to begin where the Chair left off in his statement, by noting that in the CDIP session, a window of opportunity had been opened to gather the opinions of groups and individual delegations on the coordination mechanism. The Delegation further noted that the Chair had already heard a number of opinions, and given the time constraints, it would be practically impossible to reach an agreement at that time. Therefore the Delegation drew attention to document WO/GA/36/4REV., which was the report of the two sessions of the CDIP to the General Assembly. In paragraph 8, it stated that discussions would be undertaken on that topic at the Third Session. The Delegation believed that it was not really reasonable to believe that the meeting could reach a conclusion to these discussions at the current session, but it believed

that delegates should use the remaining time to initiate the discussions bearing in mind the proposal from the African Group. The Delegation noted that it would be good for each regional group to work on a paper after the session and present it to the fourth session, while accepting the document CDIP/3/INF/2 to serve as a continuing basis for discussion.

468. The Delegation of the Czech Republic stated that in its view, it was left to the CDIP, in line with its mandate, to follow-up and assess the implementation of the Development Agenda. The Delegation thanked Pakistan and the African Group for their proposals and stated that they will be studied in more depth although it found it difficult to support the creation of any new entity for the purpose of monitoring the implementation of the Development Agenda or any approach that would be too cumbersome or prescriptive. The Delegation said it would count on the proposal made by the Director General to report annually to the CDIP on the implementation of the Development Agenda principles. The Delegation also found the proposal by GRULAC, to extend the annual report, interesting and would explore if further.

469. The Delegation of Yemen supported the proposal made by Pakistan and believed that the meeting should continue along the path of implementation of the recommendations of the Development Agenda.

470. The Delegation of Bangladesh said that it had taken note of the various proposals that had been made, especially those by Senegal on behalf of the African Group, by Pakistan and by Costa Rica on behalf of GRULAC. It was obvious from these proposals and from others, that all delegations wanted better coordination and effective monitoring, evaluation and reporting on implementation. Referring first to the African Groups proposal, if it involved a timeline for presentation of other proposals, and their examination, the Delegation said it would go along with it, so long as the LDCs Group Coordinator was represented on the proposed standing mechanisms, a working group or something similar. It pointed out that the LDCs had such a big stake in the Development Agenda. On the proposal by the Delegation of Pakistan, the Delegation of Bangladesh noted that it would look at it, and remain open without prejudice to other proposals. The Delegation stated that there were recommendations that could be implemented regardless of which way the Committee made its decision, with regards to coordination and effective monitoring evaluation reporting. The Delegation also noted in agreement with the Delegation of South Africa, that there were some practical points that could be added to strengthen the monitoring and evaluation aspect, and some comments and footnotes that could form a basis for decisions that could be presented to the General Assembly for consideration. The Delegation noted that it was entirely within the General Assembly's mandate to instruct committees to take into account the Assembly's provisions and recommendations and had them enacted into the decisions. It was therefore entirely logical to ask for a written report, as GRULAC had done, or presentations from the Director General or the Secretariat, to the General Assembly or to individual committees. This could even form part of the reports that were made to the General Assembly and could contain a section on the Development Agenda. The Delegation suggested that somebody could take the initiative and start consultations among the Chairs and Vice-Chairs of the committees, and noted as mentioned by the Delegation of Algeria, that the process was not a very resource intensive approach. Therefore, some immediate action or decisions needed to be taken to obtaining a coordination and evaluation mechanism that could be built on subsequently.

471. The Delegation of Brazil welcomed the discussion and the various proposals tabled under Agenda Item 8, notably by Costa Rica on behalf of GRULAC, by Pakistan and by

Senegal on behalf of the African Group. The Delegation also commended the Director General's offer to report annually on the implementation of the Development Agenda principles. The Delegation believed that the discussions under the Agenda Item had confirmed what developing countries had been saying in the CDIP, with respect to the particular cross-cutting nature of the Development Agenda. In order to address that specificity of the development dimension, the specificity of the Development Agenda, the CDIP needed to find out the modalities for monitoring, assessing, discussing and reporting on the implementation of the 45 agreed Recommendations. The Development Agenda was broad and the implementation of its 45 Recommendations could not be confined to the limits of the CDIP. The dynamic and positive inter-relations between the CDIP and other WIPO bodies was essential for ensuring an effective implementation of the WIPO Development Agenda. The preliminary reaction of the Delegation to the proposals tabled, particularly to the African Group proposal, was that there was indeed value in looking at the possibility of setting-up a working group by the Chair, integrating all WIPO committees and representatives of regional groups, and assigning to that working group, the task of implementing the General Assembly decisions. One important aspect that could not be overlooked was the need to reach out to civil societies. Taking into account the relevance and indispensable contribution of civil societies throughout the Development Agenda negotiations, and during its implementation, the Delegation believed that outreach modalities should also be discussed. The Delegation also suggested that if the discussions under the current Agenda Item could not be finished at present, the meeting should not set aside any proposal, but move forward with its work under the current Agenda Item, and look into how it could conduct further work before the November Session.

472. The Delegation of Serbia spoke on behalf of the Central European and Baltic States Group and aligned itself with other delegations that suggested that all the proposals on coordination mechanisms should be submitted to the Secretariat in writing, for compilation and consideration at the fourth session of the CDIP.

473. The Delegation of Sri Lanka fully agreed the African Group when it voiced its concern about how the coordination follow-up and evaluation mechanism should be implemented. The Delegation further noted that there was an affinity between the African group proposal and that made by GRULAC, while the proposal by Delegation of Pakistan would come in between the two. It was in between the other two proposals because it suggested the establishment of a reporting mechanism. Therefore, as a first step, the Delegation stated that the proposal by Pakistan should be incorporated as the coordination and follow-up and evaluation mechanism, where the Director General was held responsible, where the Chairs of each Committee were held responsible, to look into the Development Agenda aspect in their respective committees. The Delegation called for looking into a simple mechanism to be put in place rather than having nothing at all. It would be something which was good enough to ensure that the development aspects were implemented in each of the committees in WIPO. The Delegation therefore, urged the Committee to look into the proposals made by Pakistan, not because Pakistan was from the Asian Group, nor because its proposal was supported by the Chair, but because it was simple, and did not require any allocations, and was a good mechanism that the Member States could live with.

474. The Chair noted that whereas the Delegation of Sri Lanka was not wrong about the support he gave to the proposal made by Pakistan, he pointed out that he also supported other proposals as well. However at that time, he clarified that he was focusing on the coordination aspect, because he could not see that there was a problem with monitoring and evaluation.

The Chair said he saw the challenge in arriving at a coordination mechanism and stated that that was what he was focusing on.

475. The Delegation of Pakistan thanked the Chair for his clarification and briefly referred to the intervention that was made by the distinguished Delegation of the Czech Republic and explained that the proposal made by the Delegation of Pakistan did not request the creation of any new structure. The Delegation asked whether any Member of the Committee could clarify if the issue under consideration was being kept until the fourth session of the CDIP had discussed it, and subsequently submitted it to the General Assembly in 2010 for consideration and decision. The Delegation stated that it understood that all the committees were going to meet at least twice before the 2009 General Assembly, and thereafter at the 2010 General Assembly, so indirectly, discussions could take place in 2009, while by 2010 there should be an adherence to the principles of the Development Agenda. If so, the Delegation was of the opinion that the Committee was not fulfilling what the Development Agenda was initially meant for. It felt there was no need to delay the process until 2010, instead of accomplishing what could be done at the 2009 General Assembly.

476. The Delegation of Australia said it would like to first of all, take note of the Thematic Project approach taken by the Secretariat for the implementation of activities. It believed that the approach would greatly enhance the capacity to monitor, assess, discuss and report on the implementation of the recommendations. In considering coordination mechanisms within relevant WIPO bodies, the Delegation felt that in the interest of streamlining activities of the Organization, CDIP should in the first instance, rely on Managers within WIPO, to take responsibility for informing the Director General on how their programs and activities incorporated elements of the Development Agenda, so that the Director General could accurately reflect progress back to CDIP. The Delegation also stated that it saw value in further discussions at the next session of the CDIP on other coordination mechanisms.

477. The Chair said there was great respect for both ideas.

478. The Delegation of the United States of America said it wanted to strongly affirm the statement of Group B, which set forth important long-standing principles that had governed and should continue to govern the programs and activities of all WIPO committees. Within this overall framework, the Delegation fully agreed with the Chair's wise decision, that discussion of the important issue on how CDIP would coordinate its work with other committees of WIPO, and monitor and assess the implementation of the agreed 45 Recommendations, should begin at the current Session and continue at the next Session. The Delegation noted that it was in the process of reviewing the various ideas and proposals to implement that aspect of the Committee's mandate, and that a review would continue when it returned to capital. However, the Delegation believed that it was premature to reach any decision on any particular idea or proposal at the current Session of the CDIP, and stated that it did not support inter-sessional work on that particular topic, where the voices of all Member States could not necessarily be heard with clarity.

479. The Delegation of Nigeria said it had very good clarity on a number of themes discussed, but what it did not hear at that moment was the complete ramifications of the proposals on the table. The Delegation added that had the members gone ahead with any proposal, that might have become a problem, as they would have begun to have other ideas. The Delegation expressed that even the African Group had not even agreed that it was an African Group proposal, but they supported entirely what had been said by Senegal because it

was very clear. Therefore it was difficult to accept what had been proposed on the table. The Delegation finally expressed its intention to join the efforts of any person who could go ahead with the project. On following the rules and the mechanisms that were in place, the Delegation assured that its members had to follow the mechanisms, and clarified that the Secretariat and the Director General had made a proposal on how to proceed in terms of reporting, and reminded that there would be other proposals that would come from the Member States that the Secretariat would look into before bringing them back to everyone. The Delegation hoped to get that adopted document in September when the General Assembly would meet. In its opinion, the best option would be to have something elaborated to look into in the next CDIP meeting.

480. The Delegation of the Russian Federation said that in its opinion the issues dealt at that time were extremely important. The question of coordination and accountability were indeed an integral part of the mandate of that Committee, and for that reason those questions were discussed at that meeting. However, the Delegation stated that further work should be done within a framework and in accordance with the mandate that had been given to the Committee. It was for that reason that the work would be conducted also in accordance with the established rules and regulations and the mechanisms they had in place, including the programs for their budget mechanisms that existed under the offices of WIPO. The Delegation said there were already a number of proposals put forward and it might be possible that at a future session of the Committee, there would be more proposals and additional ideas according to how the Delegation could organize its work as effectively as possible. The Delegation said it undoubtedly needed to focus particularly on certain elements that might pertain to effective monitoring. Towards that end, a number of the documents were prepared by the Secretariat for that session, and within the framework of the Thematic approach. The Delegation believed that in the course of the next session of the Committee, it would have an opportunity to look at all of those issues in greater detail and would come up with a fuller assessment of where it stood.

481. The Delegation of Egypt said it believed that proposals were on the ground, but it would be a pity if the third session of the CDIP was concluded with no concrete discussion or final result. As such the Delegation believed it would be good to have a depository element where the proposals that were given by Member States and by stakeholders could be received. The Delegation said it had noted that a particular deadline could also be introduced so that they could begin to constructively move forward in dealing with that Agenda Item. The Delegation welcomed the proposal made by the Director General in the opening of that session, about reporting on an annual basis, but felt that the proposal did not pertain to the second aspect of the mandate because it pertained to monitoring and assessments. The Delegation believed that monitoring and assessment needed to be an independent function. It welcomed reporting and believed it did not need to give the Director General instructions on how he wished his various departments or divisions to report to him, for him to present his final annual report to Member States.

482. The Delegation of Canada expressed its support for the statement made by Germany and Australia, and stressed the need to focus on the coordination aspect. The Delegation also supported the view expressed by the United States of America, and encouraged further discussions at the next session of the CDIP in November.

483. The Delegation of India said that it was not premature to begin a serious discussion on the issue of monitoring, assessment, coordination and reporting of the Development Agenda

because the implementation of the Development Agenda had already started. The Delegation believed that once something was in the implementation phase, then reporting, monitoring, assessing and evaluating would be very logical follow-up steps. The Delegation thought it would be a constructive and productive tool to help all the Member States understand an idea of how far things had progressed and what remained to be done. The Delegation felt that it had to be an approach to the idea of evaluation, monitoring, coordination, so that everybody would be looking at the same thing. In that spirit, the Delegation believed it was time to consider the proposals which had been tabled, and consider future proposals that might be received by Member States. In that regard, the Delegation agreed with the Delegation of Egypt which said that it was time to give a deadline, invite concrete suggestions and proposals from all Member States and have a serious discussion on that Agenda Item at the next CDIP and arrive at an agreement on what form of mechanism was needed. The Delegation proposed separate discussions on the coordination and assessment aspects, as there was an intrinsic inter-linkage between the two. The Delegation believed it was not possible to evaluate without implementing or reporting without coordinating, and considered that the Committee clearly linked all the aspects. As to the Development Agenda Item 33, the Delegation believed that the recommendation, which had been approved by the General Assembly, called upon WIPO to develop an effective yearly review and evaluation mechanism for the assessment of all its development-oriented activities, including those related to technical assistance established for that purpose, and provide specific indicators and bench-marks where appropriate. The Delegation recalled what WIPO evaluation policy, which was, again, adopted by the General Assembly in 2007, which would be an integral part of WIPO's organizational culture. There was to be a firm commitment at all levels of the Organization to ensure that evaluations were effectively planned, conducted and used. The Delegation also added that the evaluation policy very clearly said that there shall be different levels of evaluation that were not mutually inclusive. By looking at the evaluation policy one could see that it also talked about systemic evaluation being the evaluation "which examine issues which have organization-wide implication and address cross-cutting themes". The Delegation considered the Development Agenda a cross-cutting theme that required a systemic evaluation, and urged that Committee to consider the proposal constructively and move forward quickly.

484. A representative of CIEL said that while the Secretariat had been tasked by the Development Agenda to do certain things, recommendations also spoke directly of other committees, and urged Member States to carry out certain tasks. That Committee was to undertake activities separately from those undertaken by the Secretariat. CIEL considered that any delay in establishing a mechanism that would enable a strong follow-up coordination would cripple the ability of that Committee to achieve its mandate. CIEL suggested the implementation of an informal mechanism between them and the General Assembly in which all Chairs would participate in anticipation of any formal mechanism at the later stage. CIEL commented that the report by the Director General was interesting, and reiterated that it was the responsibility of Member States and not that of the Secretariat. CIEL also reiterated the importance of civil society in the development and implementation of the Development Agenda and enquired if any monitoring, evaluation, assessment and reporting process would ensure that there was a channel for input and an appropriate participation of civil society.

485. A representative of the Third World Network (TWN) reiterated the clear mandate from the General Assembly that called for CDIP to coordinate with other WIPO bodies. In order to implement the issues of monitoring, assessing, discussing and reporting, the relevant WIPO committees needed to be informed, and the WIPO Member States of those bodies needed to

report on the implementation of the recommendations of the Development Agenda. For that purpose, the coordination mechanism that was extremely important as it would not only apply to all the recommendations. TWN believed that any coordination mechanism that was set-up should also involve civil society in order to check if the other WIPO committees had complied with the recommendations of the Development Agenda. It believed that what was important was following up with the reports from the WIPO Secretariat and the Committee, and CDIP could discuss other initiatives that needed to be taken to realize the recommendations. In that regard TWN believed that having a follow-up mechanism to each of the recommendations was equally as important. As to monitoring and evaluation, TWN reiterated that there was a need to set-up a mechanism, which should have two elements. The first was to invite inputs from a variety of stakeholders with regard to the extent to which the objectives of the recommendations had been achieved. There was a need to provide recommendations on the follow-up. Those missions could then be the subject of discussion in CDIP, to be fed into the follow-up mechanism of the recommendations. The second important element was the setting-up of some kind of an independent external expert group, which could actually evaluate and assess the implementation of the Development Agenda, and make recommendations to ensure the successful implementation of the Development Agenda. Those experts should have expertise in development issues, and not be only experts in the field of IP.

486. The Delegation of the United Kingdom expressed its support for the statements made by the Czech Republic on behalf of the EU, Group B, Australia, Canada and the United States of America. The Delegation shared the view that evaluation and monitoring of WIPO funds was also a key role of the budget structures in WIPO and of the Program and Budget Committee (PBC). The Delegation further stated that that trust be placed in the Secretariat, those working on the CDIP and the Project Managers, since those were the people who would communicate to other committees *via* the Director General. The Delegation added that the mechanism for coordination was the CDIP itself. It stated that it was the responsibility of every Member State to ensure that the Development Agenda was highlighted in other committees, and hence there was no need for further costly coordination bodies. As Member States, it pointed out the need for each one to do their job, and as a representative of the United Kingdom, the Delegation did not just represent its government, but the government and all the stakeholders in the United Kingdom. Therefore, it stated it would consult with NGOs from the United Kingdom.

487. The Delegation of the Republic of Korea stated that WIPO had a very good coordination system, an internal coordination within the Secretariat, and a coordination division, and all the Project Managers cooperated with each other in reviewing and avoiding duplication, in order to accelerate the implementation of the Development Agenda. The Delegation considered that the CDIP had a very clear and strong mandate for reviewing all those matters. The Delegation raised the question as to why it was important to discuss any additional mechanism which did not need to exist.

488. The Delegation of India pointed out that what was first proposed was something that had been mandated by the General Assembly to the Committee, enshrined in one of the Development Agenda recommendations itself, and had been adopted formally by that Organization as part of its evaluation policy. Accordingly, the Delegation felt that whenever there was a question as to why it was required, it tried to think of an organization or any entity that undertook projects and that implemented them in a cross-cutting manner, and had failed to coordinate, monitor and assess how well it had been done. As to the scarce resources that

were being frequently mentioned, the Delegation wondered if the proposals on the table were resource neutral, and asked if it was not worth it to spend some resources to accomplish what had been mandated or to accomplish the implementation of the projects?

489. The Delegation of Pakistan drew the attention of the Member States to document WO/GA/36/4 Rev., relating to the report on the sessions of the Committee. In that document, it referred to the mandate of the Committee, and of the CDIP. The Delegation read out the paragraph pertaining to that matter which stated: *1. "The General Assembly also decided to establish a Committee on the Development of Intellectual Property, 2. Develop a workplan, a) develop a work plan for the implementation of the adopted recommendations, b) monitor, assess, discuss and report, on the implementation of all the recommendations adopted, and for that purpose, it shall coordinate with the relevant WIPO bodies, c) discuss intellectual property and development related issues as agreed by the Committee, as well as those decided by the General Assembly"*. The Delegation considered that monitoring, assessing, discussing and reporting were all in the mandate of the CDIP. What was missing was the coordination with other bodies. The end of the document in paragraph 10(c), stated that the CDIP also decided to urge the General Assembly to encourage all Member States, the Secretariat and other relevant WIPO bodies to effectively implement and adopt recommendations. That was a reference to the coordination, which was basically addressing that same issue. It believed that other than the coordination between the different WIPO committees, the CDIP had the mandate to carry out all the duties tasked.

490. The Chair stated that all the interventions had been extremely interesting as expected, and the only summary he could provide from the discussion, was that there had been enough Member States that had suggested that the Secretariat coordinated a document based on the discussions, the written inputs received and any further written inputs that would be received from Member States, and since that document would be prepared for discussion at the following session of the CDIP, in November, the Chair enquired as to the date by which the Secretariat should ask for inputs, as the document would have to be produced some time ahead of the actual date of the meeting. The Chair added that for his part, three subjects, as articulated by Egypt, and a couple of other delegations were in the forefront, reporting, and there was a challenge there because, Pakistan had pointed out that the mandate stated "to establish a Committee, CDIP, to monitor, assess, discuss and report". The Chair stated he did not know to whom, but quoted that "the Committee shall coordinate with the relevant WIPO bodies." The Chair added that the Director General had stated that he was prepared to provide some reports to the Member States, or reports on some implementation of some of the adopted recommendations, and that part of the Project Managers role would be to report on the implementation of the projects under their responsibility. Therefore, there would be two sources of reporting to the Committee, so the Chair did not consider that there was a problem with reporting, but that was an observation, not a decision, part of that discussion would be carried into the following meeting. The Chair stated that he expected that the monitoring and assessing would be based on the reports that the Director General and Project Managers, had set on to provide to the Members States, and on any other observations they had made through their participation with other committees. The Chair reiterated what CIEL had indicated about not being left out, that they needed to play a key role in that process.

491. The Chair said that coordination with the relevant WIPO bodies was the main challenge, and related his own experience when coordinating a work group within the World Trade Organization (WTO) called the "Small Economies". The Chair expressed how the mandate that had to be implemented was frequently neglected. It was the Committee's

responsibility to decide to whom the mandate to coordinate was given. It was for them to discuss among themselves or come up with a mechanism to deal with that coordination. The Chair believed that all Members States had to respect the boundaries they had identified. They needed to respect the boundaries that existed between the different committees, and needed to rely on the mandate of the General Assembly. The Chair needed to know what was discussed and the kind of coordination they had agreed on. They would put their views to the General Assembly, and the General Assembly would mandate other committees to coordinate in whatever way the General Assembly thought was appropriate. The Chair also announced that September 30 would be the date by which any further submissions should be received.

Agenda Item 7 (continued)

492. The Delegation of Japan stated that document CDIP/3/8 related to their suggestion to WIPO to provide a one-stop service, on its website, on sharing experiences and information on the best practices of linking IP with business. In that regard, the Delegation underscored that it had already presented the suggestion at the 36th Session of the General Assembly, which took place the previous September, by providing its thoughts during a general statement and through the distribution of an explanatory document. The Delegation's suggestion aimed in particular, at the promotion of the intellectual creation cycle, consisting of the creation, protection and exploitation of IP, particularly in developing countries. It also touched on the facilitation of partnerships, technology transfer, and direct investment of business entities, both in developing and developed countries, and the progressive increase of IP ownership among developing countries, for their economic advancement. The Delegation suggested that WIPO launched a one-stop service on its website, to enable users to access case studies successfully linking IP and business. An importance was attached to the multi-faceted classification system, according to which the case-studies should be arranged, so as to ensure an easy user access and the expeditious retrieval of the most relevant information.

493. The Delegation drew attention to the figure, on page 5 of Annex 2, of the document, where the possible embodiment of those features was illustrated. As it was also mentioned in the aforementioned explanatory paper, the suggestion was related but not necessarily limited to recommendations 4, 9 and 11, of the WIPO Development Agenda. Concerning the feasibility of the suggestion, it was considered that the database prototype could be expeditiously established, utilizing existing assets without additional resources. WIPO had undertaken efforts relevant to the subject of the initiative, including the posting on its website of case studies on the use of the IP system by SMEs, as well as the activities of WIPO in the context of technical assistance and capacity building, public outreach and the WWA. Indeed, the prototype could be implemented through: (1) the creation of the portal website; (2) the classification of existing case studies; and (3) the integration of those case studies in an existing data storage system. After the establishment of that prototype database, Member States would be invited to submit new sets of cases on a voluntary basis, in order to enrich the contents. Various successful cases could also be collected through WIPO organized meetings, seminars, workshops and symposia. The suggested one-stop database would function as a reservoir of knowledge and wisdom, contributing to the promotion of the intellectual creation cycle, the facilitation of business alliance and partnerships, and the progressive increase in IP ownership in developing countries, and ultimately would provide a boost to the economic advancement of Member States, especially among developing members. The Delegation hoped that its proposal would be taken note of, and steps would be taken by the Secretariat, as early as it was practical, to implement the idea for the benefit of Member States.

494. The Delegation of the Republic of Korea thanked the Chair and proposed two implementation projects, based on its own experience, contained in document CDIP/3/7. The first proposal related to fair trade activities, and to the support of farmers and producers in developing and least developed countries, and acquiring trademarks on their fair trade products. In its opinion, it was quite usual for good quality products from developing and least developed countries, not to receive a fair price in developed countries because of their lack of brand power. Moreover, fair trade was an NGO activity which helped the marketing of those products and promoted fair prices. However, to seek their interest in the long term, producers needed to utilize IP in terms of establishing effective brand strategies and acquiring trademark rights. The Delegation explained that the Republic of Korea had already launched the Korea Funds-in-Trust project, mainly targeting Asia-Pacific countries, which consisted in targeting the best way to promote those products through the strategic use of IP. However, in order to expand the project to countries in other regions, the Delegation thought it was necessary to include it in the implementation plan of the Development Agenda. However, the Delegation had some administrative concerns. Originally, the project was proposed as an implementation plan of Recommendation 4. However, after a close review of the CDIP document and consultations with the WIPO Secretariat, the Delegation proposed changing it into an implementation project under recommendation 10. The Delegation knew that the implementation of Recommendation 10 was already partially discussed, and that the Secretariat had prepared a detailed implementation project with the allocation of budget resources for CDIP/3/INF/2. The Delegation added that as its proposal was not contradictory to the agreed direction for the implementation of Recommendation 10, and did not require a substantial amount of the budget, it thought that the Secretariat could include their proposal in the implementation plan of Recommendation 10, by slightly readjusting the allocation of the budget, within the limits of the already allocated 8 million Swiss Francs. As for the second proposal, the Delegation explained that it was related to the dissemination of appropriate technology information, in response to the special needs of developing and least developed countries. Appropriate technology was not the high-end technology but rather a free or easily applicable simple technology suitable to the daily needs of people in developing and least developed countries. The Delegation explained that that form of appropriate technology usually preferred labor intensive or labor saving solutions, over a capital intensive one. It also stated that by exploring patent information on the internet, many high-end technologies could be found. However it did not mean that one could freely and easily use the technology. Sometimes it could be too sophisticated and required too much investment for people in the developing or least developed countries. Therefore, the Delegation proposed a dissemination of appropriate technology information, which would be freely, easily and immediately applicable. It proposed as a second stage of that project, the formation of a technology implementation consultancy group, which would assist in the delivery and implementation of technology in response to the urgent need of local communities during poverty and crisis. The Delegation's proposal was very closely related to the Thematic implementation project in document CDIP/3/4, Annex 4, in the paragraph on: "Developing Tools for Access to Patent Information". That Thematic Project had already included the production and dissemination of patent landscaping points, on a listed area of technology such as health, environment, food and disability. However, the Delegation wondered how the simple publication of that sophisticated technology information on the website could assist people in crisis in developing and least developed countries. It stated that it believed that the patent landscaping project should be amended by adding available appropriate technology information for each listed area of technology. In addition, at least for the urgent need of people in crisis, a way to

support the direct delivery of that technology should be considered, in cooperation with other international organizations.

495. Referring to Recommendation 10, the Chair said that he would request the Secretariat to look into whether it was something that fitted properly into what the CDIP had already agreed to do. With respect to Recommendation 31, the Chair stated that discussion on that subject should be deferred until an appropriate time. As for the proposal from Japan, the Chair said he had not been able to find which recommendation best connected with the Delegation's proposal, and asked for clarification.

496. The Delegation of Japan thanked the Chair and said that its proposal related to recommendations 4, 9 and 11.

497. The Delegation of Canada thanked the delegations of the Republic of Korea and Japan for submitting their proposals in advance of the meeting. As for the proposal by the Republic of Korea, the Delegation stated that it supported the initiative to make information more publicly available and technologies more easily accessible to developing countries and LDCs. The Delegation believed that such an initiative could significantly contribute to the sustainable economic development of developing nations among WIPO Members economies, and suggested that it could be beneficial to circumscribe the concept of appropriate technology, in order to better define the project proposal. With regards to the Japanese proposal, the Delegation said it would appreciate if they could elaborate on who would be responsible for populating the database, and enquired if it would be the respective IP Office from each country. In Annex II, on page 4, the Delegation suggested including cultural industries also in the business categories. It felt it would be helpful if Annexes III, IV and V, which presented a synopsis of each, could highlight lessons learnt at the end of each case study.

498. The Delegation of Myanmar thanked the Chair and expressed its appreciation to the Delegation of the Republic of Korea for coming up with two valuable project proposals. For the first project, the Delegation saw the high potential in the project for enhancing the capacity of LDCs' produce by making good use of IP, by advancing its economic value, which in the end would enhance the culture of innovation in general. The second project could also facilitate technology transfer in a most practical way in small steps. Accordingly, the Delegation suggested that the CDIP considered incorporating those two proposals in future programs.

499. The Delegation of Singapore thanked the Chair and the Delegation of the Republic of Korea for drafting two proposals for consideration. The Delegation welcomed the proposal on the use of patent information in the transfer of appropriate technology, and believed that the dissemination of patent information and appropriate technological information was a critical link in the technological transfer to developing countries.

500. The Delegation of Uruguay thanked the delegations of the Republic of Korea and Japan for their efforts to include some of the development issues in the proposals which they had presented. With regard to the proposal presented by the Delegation, in light of what had gone before, the Delegation asked for clarification from the Delegation, knowing that as preamble, trademarks would add value to goods and facilitate the recognition of value. The Delegation noticed that the second paragraph noted the issue of importing coffee to support equitable use, and at the end of that paragraph, it stated that the association wanted to register a trademark

for fair trade. The Delegation said it understood from that, that the owners of the trademark, which added value to the product, was the Young Men's Christian Association (YMCA) from the Republic of Korea, and not the producers of the least developed countries. Accordingly, the Delegation wondered whether that was the correct understanding, whether it was the objective of the project itself, whether it was the owners of the trademark who added value to the product, or whether the owners of the trademark would be the actual farmers themselves, or rather the Association, in the Republic of Korea.

501. The Delegation of the Republic of Korea thanked the Chair and said it would provide the answer to the question from the Delegation of Uruguay. The Delegation's intention was to assist farmers and producers to get the trademark by themselves and not through their trade organizations. As the YMCA case was a pilot project, and with so many difficulties in directly contacting and helping the public in the East Timor region, the YMCA acquired the trademark on their behalf, and assisted them in marketing and promoting their products. The Delegation added that its project's objective was to assist those people to get their trademark directly.

502. The Delegation of Egypt thanked the Chair and expressed its appreciation to the delegations of the Republic of Korea and Japan, for making a concrete contribution to the advancement of the Development Agenda. The Delegation particularly appreciated that they had presented those documents in an effort to advance the work, and had already relayed that to their colleagues from the Republic of Korea, and from the Delegation of Japan, and had taken note of the documents. They had also relayed them to capital in order for the projects to be properly assessed so that they could comment positively and constructively on the projects. However, the Delegation would not be able to do so during the session given the fact that they were submitted relatively late, compared to the session schedule. However, it did not detract from their appreciation for the sincere efforts that both delegations had demonstrated with regard to their commitment to the Development Agenda.

503. The Delegation of Brazil thanked the Delegation of Japan and the Delegation of the Republic of Korea, for tabling the proposals. The Delegation stated that they had not had the time to go through the projects, but that as a preliminary reaction, they seemed quite positive. The Delegation of Brazil asked the Delegation of Japan on how to, after the database was built and populated with successful business cases, ensure that businesses in developing countries, as well as big companies in developing countries, made use of that content, and what was envisaged beyond the building of the database. The other question was related to page 3, at the last paragraph, with bullet points stating; "*Particular emphasis would be given to collecting cases helpful for invigorating of regional activities in developing countries including least developed countries*". "*Such cases would include not only those concerned with the utilization of IPRs by rights holders in developing countries, but also those concerning successful efforts taken against infringers*". The Delegation of Brazil believed that this was moving into another area, which was the area of enforcement and did not think that it should be doing that within the framework of the Development Agenda. The Delegation requested that the Delegation of Japan took that into account. However, apart from that, the Delegation of Brazil thought that it was a worthwhile project. For the project presented by the Republic of Korea, the Delegation also expressed its appreciation for that project, but had two questions. The first one was related to the understanding of fair trade, and the second one was related to Appropriate Technologies (AT). The AT acronym was used throughout the second proposal. The Delegation of Brazil wished to have time to

present the papers to capital, and to return for the following session in November, certainly with positive reactions.

504. The Delegation of Bangladesh thanked the delegations of Japan and the Republic of Korea for tabling the proposals. The Delegation added that it generally considered them as positive projects, especially, the two projects from the Republic of Korea, that were focused on addressing the needs of the least developed countries in the field of IP. The Delegation believed there could be a potential benefit for the least developed countries and they were particularly happy to see the projects. The Delegation stated that it would look at them more closely and come back to them in November. On the proposals made by Japan, the Delegation said it would also come back in November, and if there was an answer to the question that had been raised by Brazil, the Delegation would be interested in hearing that also.

505. The Delegation of Ecuador said it endorsed comments about the following meeting and thanked Japan and Korea for their proposals.

506. The Chair stated that there was wide appreciation for the suggestions from Japan and Korea, and hoped that the Delegation of Ecuador would join them in November for further discussion.

507. The Delegation of Japan, responding to the comments made by Brazil, said that firstly, the Delegation's thoughts were inspired by the ongoing efforts by WIPO as shown in the WIPO website in the SMEs Section. Since before August 2008, there had been some 35 cases made available on the WIPO website *via* the SMEs Section, which utilized IP for their business. The Delegation wished to increase the number of cases and enhance the usability of the database, by emphasizing on collecting data and also applying multi-faceted classification to that data. On the second point, raised by the Delegation of Brazil, according to which there could be some cases where the patent owner might suffer from infringement, the Delegation stated that that point was definitely not its focus, and was it not a database that was geared towards enforcement issues.

508. The Delegation of the Republic of Korea pointed out that in their introductory statement, it had already explained the definition of fair trade and appropriate technology, and to save time, it would explain those definitions and the background to the Delegations of Brazil and Bangladesh respectively.

509. The Chair stated that he was still interested in doing some work on the ICT and digital divide projects, and explained that the Secretariat was trying to complete a second or third draft of the Chair's Statement, that was not yet available. The Chair proposed that the time be used, until it became available, to work on Annex III of CDIP/3/4. The Chair reminded the delegations that the three recommendations had not yet been discussed, and therefore they could be found in document CDIP/1/3, the original proposal for activities drafted by the Secretariat. The Chair then showed the Committee the information on the activities that had been proposed in February of the previous year, and invited them to look at the recommendations and activities, and what had been proposed in the project document. He stated that all their questions would be taken into consideration, and that the Project Manager who was present, would clarify or respond to any specific questions.

510. The Delegation of Sri Lanka, speaking on behalf of the Asian Group, said its statement was not specifically on the project proposals that were currently under discussion, but was about the projects that had already been discussed in the document, CDIP/3/4. With regard to the Thematic Project, the Asian Group sought clarification on the following: Since the CDIP started discussing Annex I and II of document CDIP/3/4, there were several activities proposed by Member States. The Asian Group suggested that the Secretariat compiled a separate document that would include the proposals made by the Member States for further consideration. That report could be considered at the next CDIP. With regard to document CDIP/3/4, Annex I, page 3, in the component of TK, the Asian Group requested the Secretariat to include the following: “*Traditional knowledge included in the public domain maintaining some degree of proprietary rights.*” The Delegation clarified that the Asian Group suggested indicating that TK, which was already digitalized, that each Member State should have the propriety right for that particular knowledge. The Delegation did not believe that TK should be in the public domain, when the public domain was not yet defined by any document in that project proposal. So, without a conceptual analysis of the definition of the public domain, the Asian Group stated that it was not comfortable with the first three sentences in the TK component, which was why the Delegation wanted to say something to the effect that TK included in the public domain maintaining some sort of degree of propriety rights.

511. The Chair thanked the Delegations of Sri Lanka and the Asian Group, and took the opportunity to confirm that Member States would always have the opportunity to review projects and to make suggestions. However, he added that if it did not stop at some point, the projects would not be concluded. They would be started of course, but that would depend on the nature of the request and the phase the project had reached. The Chair invited everyone to bear in mind that the following two things were opposing: the freedom to review, and the freedom to make amendments. As for additional work, or making changes, that was, and would always be with Member States. The Chair considered that the more they did that, the more it would frustrate the work of the Secretariat in implementing the project. Therefore, the Chair encouraged the Committee to manage the balance.

512. The Delegation of Sri Lanka stated that it might be a good idea to have a deadline for Member States to submit proposals and alternations to the project proposals. In the spirit of moving forward, the Delegation requested the Chair to set a deadline for the Member States to submit their proposals and views for those project proposals.

513. The Delegation of South Africa asked the Chair for clarification on the remaining recommendations of document CDIP/3/INF/2, regarding the agreed activities that had not yet been discussed. The Delegation stated it should be discussed and finalized before the end of the session, given that some substantive changes were made on the other issues. The Delegation requested clarification as to when it would be discussed, before getting into the ICT in Annex III.

514. The Delegation of Senegal congratulated the Chair for his reference to the Digital Solidarity Fund (DSF) in Recommendation 24, and stated that when the DSF was introduced, Senegal played a pioneering role. The Delegation sought clarification with regard to how WIPO could manage to concretize the consideration of the importance of that Fund, as emphasized in the last part of Recommendation 24. The Delegation also proposed that with a view to bridging the digital divide, it could have some activities in connection with the DSF. The Delegation said that it did not seem to be the case with regard to the project description.

515. The Chair stated that he wished Senegal had taken his advice, and had begun focusing on the project that dealt with recommendations 19, 24 and 27. He stated that after discussion on Agenda Item 8, he wanted to go back to Agenda Item 7, and to try to progress to at least one more project, which would be the ICT and Digital Divide. He added that if Members had the preference to leave that new project aside, he would go back to reviewing what was essentially the report in document CDIP/3/INF/2. The only challenge was that the experts who dealt with those subjects were not present. The Chair indicated how he would like to move it forward after Item 8, and he had communicated this to the Secretariat who had made the appropriate experts available to deal with ICT and the Digital Divide. The Chair added that if the Committee really wanted to go back to CDIP/3/INF/2, they would see whether the appropriate Secretariat staff were still present and available.

516. The Delegation of Thailand told the Chair that unfortunately due to the fact that the meeting was from Monday to Friday, and some of them would be departing, and according to their performance in Agenda Item 8, they would eventually end up having to start everything in January 2010.

517. The Delegation of Nigeria stated that the document was not ready and as that seemed to be the case, it meant that they would be waiting for some time.

518. The Chair stated that the projects that were broadly agreed upon in that Session, could be dealt with by the Secretariat, and taken through the Program and Budget Committee (PBC) and on to the General Assembly for approval and implementation. The Chair added that the projects in the document CDIP/3/INF/2 that addressed recommendations 2, 5, 8, 9 and 10, and the reports discussed 2, 5 and 8, but not 9 and 10. All of these recommendations fitted into the nine projects, and had already begun. Therefore, by reviewing and discussing it, and making adjustments in February or May, it would not affect the implementation of those projects, but, not pursuing a discussion on ICT and the digital divide, would mean that the same projects could not be implemented until early 2011. The Chair suggested that they looked at ICT and the digital divide.

519. The Delegation of South Africa said it would go along with the Chair on how he ruled and gave his comments and remarks, and would be happy to go ahead with ICT, in view of the fact that there was another document in terms of the Chair's Summary.

520. The Delegation of Bangladesh said it would abide by the Chair's ruling and suggestion. The Delegation stated that when the Committee went on to future work, it would request the Chair to give it an indication of what would happen to the remaining projects of CDIP/INF/2, and the two remaining projects of CDIP/3/4. On Annex III, the Committee was only focusing its comments on component two, "The Digitization of Industrial Property Data". While taking the steps, it was most important to ensure the sustainability of the digitization. Time and again, the Committee had seen WIPO projects that donated computers, software that two, three or five years down the line, were not sustainable. The Delegation considered that the system had become out of date, and those who had been trained were often transferred, and sustainability was lost. The Delegation admitted that it was also partly the responsibility of the national governments to keep that aspect in mind in designing the project. When it looked at project self-evaluation, which was on page 6, Annex III, and went back to 2.4, it saw that there was an attempt to capture that, by referring to sustainability for at least the next five years, but they saw the problem as follows: the project duration was 24 months, but after 24

months the project was completed. The Delegation questioned how the monitoring or evaluation exercise would be conducted to ensure that for at least the following five years, the project was up and running. The Delegation considered that there had to be, in the language itself, under component two, the notion of the sustainability of digitization needs to be reflected, and that better indicators needed to be found in order to ensure that the sustainability factor had been addressed. The Delegation also noted that under component two on the steps to be taken, there was no specific reference to what steps would actually help in the sustainability of digitization. The Delegation stated that better indicators needed to be found in order to ensure that the sustainability factor had been addressed. The Delegation also noted that under Component two, “steps”, there was no specific reference to what steps would actually help sustainability of digitization.

521. The Delegation of the Republic of Korea stated that apart from the concerns revealed by the Delegation of Bangladesh, it supported Component two of the projects in Annex III. Digitization of IP data was essential to facilitate the utilization of IP information. Therefore, the Delegation supported Component two of the project which was a project of digitization of IP data, and added that KIPO was one of those IPOs that had expertise in the digitization of IP data. At that time Korea was in the process of developing a digitization module. The Delegation showed its willingness to participate actively in that project of digitization and in sharing its experience in order to ensure the success of the project.

522. The Delegation of South Africa pointed out that in terms of Recommendation 19 which read: “To initiate discussions on how, within WIPO’s mandate, to further facilitate access to knowledge and technology for developing countries and LDCs to foster creativity and innovation and to strengthen such existing activities within WIPO”, it looked at the comments or proposals regarding the copyright content of the proposed projects and considered that there was a certain part of Recommendation 19 which was lacking. The Delegation considered that the proposal provided access to information and creative content in terms of the study that was proposed by the Secretariat, but wanted to see the follow up process in view of fostering creativity and innovation which could be included in the Study to ensure that there was a follow up process allowing for access thereafter.

523. The Chair asked the Delegation of South Africa if the project had been well prepared and if there were any comments or questions.

524. The Delegation of Chile reiterated the statement of the Delegation of South Africa and completely endorsed it. The Delegation wanted to know whether in respect of the Workshop described in the document there would be funding of the developing countries so that it could attend that workshop. The Delegation raised a point under Component two, where it had some specific doubts as to how to define the countries that were referred to. The Delegation questioned the criteria for the selection of those countries. It said that those countries which were promoting that effort should be added. The Delegation wished to be part of those countries.

525. The Delegation of Argentina commented that Recommendation 19, Cluster B, had only been implemented in a partial way, because Cluster B recommendations had to be implemented by the relevant WIPO Committee.

526. The Secretariat mentioned that during a slide presentation that it had made earlier, Recommendation 19 was a part of that project, and it would also be a part of future projects.

The Secretariat said that Recommendation 19 was split between two projects, and there were no other remaining activities that would be undertaken.

527. The Chair stated that other aspects of Recommendation 19 should be addressed elsewhere in that project, and in every case. Also, in any project where a recommendation was partially implemented, it should be noted that something should be done elsewhere.

528. The Delegation of Argentina stated that whenever recommendations of Cluster B were dealt with, which were norm-setting projects, it had to be noted that it had only been applied partially, because apart from the projects, there might also be activities in respect of norm-setting that may compliment the implementation. It was proposed to add a note to all recommendations under Cluster B.

529. The Delegation of China fully supported the efforts of WIPO to provide the software and hardware support to some countries to digitalize the data in order to narrow the digital divide. The Delegation hoped that in the future there would be more developing countries that would benefit from that project.

530. The Delegation of South Africa noted that the discussion on Recommendation 27 focused on the importance of IP-related aspects of the ICT, and its role in economic and cultural development, with specific attention focused on assisting Member States to identify practical IP-related strategies, in order to use ICT for economic, social and cultural development". The Delegation stated that the recommendation was also lacking in terms of the project proposal and sought clarification from the Secretariat.

531. The Secretariat explained the question of sustainability raised by Bangladesh, stating that sustainability of a project was something which preoccupied the Secretariat. It stated that there was no single solution as to how a project could be made sustainable, and not enough time during the session to go into all of the different strategies. However, some of the important elements were related to the ownership of the project and the commitment by the country itself. In some cases, sustainability might require an ongoing commitment from WIPO in terms of maintenance and support. There were many possible strategies that could differ depending on the host country. What Member States would actually gain would depend on the host country itself and the nature of the specific project in the country. The Secretariat mentioned that the measure of sustainability stated in a project document was five years, but appreciated that it went beyond the duration of the project. However, it stated that five years was a more meaningful indicator of sustainability, and noted the comments from the Republic of Korea and their willingness to participate in the project. As to the question by Chile on how countries would be selected, the Secretariat stated it would be done through a consultative process, and explained that there would be further consultations on that with the countries themselves through the regional bureaus at WIPO and in other consultative meetings. The countries that wished to be included would be welcome to make proposals and then a selection would be done based on the readiness of the country to participate in the project.

532. The Secretariat pointed out that with respect to the copyright component of the project, and to the first comment made by the Delegation of South Africa, it should be absolutely made clear that the project was intended to deal with the issue of promoting further creativity and innovation. Moreover, with respect to the comment from the Delegation of Chile, concerning the proposed workshop, the Secretariat explained that the workshop was intended

as a means of evaluating the first draft of the study, but was subject to a review from the Program and Budget Committee (PBC) on the proposed budget for the project, which could include sponsoring representatives from Member States. Concerning the last comment from the Delegation of South Africa on Recommendation 27, the language “*assisting Member States to identify practical intellectual property-related strategies to use ICT for economic, social and cultural development*”, the Secretariat found that to be an interesting point. By looking at page 4 of Annex III, at the end, where it said delivery strategy, Component 1, and where it was mentioned that it intended to survey public policies, government actions, legislation, public policy and strategies of governments linked to the use of the copyright system, to enhance access to information in key areas, such as, education, research, software and e-information services, the Secretariat mentioned the last sentence in that paragraph “*the study will also provide some analysis on which of the public policies and practices surveyed could deliver results if implemented by other governments, notably in developing countries and LDCs*”. The Secretariat explained that it was intended to capture what had been referenced, and would make it more clear that it was looking for a horizontal approach that did not only consider IP policy, but also procurement policies in the field of software, possible tax incentives, information technology programs, for example, in the provision of public sector information. However, it added that it was all exactly focused on the use of information, communication and technologies in evolving IP strategies for development in the way that had been mentioned, specifically in Recommendation 27, and that it would be made clearer in the revision of that document.

533. The Delegation of Egypt expressed its appreciation that the Secretariat had engaged in an exercise whereby it assured the continuing implementation of the recommendations. However, the Delegation considered that it needed to ensure that the recommendations and the request for activities within those recommendations were properly reflected in the projects. As such the Delegation believed that it would be unfair to wrap up discussions on that project, at least until it was sure that all concerns were taken on board. In a desire to be constructive, the Delegation had two comments to make, one of a general nature and one of a more specific nature. On the general nature, the Delegation agreed with the Delegation of Argentina, in the sense, that it believed that Recommendation 19 was still at ease with both the other recommendations within the title and description of the project. The Delegation believed that it should be properly dealt with, within the context of a project on IP and access to knowledge, and that it would be fairer to the Recommendation and what it entailed and also would liberate them to engage in the ICT and the digital divide components of that proposed project. As such the Delegation proposed to remove Recommendation 19 from that Thematic Project and establish a project on IP and access to knowledge. On a more specific note, on page 4 of Annex III on Component 1, the exact same sentence that was just quoted at the end of the first paragraph under Component 1: “*the Study will also provide some analysis on which of the public policies and practices surveyed could deliver results if implemented by other governments, notably in LDCs and Developing Countries*”. Pertaining to that Component, the Delegation believed that an important element to include would be consideration of exceptions and limitations and excluded subject matter. The Delegation said that in order to be fair to that project, it needed more time to consider it rather than just going through it at the very last hour of the meeting.

534. The Chair stated that he would certainly need some advice in the future as to what should be done at the last hour. He pointed out that it was close to the end of that discussion and it did not preclude Member States from making adjustments or proposing adjustments in November, but at least would have broadly agreed that the Secretariat could finalize or make

adjustments based on the discussions and have a project that CDIP it could put before the PBC. The Chair repeated that there would always be opportunities for adjustments and only cautioned that CDIP should not seek to adjust in every meeting, but the opportunities would be there. If it was broadly agreed with what was on the table regarding the project and took into consideration the comments made and the responses that came from the Secretariat, it could proceed to the next stage, which was the Program and Budget Committee (PBC) and the General Assembly.

535. The Delegation of India viewed Recommendation 19 as a key recommendation that focused on two issues that were important to developing countries and LDCs namely, access to knowledge and technology. Recommendation 19 was intended to open the door to discussions on issues that had not been traditionally addressed or if addressed, not adequately within WIPO, that included discussions on issues of limitations and exceptions and models of innovation that were friendlier to access such as open access journals, creative commons, open source, the success of collaborative tools such as Wikipedia, etc. Therefore, the Delegation viewed it as an opportunity to reorient the traditional approach of focusing on IP protection. With that in mind, the Delegation expressed that viewing that recommendation only through the prism of ICT or access to patent information, which in any case was already being worked upon, was perhaps not adequate in bringing out the objective of Recommendation 19. The Delegation stated that, given the important issues and the broad focus of that Recommendation, there should be a stand alone Thematic Project entitled “IP and access to knowledge and technology” as proposed by the Delegation of Egypt. That would include the proposed ICT and patent information access aspect, but would also address the issue from the perspective of copyright, trademarks and TK, by dealing with issues like open access, creative commons, open source, etc. The Delegation further stated that it would like to see concrete activities crafted for implementation of that Recommendation, followed through carefully before designing activities in the relatively new area. However, it suggested the process be initiated through an open invitation for submissions from academics, experts, industry, NGOs, Member States, and other stakeholders on what measures needed to be taken to further facilitate access to knowledge and technology. The Delegation pointed out that the above-mentioned approach had been used by the World Health Organization (WHO) in the context of discussions on global strategy and plan of action on public health, innovation and IP. The Delegation added that in order to make it more productive, an open-forum could also be explored where on the basis of the submissions received, a selection of speakers could be made and the proceedings of the open-forum recorded, to serve as a basis for designing concrete activities to implement the Recommendation.

536. The Delegation of Bangladesh stated that it did not see that the two components in the recommendations including in particular Recommendation 19, could be implemented fully. The Delegation said it would welcome another project on IP and access to knowledge and technology, which would be helpful to the LDCs. The Delegation would support such a proposal. The Delegation thanked the Secretariat for the answer to the question it raised about sustainability of digitization. The Delegation explained that doubt came out of the fact that the project would finish in 24 months, and it could not foresee a mechanism that would take stock of whether a digitization project, done under that project within a time limit, would continue for five years. The Delegation wondered who would check to find out if it was running at 100 percent, 75 percent or zero percent. The other problem was related to the steps that had been elaborated and the Delegation talked of national responsibility. The Delegation reminded that it mentioned in its intervention that the beneficiary Member States had a specific responsibility. If people were trained and then rotated out of the office, the work

would make no sense. That was why there was a national responsibility and national ownership. The Delegation explained that what it lacked under that component was that the Chair had elaborated the point saying “how personal computers (PCs) would be acquired locally and how digital scanners would be acquired and other equipment, what kind of software would be used”, but there was no indication, for example, of an assessment of the expected workload over the expected five years under that project. There was no indication that there would be a projection of permanent staff that would be required to run it effectively. There was no reflection of what expertise would be needed at the national level over the years. The Delegation noted that it believed there was scope to include the steps that could be made at the national level that would assist, but not ensure sustainability. The Delegation agreed that ensuring sustainability would depend on national ownership and the responsibility of the each government. Therefore, it agreed with the Secretariat’s reply, but still believed there were gaps that could be filled by incorporating specific steps into the project on how it would be implemented which would in turn help sustainability.

537. The Secretariat responded to the Delegation of Bangladesh which had raised some questions on sustainability. It stated that it could at that time add some language on sustainability and more details on the initiation phases of the project, in which assessment of the workload and staffing could be included. The Secretariat stated that it had a quick reaction to the comments from India, and those from Bangladesh supporting India on the inclusion of creative commons, licenses, open source, and open access licenses. The issues were not mentioned specifically in the copyright component of the project, but they were very much part of the intended inquiry, particularly in educational research where there was a great deal of the use of open access licensing as well as creative commons licenses, and software development practices, obviously in pre and open source software, were an integral part of that inquiry. Whatever the Member States might decide about the future of a separate project on IP and access to knowledge and technology, the specific examples mentioned would at least be included to some degree in what it was proposing, in the copyright part of that project.

538. The Delegation of Brazil referring to the intervention made by the Delegation of Senegal regarding the DSF, remarked that it was indeed good to recall that the significance of the DSF was integrated into the Development Agenda. The Delegation added that it was indeed a very important initiative that was launched by the President of Senegal, and it had the opportunity hear the President explaining the DSF Concept. The Delegation assured that the initial proposal presented by the President of Senegal was the seed for what was at that time the DSF. The Delegation suggested that the Secretariat have a meeting with the representatives of the DSF which were based in Geneva. On the copyright component of the project, the Delegation fully agreed with the suggestion by India that it should try to add to it some language related to alternative license and models, and believed that a reference to the different software models was relevant and particularly a reference to the free software. The Delegation also expressed its satisfaction to hear that as explained by the Secretariat, the spirit of that project was indeed to take into account all the different alternatives that had been promoted to increase access to knowledge. The Delegation had some suggestions regarding language to be included on page 4 under Component 1, Copyright. The Delegation mentioned the licensee alternatives and also the importance of enhancing and promoting the awareness of limitations and exceptions. The Delegation reminded that that element was also mentioned in the intervention by Egypt.

539. The Delegation of India commented on Recommendation 24 which had been included in the same Cluster. In its view, the aim of that recommendation should be to identify what role WIPO could play with regard to the implementation of the outcomes of the World Summit on the Information Society (WSIS) and the DSF with the aim of bridging the digital divide. The Delegation stated that in the project document there was no specific reference of the specific outcomes of WSIS that that project could contribute to, and the nature of that contribution. There was a general comment that would be involved in the WSIS follow-up process. Moreover, the interpretation of Recommendation 24, as read by the Delegation, noted that that proposal was to modernize IP offices and enable access to IP course material that the Secretariat had prepared. The Delegation considered that that did not capture the intent of that Recommendation fully. In its view, a starting point would be to elaborate on the WSIS process and the outcomes and the DSS and identify how WIPO could contribute to implementing specific outcomes with a view to bridging the digital divide.

540. The Delegation of the United States of America stated that it came to the third session of the CDIP with a view towards broadly endorsing that particular Thematic Project on IP, ICTs and the digital divide. The Delegation found it very promising and meritorious to advance the work of the Committee. However, in the light of the extensive amendments and modifications to that proposal, the Delegation requested a revision of those various elements and a more precise scoping paper on the amendments. The Delegation took that position with reluctance, as the amendments would certainly delay the implementation of that very important proposal.

541. The Chair stated that the discussions that the Committee had had would not be lost, but was disappointed that it could not move forward. He said it had to park that discussion aside until November. If that was the will of the Committee then he would have to accept that.

542. The Delegation of Nigeria commented that it did not see any major problem with the issues that had been raised. It stated that Bangladesh referred to having 24 months as the duration. If it was to be 24 months, what about the follow up, if the monitoring mechanism would come almost one year later. The Delegation believed it was something that the meeting had to find a way of addressing. The Delegation reminded that India spoke about an issue of reflecting alternative licensing models and also talked about the issue of limitations, and stated those issues by themselves did not constitute a stumbling block. Those issues raised had been to make the content of that recommendation more practical. The Delegation did not see a major problem in what had been raised, stating that each Delegation could decide to support or not to support. However, the Delegation believed that what it had dealt with was quite relevant and quite positive and might not even add to the cost. What the Committee was trying to do was to bring forth issues that could be linked substantially, without even touching on the structure of the document. That was how the Delegation viewed it, and it believed that it would have done fairly well, but that it could take a long time for something that had been completed. The Delegation told the Chair that in that case, it hoped that he would find out from them how many, if any, but stated that most of them were going along with it. Then if there were more delegations, the Chair could concentrate on what could be done to bring them on board.

543. The Delegation of the United States of America said that it would like to see a revised proposal with all the details -- a detailed scoping document -- specifying how those amendments would take place. The Delegation said it was simply not in a position to absorb all the changes without further reflection.

544. The Delegation of Chile believed that there were various concerns that were more important especially with regard to Recommendation 19, that access to knowledge had not been sufficiently covered. However, on page 11, on the supplementary information for Thematic Projects, the Delegation considered that on that page, the part that referred to the document from the previous meeting, it took into consideration what was really the spirit of access to knowledge at least in part, and referred to studies that took into consideration the digital divide, open access, open source and other emerging copyright licensing schemes. The Delegation believed that it was mainly related to the term of access to knowledge and access to TK. The Delegation added that perhaps if all agreed on the studies that the Secretariat would present and all the elements that had been presented, it could reassure the delegations with regard to that project, which was one of the most important projects, particularly Recommendation 19.

545. The Delegation of Brazil asked if the Secretariat could explain briefly how it intended to reflect the suggestions made by Member States in the project in a way that would address the concerns expressed by other delegations. In its opinion, the many interventions made reflected more of a general concern regarding how to bring the language more in line with the Development Agenda recommendations. Even though the Secretariat had given its assurances that that was the spirit of the project, the Delegation wanted that language reflected. Therefore, the Delegation wanted the Secretariat to briefly explain how it would reflect the suggestions made from the floor, to allow them to move forward on that project.

546. The Delegation of the United States of America noted that during that afternoon it had received the detailed proposals submitted by the distinguished delegations of Japan and the Republic of Korea in advance of the meeting, in writing, with time for reflection and yet it noted that those proposals did not get a bright green light. Now, it was confronted with a rather cryptic reference to a broad area of inquiry that included undefined terms with important implications, and the only thing the Delegation of the United States of America was requesting was similar treatment. The Delegation stated that it had detailed scoping documents prepared at the express request of certain Member States. The Delegation did not think it was unreasonable for a Delegation which came prepared to green light this thematic project to request a scoping document on a significant amendment to the project, so that committee members could have the kind of deliberation that was a necessary part of the committee's work. The Delegation said it was only fitting that it had the appropriate documentation and scoping documents to understand in which way the Project was moving.

547. The Chair reminded the Committee that what it had done bore little difference with what had been done the previous year. It was recognition and acceptance of that point that had led the Committee out of difficulty before. The CDIP had always benefitted from the Secretariat's ideas which were discussed in the Committee and broadly agreed upon. If there was any element or activity not accepted by any Member, then the Secretariat could not take that forward. Only the unanimous agreement of all ideas put forward were acceptable, and on that basis the Committee broadly agreed on the document, then the Secretariat made the appropriate amendments, added the financial information and the document came back to the Committee. All that was being sought at that meeting was for broad agreement or, if broad agreement was not possible, lifting those objectionable parts out and broadly agree on the rest and move forward. That was the way the Committee had worked all of the previous year and that was what was proposed. The Chair asked the Delegation of the United States of America to reconsider the position it had taken.

548. The Delegation of the United States of America, in the spirit of dialogue and cooperation, was very interested in hearing the observations of the Secretariat on how the suggestions might be implemented, stimulating the kind of discussion that could move forward the work of the Committee.

549. The Secretariat stated that in respect of component one, the copyright part of that proposal, it could be made very clear that alternative licensing schemes and models were included in the terms of reference for the project. A reference to different software models, free and open source, as well as proprietary software, could be included. A reference to access of content under substantive examination in other bodies such as the Standing Committee, for example, and limitations and exceptions could be referenced appropriately. Reference to the objectives and declaration of principles could also be made clearer. On the digitization component, the Secretariat would add language on the sustainability of the projects to clarify those matters and would include an assessment of the expected workload and staffing as part of the initiation phases of the project.

550. The Delegation of the United States of America was satisfied with the comments from the Secretariat, but remained concerned about the need to have a separate project. The Delegation felt comfortable with the suite of projects on access to knowledge, so some further discussion could be held on why there would be a need to break away that element.

551. The Director General of WIPO suggested that perhaps the title of the project could be modified so that it read: "IP, information communication technologies, the digital divide and access to knowledge". It was just a suggestion as to how it might be dealt with.

552. The Delegation of the United States of America found the comments from the Director General very useful. It noted that the concept of access to knowledge was incorporated into one of the elements and invited other delegations to give due reflection to whether the new title addressed their concerns.

553. The Chair indicated that he would take their silence as consent in terms of the Director General's suggestion, as a way forward.

554. The Delegation of Nigeria noted that in every difficult situation there must be a way out. The suggestion by the Director General may not have been completely comprehensive but it did solve the problem of incorporating access to knowledge, and believed that it was the best option.

555. The Delegation of Egypt thanked the Director General for his suggestion. Another possibility of moving forward was appreciating that in view of the time constraints and of the legitimate concerns expressed by more than one delegation with regard to the specific nature of Recommendation 19, that the Committee set aside that project with the intention of providing more elaborations on it at the fourth session of the CDIP. The Delegation did not think that gathering what could best be described as a *pot-pourri* of different recommendations in order to develop a particular project, was doing justice to the implementation of a recommendation.

556. The Chair stated that if the Director General's suggestion could not be accepted, the only alternative was to forget that project and raise it for discussion in November 2009.

Delegations had heard the objection from the Delegation of the United States of America. They had heard a suggestion from the Director General and heard the Secretariat's comments aimed at allaying the concerns of the Delegation of the United States of America. The Chair stated that he did not want anyone to think that he was there to allay the fears of the one delegation and ignore the fears of others. He spoke in the interest of moving the process forward and he was aware that there would always be opportunities to address the issues as the Committee moved on. The aim was to get the projects started. If the project could achieve 75, 80 or 90 percent of what delegations wanted out of the recommendations, then the Committee should take that and move forward based on the fact that the remaining 20 or 50 percent could be picked up in other projects as other activities were discussed. The Recommendation 19 also appeared in another Thematic Project. It was just a specific project that the Chair assumed all delegations wanted to get started on. Delegations had heard what could solve the problem with maybe 85 percent satisfaction, but if they wanted to go for 100 per cent, then it would be at the end of the day.

557. The Delegation of India thanked the Chair, the Director General and the Secretariat for trying to find a way forward. It greatly appreciated their efforts. While in principle the Delegation concurred with the Delegation of Egypt, that there should be a separate Thematic Project, chiefly because it saw that there could be other recommendations which would then fall into that category. However, it deferred to the wisdom of the Chair on that issue and agreed with the Chair entirely that, in the interest of moving forward, one had to sometimes accept a less than optimal situation. The Delegation also agreed that the title could be changed as suggested by the Director General in order to go ahead with the project with the intention of perhaps revisiting it later to achieve greater unanimity at that point in time.

558. The Delegation of Chile supported India and believed that by changing the title, the strong wording on access to knowledge was maintained. The concept, which was discussed at great length over three years, was maintained, even though the initial objective was much greater and referred to an access of knowledge treaty. Nonetheless, that was what had been agreed on, and it was important to keep that wording in. As had been perfectly put by India, it was an incremental process, therefore delegations would be able to make more recommendations in the future, so the Delegation was satisfied with it as it was.

559. The Delegation of Bangladesh saw the developments in a positive light. If delegations were not getting everything done, the understanding was that the project could go ahead as it was on the basis of the three principles outlined by the Chair. All recommendations would be discussed, and if Recommendation 19 had not been discussed fully in the current session of the CDIP, it would be discussed in future sessions. There was another project also covering that recommendation. When it was discussed there could be suggestions on many activities, and delegations would see how the remaining parts that had not been implemented, could be carried forward.

560. The Delegation of Egypt stated that the Committee had engaged on a very constructive approach so far, despite time constraints and late submission of documents that had put pressure on capitals to provide comments to delegations. The Delegation believed that as had been indicated in the Chair's three-point Summary on Agenda Item 7, at the very beginning, that the Committee would discuss recommendations *per se*, and propose activities, and when such recommendations fitted together to form a whole or similar subject matter, they would be considered as projects. The outline of the Summary was agreeable to the Delegation and supported by all because it addressed a fear, a concern that delegations had. The concern was

that there was a risk that the projects being proposed would be the essence of the action to be taken, and that the recommendations would be brought in to fit under those projects. The Delegation believed in fact that one recommendation that addressed the issue of IP and access to knowledge was not compatible with other recommendations that addressed issues pertaining to ICT and the digital divide. The Delegation, in a spirit of constructive engagement, proposed that Recommendation 19 be simply taken out, and looked at later. It was not subject to the approval of the project, with the elaboration of a project straight away on Recommendation 19, but it wished to emphasize that the Committee could not bring in a recommendation and just change the title simply because the Committee wanted to make sure that that recommendation was included. The flexibility of the Delegation was in that it agreed with the podium, provided that Recommendation 19 be taken out and that, in future, in CDIP/4, the Committee was able to look at a project that had in its essence the recommendation rather than the other way around, and then tried to bring in the recommendations.

561. The Delegation of Tunisia stated that the Director General's proposal was wise and that the project before the Committee was, but a first step in the implementation of the Development Agenda. It had to be somewhere and if a team had to score two goals to qualify, it had to start with obtaining the first goal. Whether the Delegation included or excluded Recommendation 19 did not matter. The project still existed and the Committee could adopt it and look at Annex 4. Recommendation 19 would still be in force and the Committee could go back to it. It had been stressed right from the start of the session, that the Committee could always find other projects to apply that recommendation to, and it seemed a useless debate to discuss whether Recommendation 19 should be kept or not. The Delegation thought that the Committee should take advantage of what had been achieved and at least have some projects to allow colleagues from the capital to go home with something concrete that could be adopted at the following General Assembly.

562. The Delegation of South Africa supported the statement made by the Delegation of Egypt and believed that when entering into discussion on those projects, the understanding was that the Committee would look into the recommendations first. In terms of finding a compromise, the request by Egypt to remove Recommendation 19, was a reasonable one to allow the project to go further. The Delegation did not wish to take the issue any further but believed that that was one of the initial concerns that many delegations had raised when discussing the Thematic Projects and wished for it to be noted in the records.

563. The Chair stated that following the discussion, one of the statement he made were that the projects would be examined in the same way that the examination was done the previous year. The Committee would discuss the recommendations first, as he had said when looking at the first two projects. He did not think it was necessary to repeat it again on the third project because he thought that delegations were into the rhythm and members had started commenting on Recommendations 19, 24 or 27. Some had commented also on other broader aspects of the project. The opportunity was always there for Members to address the recommendations. Some members have seen some deficiencies in language and made proposals. The Chair did not accept that the Committee was into a cart before the horse situation in that project. If that was the case, then it was the fault of the delegations and not the Chair. He had outlined a process, by which delegations looked at the recommendations, satisfied themselves that the activities were reasonably reflected in the project document, that there was a reasonable overlap, and the project was endorsed on that basis with additions and adjustments. He could not accept that at that eleventh hour the Committee be told that it was

in a cart before the horse situation. The process had been outlined clearly. The first and second projects had been addressed that way and he assumed that the Committee was addressing the third project that way too.

564. The Delegation of Guinea noted that it was a dynamic and changing process, one that evolved, and where new proposals could be made as time went on. Therefore, it would take into account the proposal made by the Director General and start working on that basis. Everything had to start somewhere so it thought the Committee should adopt the Director General's proposal and move forward.

565. The Delegation of Argentina suggested that the problem would be solved by adding to Recommendation 19, that it was only partially implemented by that project. That would mean that other activities, other projects appropriate would be developed to implement that Recommendation completely. The Delegation also considered that a note could be added to all the projects which had a recommendation that belonged to Cluster B or norm-setting.

566. The Delegation of Egypt said that the Committee was engaged in a constructive exercise and believed that it needed to take into consideration the fact that the nature of the recommendation, was different from what was being proposed, not only in the title but in the description and the objectives, and perhaps in the delivery strategy. While changing the title gave an orientation, it was important to look at the structure of the project itself. The suggestion presented by the Delegation of Argentina perhaps opened a way forward that a note could be included, so that the spirit of Recommendation 19 was not confused with the objectives of the project. In that sense, if delegations were not willing to remove Recommendation 19, then that alternative presented a way forward. The Delegation suggested a break to consult with other delegations and clarify the language, and review the Summary of the Chair.

567. The Chair indicated that the note could be added not only in that project but in every project where such deficiencies had been identified. A statement would be included that the particular Recommendation had only been partially implemented, and where possible the note could point to other projects where that particular Recommendation was being addressed. If the text could not point to another project, it would just leave the statement open, that the recommendation had only been partially addressed in the project. Those were the only words that in earlier discussion were thought appropriate, and Delegation of Argentina raised it again, so there did not seem to be a need for a break.

568. The Delegation of India found that the Delegation of Egypt had a very legitimate point, the point being that Recommendation 19, may not belong to that project in terms of its focus, spirit and objective. In the interest of moving forward, it agreed to mentioning that the recommendation was only partially addressed in that project, and kept in mind the point made by the Secretariat earlier that the recommendation also fell under another Thematic Project. Also, if so warranted, at a future time, a separate Thematic Project could be prepared under the "access to knowledge" Cluster. That would perhaps satisfy the Delegation of Egypt and that of the United States of America.

569. The Delegation of Egypt believed that that could open a way forward providing that the title was maintained because by introducing the elements in the title of "access to knowledge" as had been suggested by the Director General, because the project did not include sufficient language or activities pertaining to access to knowledge, it believed that the Committee could

take on board that suggestion provided that the title remained the same, that the project did not fully address the issue of access to knowledge and that while Recommendation 19 was addressed, the issue of access to knowledge was not being fully encompassed in that project implying that it would be looked at, in another project in the future.

570. The Chair reminded Members that delegations were able to reach agreement on 45 Recommendations because of Rule .1. There had been considerable compromise, a very cooperative spirit and a determination to get the job done. The key word was compromise. During the negotiations at the PCDA, the Chair had applauded Brazil and Argentina on the one side, and the United States of America and Italy on the other, for their willingness to drop demands and make compromises. Hence, the Committee ended up with recommendations that had some ambiguity. If delegations looked at the project, it referred to facilitating access to knowledge and technology. The Chair agreed that there could be a separate project that dealt with access to knowledge, a separate project that dealt with access to technology, and a project that dealt with access to knowledge and technology. There had been areas in which access to knowledge had been seen to be deficient in the project. Those comments were made by delegations and the Secretariat had taken them on board. The project did include elements of access to knowledge.

571. The Delegation of Tunisia stated that Recommendation 19 was partially implemented. However, it reminded the Committee that all recommendations were partially implemented, because the Development Agenda was an ongoing process. It was a long process and the Committee was still at the beginning of that process, so all recommendations should state that they have been partially implemented, not only Recommendation 19.

572. The Delegation of Brazil stated that it did not have any problem with the proposal by Argentina in repeating that Recommendation 19 was only partially implemented, but it wished to remind delegations that by repeating that idea, the concept should not be undermined, because it was a part of the three golden rules, that the Committee was allowed to go back to projects and recommendations, and that no recommendation could be exhausted by any project. The Delegation believed that Member States and the Secretariat were aware of that. When it saw that the Secretariat had presented five projects for Recommendation 10, the Delegation noted that it was in the spirit of the work methods of the Secretariat, because it had only five projects for Recommendation 10. It also wished to remind delegations that it understood that no recommendation could be exhausted by any project. When it looked at Recommendation 24, which dealt with the digital divide in accordance with the outcome of the World Summit on the Information Society, and also the significance of the DSF, it also felt that the element of the digital divide could have been further elaborated on in the project. The Delegation did not believe that Recommendation 24 should be part of future projects. For instance, with respect to taking into account the significance of the DSF, the Delegation wished to reiterate its suggestion that the Secretariat of WIPO should meet the Secretariat of the DSF, which was based in Geneva, because it was anxious with the wording in the recommendation and those words not having any practical implementation. An informal meeting between the two Secretariats could be arranged to discuss how to cooperate in future activities.

573. The Delegation of Bangladesh referred to one of the first interventions where it had supported the notion that had been proposed by the Delegation of India to have a future project based solely on access to knowledge. The Delegation also agreed with the delegations of Tunisia and Brazil, that all recommendations were being partially addressed. One project

would not close any recommendation. That was clear and was the shared understanding within the Secretariat and Member States. The Delegation expressed its concern that, if the project stated that Recommendation 19, was only partially implemented by that project, it could mean that recommendations 24 and 27 were being fully implemented.

574. The Chair noted that it agreed with the Delegation of Brazil that no recommendation could be exhausted by any one project. The projects had timelines. That had been the first issue that the Committee had struggled with and it had been accepted that the fact that a project had a 24 months timeline did not mean that the recommendation was completed in 24 months.

575. The Delegation of Egypt stated that it was engaged in a constructive exercise and would not hold discussions on that issue any longer. It believed that the Delegation of Argentina had perhaps provided a way forward, but it emphasized the need to reiterate that the essential elements that the Committee was working on were the recommendations, not the projects. Therefore, in the spirit of compromise, the Delegation would be willing to accept the proposal as modified by Argentina and emphasized that the position it had maintained, as included in the three point rules of the Chair, formed the basis of the activities rather than the other way round.

576. The Delegation of Burundi noted that in the discussions held since the beginning of the meeting, it had been very clear that all the recommendations were not entirely exhausted at the end of the projects, and if that was the case, delegations could perhaps propose additional projects for an additional time frame so as to achieve the goals set out. It implied complicity in the case where the recommendations that were enumerated were only partly or perhaps more than partly implemented. Therefore, the Delegation fully endorsed the proposal put forward by the Delegation of Argentina, which clearly gave a solution to the issue under discussion.

577. The Delegation of Nigeria stated that Egypt had shown flexibility. The Delegation reminded the Committee that during the monitoring, evaluation and assessment of all the projects, any parts of the recommendations which had not been addressed would be identified, and delegations would come back and request that the shortcoming be addressed.

578. The Chair stated that he enjoyed crisis and conflict when the problem was solved and referred to three crises that had occurred that week that had been solved. He suggested moving to the amendment suggested by Argentina and the acceptance by Egypt, with regards to the earlier concern of the United States of America, and indicated that that was an agreement on the project.

Agenda Item 10: Summary by the Chair

579. The Delegation of Bangladesh stated that it had gone through the Chair's Summary, which was fine, and asked the Chair how he intended to address Agenda Item on "Future Work" and whether there would be some reflection of it in the Summary.

580. The Delegation of Nigeria expressed its appreciation for the Summary. Concerning paragraph 9, it wondered why it should wait until September 30, why not make it June 15. If there was any problem, the Members would alert the Chair, but stated that more than three months was too long. Concerning the second to last paragraph, where it stated that it would be compiled and presented to the fourth session of CDIP, the Delegation believed that it would be good if the Secretariat elaborated on the content received, instead of simply preparing a compilation.

581. The Chair recalled that a couple of delegations had complimented the Secretariat for not interfering with that process and thought that it should continue. He did not consider that the Secretariat should do more than compile. It would be possible that the Chair does a little more than compile. He would look at where there were similarities and make sure that all the suggestions were in the document, it would not be a raw compilation, but would attempt to put some scope around it.

582. The Delegation of Argentina stated that although it was not in the Summary by the Chair, it was its understanding, as there was a little bit missing regarding Recommendation 14, and that the Secretariat would prepare a document which would include the analysis of the TRIPS flexibilities. The Delegation was not asking for inclusion of that in the Summary by the Chair. It was just stating that it was its understanding that the Secretariat would draft the document as had been agreed in the meeting.

583. The Delegation of the Republic of Korea sought clarification on paragraph 7, where the text referred to document CDIP/3/INF/2. The projects had already been discussed in the previous meetings, but in the Summary it stated that only three projects had been discussed but those were projects that already had a budget. The Delegation therefore asked whether those projects that had not been discussed, which were supposed to be implemented from that year, would be delayed until the following year or whether they would be considered at the next CDIP in November 2009.

584. The Chair acknowledged the statement by the Delegation of the Republic of Korea and asked if it was referring to the paragraphs at the top of pages 2, 5, and 8, and agreed that they were the ones discussed that day, but that recommendations 2, 5, 8, 9 and 10, were discussed and agreed upon in the last session. Therefore, recommendations 9 and 10 were not discussed in the project format, but he stated it should not stop the Committee from proceeding or continuing with the implementation of those projects. The Chair asked the Committee to bear in mind the lengthy discussion and conclusion that was reached, and that implementation of recommendations 9 and 10, would have begun by November last year. The project would still be open for future examination.

585. The Delegation of the Republic of Korea sought further clarification, stating that when it made a proposal for the implementation of Recommendation 10, the Chair stated that probably these 2 recommendations would be discussed in the next meeting, but as for proposal 1, regarding fair trade, may be the Secretariat would look at the possibility of

incorporating the project into this biennium also, and requested the Secretariat whether it would be possible, and if so, wanted it clarified in the document.

586. The Chair stated that he thought there was one of the proposals that the Delegation of the Republic of Korea stated was connected to Recommendation 10 that had already been discussed and agreed upon last year. The Chair stated that the Secretariat was requested to look at the proposals, see how they could be incorporated and that the other part that was related to Recommendation 31 would be discussed when the Committee had reached Recommendation 31.

587. The Delegation of the Republic of Korea thanked the Chair and stated that if that was the fact, then the Delegation wanted it to be reflected in the document.

588. The Chair stated that he did not know if he had to remind the Delegation of the Republic of Korea that it was the Chair's Summary, and he did not want every Member to ask him to reflect his position in the Chair's Summary. The Chair stated that the delegations' position would be reflected in the report, *verbatim*, but stated that he did not want to be pressed on every point, and that the Chair's Summary was supposed to be short.

589. The Delegation of Germany thanked the Chair and stated that it had three observations to make. The first was a factual point regarding paragraph 4, the last sentence, where it was indicated that the DG expressed his commitment to personally report to the CDIP annually, on the implementation of recommendations which required coordination with other committees. The Delegation stated they did not remember this latter part, stating "recommendations which require coordination with other committees" nor did they remember that the Director General expressly said so, but it had been understood that he stated that he would report annually on the implementation of the "Development Agenda Principals", however, the Delegation stood to be corrected. That was the factual observation. The Delegation of Germany then referred to paragraph 9, to the second and the third sentences. In the second sentence, it was indicated that the Committee had decided that interested Member States may submit their proposals to the Secretariat, however, in the following sentence, it was stated that these submissions, that were the proposals, in addition to the ideas offered in the discussions, would be compiled. The Delegation stated that for those 2 sentences to be of a concrete manner, they should be added to the second sentence, after the words "their proposals", the words "and ideas", so it would read "proposals and ideas". The Delegation wanted the mention of "ideas" in the subsequent paragraph, because the second sentence of paragraph 9 should read, "the Committee decided that interested Member States may submit their proposals and ideas", and the words "and ideas" should be included, to the Secretariat by September 30, 2009. The Delegation also mentioned that there was the question of the deadline, and wanted to seek clarification as to what deadline was being referred to. The Delegation of Germany stated that it would be interested in the exact formulation of sentence 3, of paragraph 9, following the intervention of the Delegation of Nigeria, because it was understood in the earlier conclusion that there would be a compilation for further discussion on the subject in the fourth session of the CDIP.

590. The Chair stated that the Secretariat proposed September 30, and Nigeria proposed June. The Chair stated that he was happy to leave September, and would recommend that as the discussion was fresh in the minds of the Committee, that it was done sooner rather than later, but that the date of September 30, was the last date, only because that allowed the Secretariat the time to prepare the documents, and to get them out, well before the meeting

date. The Chair asked if September 30 was a good date for the Committee, because the CDIP was scheduled for November 16, 2009, and so for that reason, he believed that the date should be moved to September 30 or earlier. The Chair asked if the Committee wanted to move it to June or August 30. The Chair stated that two main point that was raised in Paragraph 9, the 2 sentences addressed, that there were two things; the sentence in the middle that stated “may submit their proposals”, these were proposals that had not yet been submitted, also the following sentence that referred to ideas that stated “ideas offered in the discussion during this session”. The Chair stated that the ideas discussed were already captured in the session, proposals were suggested, and that some Members would make proposals in the future, and that was why they had been separated. As to the other query at the bottom of paragraph 4, he suggested going back to the tape to put there exactly what the DG had stated.

591. The Delegation of Algeria thanked the Chair and stated that they would like to second the position of Nigeria, to move the date up to June or July, so that the Secretariat would have time to prepare the documents, so that the Session would not only be the English language version, so that all the conditions were present and the work could be done more effectively.

592. The Chair stated that June 30, would be the date.

593. The Delegation of Bolivia thanked the Chair, and made a suggestion that a few days prior, the Chair seemed familiar with the concerns of Bolivia with regard to TK and the public domain. Therefore, with regard to the Summary, the Delegation suggested that there could be a sentence included that would reflect those concerns, and referred to point 8, that started with, in English, “implementation of these projects would begin in January 2010”. The Delegation stated that at the end of that sentence, they would like to add the following, “also the implementation of these projects will take into account the remarks made by Members in the current session of CDIP”. The Delegation stated that this would reflect the debates already held, and could be a good guideline for those implementing the projects, without any prejudice to what had been agreed.

594. The Chair stated that same sentence went on to say “with the understanding that agreed modifications would be incorporated to reflect the changes requested by the Committee”, and asked the Delegation of Bolivia if that covered their concern.

595. The Delegation of Bolivia agreed that the sentence could cover everything, however, for the elements that had not been agreed upon, the elements and concerns that had been expressed by certain Members, as in the case of Bolivia, there could be the inclusion of TK in the public domain, but this was a general suggestion that should take into account the debates as a guide for implementation. Clearly what would define implementation were the agreed elements.

596. The Chair asked if the Delegation of Bolivia was satisfied that with the Summary. The Delegation acknowledged it was.

597. The Chair invited the Delegation of Bolivia to look carefully at the Report, where all the details of theirs and every intervention would be recorded.

598. The Delegation of India thanked the Chair and said it had one modification to suggest and one query to put forward. Both were in paragraph 8 of the draft. Actually there were two modifications, one in paragraph 8 and one in paragraph 9. Paragraph 8, on the third line, sub-

point two, “recommendations that dealt with a similar or identical subject matter would be brought under one theme where possible”. The Delegation of India suggested replacing “subject matter” with the word “activities.” The sentence would read as “recommendations that dealt with similar or identical activities would be brought under one theme where possible” which the Delegation believed would perhaps better reflect the many interventions made on the proposed approach, and reflect better the concerns of many delegations. The other modification was in paragraph 9, the very last sentence; “will be compiled and presented to the fourth session of CDIP for further discussion on this subject”. The Delegation requested, with the idea of coming to a closure on the subject, and not making it an Agenda Item in every CDIP session without reaching agreement, that the words “and decision” be added before, so the sentence would read as: “will be compiled and presented to the fourth session of the CDIP for further discussion and decision on this subject”. The Delegation had a query on paragraph 8, the same sentence that the Delegation of Bolivia had mentioned. The query was regarding the sentence “the implementation of these projects would begin in January 2010 with the understanding that agreed modifications would be incorporated to reflect the changes requested by the Committee”. The Delegation stated that as there would be another CDIP session before January 2010, in next November, would the projects that had been discussed be open for discussion, and be on the Agenda of the next CDIP session, or would the Committee start by considering new projects? The second query was on the budgetary front. The Delegation stated that if at the next session of the CDIP, the Committee was likely to approve approximately four or five Thematic Projects, there would be approximately eight Thematic Projects for implementation starting in January 2010. The Delegation of India asked what would be the budgetary implications, and if it would be possible to implement all the projects at once?

599. The Chair stated that the Secretariat had had several discussions on the question of the phasing of project acceptance by the Committee, the approach to the PBC, agreements by the General Assembly and the implementation of a time frame. The Chair stated that he was persuaded that the intention, both on the part of Member States, and on the Secretariat’s part, was to have those projects implemented, and that implementation began as soon as possible. The Chair added that the phasing had to be taken into consideration, that he did not know how to amend it and make it satisfactory because he did not have all the issues at hand. The Chair pointed out that the Committee broadly agreed that the projects would determine which PBC the project went to and, therefore, which General Assembly it was submitted to, and when the implementation would begin. In terms of the last part of the comments, he stated that if there were eight projects that went through the process, that were ready at the same time, provided the funds were available, and provided Member States to whom those projects were related, they could all start at the same time. But if some of them involved interaction with Member States, then there was another element to the phasing that would have to take place. The Chair pointed out that there was little he could do with the language, but the concerns raised were valid. With respect to the earlier part of paragraph eight, the word “activities” instead of “subject matter”, the Chair agreed, but was sure he had used the word “activities” rather than “subject matter” so the comment was well taken. As for the end of paragraph 9, for “discussion and decision”, neither the Chair, nor his colleagues present, recalled any delegation making that point that was for discussion and decision at CDIP/4. The Chair stated that if a decision was reached, that that was fine, or if it was discussed at CDIP/4, and did not reach a conclusion, then it would be discussed further. He pointed out that whether he put the phrase “for decision” or not, did not affect whether the CDIP made a decision in November or not. But in terms of reflecting what was heard, it did not include the submission for a

decision, a submission for discussion, and the only reason it was discussed was to reach a decision.

600. The Delegation of Thailand thanked the Chair, and the Secretariat for compiling a very comprehensive first draft of the Summary by the Chair. The Delegation wanted to focus its comments on paragraph 8, saying that it recalled vividly, that when the Thematic Projects were introduced by the Secretariat, as well as by the Director General, they had fully supported it, on the understanding that the agreed modifications would be incorporated to reflect the change requested by the Committee. However, on many occasions there was mention of additional activities if Members saw fit, which could be proposed under each of the Thematic Projects, reviewed by the CDIP, and the Delegation wanted it to be reflected in the Chair's Summary, because after reviewing paragraph 4, where the concept was introduced together with paragraph 8, the Delegation did not see it anywhere, and wanted to suggest an Addendum to the paragraph beginning with "the implementation of the project, with the understanding that the agreed modifications would be incorporated to reflect the change requested by the Committee", and that additional activities could be proposed for the CDIP's review, at a later date if Member States saw fit. The Delegation of Thailand understood that it would not be automatically incorporated into the Thematic Projects, it would be reviewed by the CDIP first, but an option had to be open, according to what the Director General had proposed for the Thematic Projects. In that spirit, it was also mentioned that additional funding would be requested for those activities. The Delegation wanted to question the interpretation of what was meant by "equitable geographical balance", the last three words in paragraph 8, and asked would Europe and Asia, or Africa be equal?

601. The Chair stated that it seemed that the Delegation of Thailand was not in the room when the issue was raised several times. It had been raised initially by Algeria, and supported by some of the other delegations. The Chair pointed out that he had resisted the idea, because he thought that it would present some other difficulties, but was persuaded by the discussion, that something could be accepted, and he had accepted it. The Chair stated that to explain "geographical balance" he would assume that these projects were focused on developing countries, especially LDCs, and for some, it stated "economies in transition". The Chair stated that he would assume that the "geographical balance" would be between those countries. In other words, there would not be any of these balances in North America, for example.

602. The Delegation of Thailand thanked the Chair and apologized for perhaps not being in the room at the time of the discussion, and stated that if all the Members could go along with it, Thailand would go along with that too.

603. The Delegation of Jamaica thanked the Chair and stated their intervention related to paragraph 8, and suggested that the Chair might wish to amend the Summary to include the fact that the Committee discussed and broadly agreed upon the Thematic Project "IP Information and Communication Technologies Digital Divide and Access to Knowledge" grouping recommendations 19, 24 and 27.

604. The Delegation of Argentina made the following two points. On paragraph 4, it suggested in the last sentence to put a full stop after recommendations, so it would finish "the Summary". It stated that the idea would be to report in the CDIP annually on the implementation of recommendations, and that it would not be a problem to anyone. The Delegation then pointed to paragraph 9, and stated that in order to have a compromise

between the dates, instead of September 30, or June 30, the Delegation was more inclined towards July 30.

605. The Chair acknowledged that the Delegation of Argentina preferred July 30, 2009.

606. The Delegation of Algeria thanked the Chair and the Delegation of Thailand for its flexibility on the point regarding “equitable balance”. In fact the issue was raised by many delegations. Secondly, the Delegation stated it would like to support what had been said by the Delegation of India regarding the necessity to reflect in the ninth point, and make a decision on the issue of the mechanism. This point was made because the Delegation was aware that the decision could not be made now, and would have to be postponed to the forth session of the CDIP, in which decision should be made. The Delegation wanted this to be reflected in the paragraph.

607. The Chair took note of the point and stated that he would respond just as he had responded to India. He pointed out that the only thing that he was certain of was that it was agreed to further discuss the issue. The Chair stated that he was not persuaded that there had been any decision taken to make a decision in November, and that the issue had to be discussed again, and if a conclusion was reached, a decision would be made, if not, a decision could not be made irrespective of what was reflected at the CDIP/3.

608. The Delegation of Indonesia thanked the Chair and joined other delegates in congratulating him and the Secretariat for preparing the draft Chair Summary. The Delegation had comments or queries, and also a suggestion. It referred to paragraph 8, where it was mentioned that the Committee “discussed and broadly agreed”, and stated that it wanted it further clarified what was meant by “broadly agreed”, whether it meant that it was not totally agreed, or was agreed for some parts only? The Delegation stated that they would like to second the statement made by the Coordinator of Asian Group whereby it had reserved the right to comment later on, on the Thematic Projects. The Delegation also had some reservations on some of the activities on the IP and the public domain, and expressed the need for some time to consult with their capital. It expressed its intention to bring the subject forward at the next CDIP, and supported the notion by the Asian Group that one could reserve the right to comment on the Thematic Projects, especially the first one, “IP and the Public Domain”. On paragraph 9, although it was suggested that the proposal by India was not taken on board, it was observed that there had been a very lengthy discussion on the Agenda Item 8, which was of high importance to the delegates. The Delegation stated that besides a discussion, a decision on the Agenda Item should be reached, and the Delegation also wanted to support India’s proposal, also echoed by Algeria, that the words “discussion and decision” should be put forward. The last suggestion concerned paragraph 2, where it was mentioned that the CDIP unanimously elected Ambassador Clarke, whereas the correct reflection was “reelected Ambassador Clarke” for those who had just arrived at the CDIP.

609. The Chair pointed out that the re-election point was fine and well-taken. As for “broadly agreed” the language had been agreed upon last year, and was the phrase used before the final approval of the final document on human and financial resources. With regards to the right to comment, the Chair reaffirmed everyone’s right to comment, but asked the Committee to remember that when comments were made, in evidence something that it wanted done, it had to meet with the approval of the Committee. This was just fact and did not have to be included in the document. The Chair reiterated his intention to hear if there were any other interventions on that question because he stated he could only tell the

Committee what he had told India, Algeria and Indonesia. The Chair said he did not mind putting forward a decision and encouraged other delegations to speak on the matter.

610. The Delegation of Germany thanked the Chair on this latter point and expressed total agreement with the earlier intervention that no matter what was put out there, it did not commit the delegations nor the CDIP into making a decision in November. The Delegation stated it would not want to commit, nor give the impression that it could commit themselves and more particularly Group B. The Delegation stated it could include for 'possible decision' stating that this was 'wishful thinking'.

611. The Delegation of Canada referred to the proposal made by India in paragraph 8, to change "subject matter" to "activities", and thought it would be very difficult, because this could mean that all surveys should be reflected on the one theme, stating that it did not all cover the same subject matters. So, if possible, the Delegation would like to revert to "subject matter". With regard to paragraph 9, the Delegation agreed with the assessment of the Chair but could also live with the proposal made by Germany, with the view to finding a compromise solution.

612. The Chair asked if any other Members had a view on the subject, but pointed that he was talking of "activities".

613. The Delegation of Brazil stated that taking into account and finding a balance in the rules that were laid down and hardly negotiated in the Committee, the Delegation sought some clarification on the wording suggested by the Delegation of Thailand, and on the process of including activities in the projects. It stated that Brazil was not in principle, contrary to the Thai contribution, but would like to have additional information.

614. The Chair stated that there was a broad understanding that was very well articulated by the Delegation of Brazil, that the conclusion of a project did not mean that the recommendation had been concluded. If the recommendation had not been concluded, activities that reasonably fit that recommendation could be brought up for future action, and he believed this was what Thailand had asked to be represented. The Chair stated that he saw it as an accepted principle on how the work was done. The recommendation was fundamental, so if the Committee agreed to do A, B and C, in order to give effect to the recommendation, and at the next meeting or the next year, following discussion, find that F and G should be added, it would be discussed, and if the Committee agreed, F and G would be added. The Committee had the right to go back and resolve any issues, or modify an activity or a project. However, the Chair cautioned that the Committee should avoid doing this in every meeting, because the Secretariat needed a stable project document at some stage, in order to implement the work.

615. The Delegation of Brazil thanked the Chair for the clarification, stating that it wished to see how the exact wording would be for the inclusion, so that it could be put forward for a decision.

616. The Chair stated that what Thailand proposed after the word Committee, the line that said "would be incorporated" within paragraph 8, on the fifth line from the end of paragraph 8, that started with "would be incorporated to reflect the changes requested by the Committee", the addition would be "with the understanding that additional activities may be proposed at the CDIP 4", was the specific proposal by the Delegation of Thailand.

617. The Delegation of India had one question that was similar to the comment made by Thailand. It addressed a query, which would be to keep the discussion on the 3 Thematic Projects open at CDIP/4, or whether the Committee would start with new Thematic Projects? However, if the sentence proposed by Thailand was kept, the question was answered.

618. The Chair appreciated that it would always be a challenge trying to meet the needs of competing forces. The flexibility, to look at projects or look at recommendations and suggest new activities would always be there, but the Secretariat needed a stable project in order to get funding and proceed with implementation. If a suggestion was raised in CDIP 4, that did not significantly impact on the resources implication provided, the Committee would accept it, and it would be taken on board.

619. The Delegation of Egypt thanked the Chair and said it had two or three short comments and then a question. The first comment was on paragraph 4, and it supported the proposal of the Delegation of Argentina which was acceptable to the rest of the membership that they stop at recommendations as suggested by Argentina. It believed that this would be a good compromise. The other issue related to the paragraph 9 and the dates, and it believed it had an important opportunity before CDIP 4 when the Assembly would discuss the CDIP's work. While Members might not reach a conclusion on that particular issue of coordination, monitoring and assessment, they could perhaps advance the discussion in the Assemblies on that issue. It believed that the suggestion coming from the Delegation of Nigeria on putting the date of June 30 would allow delegations and Member States time to consider the proposals before entering into the General Assembly, whereas if they maintained a deadline of July 30, bearing in mind that August was a very slow month, there would not be much time to digest and discuss the issue in the Assemblies. The Delegation thought that if they took that issue to CDIP 4 for a decision, they would have to wait until the General Assemblies of 2010. It thought that if they tried to deal with it in the current year's General Assembly, they should seize it in such a way that gave themselves time. The Delegation requested whether the Delegation of Argentina would be willing to accept that it was June 30 instead of July 30. The other issue concerned the Agenda Item on future work, and the Delegation thought it was relevant to consider the lessons learnt from CDIP 3, and how they wanted to proceed in CDIP 4, and wondered if there should be the introduction of an indication in the Chair's Summary as to how they would proceed. In the Delegation's point of view, it would be necessary to establish on the new Thematic Project that the Secretariat had proposed, that four titles of Thematic Projects had already been presented. It believed that in addition to whatever might still come from the Member States, or the proposals that came from the Secretariat, if there would be a consultative process. Before holding CDIP 4, it thought that it would be useful for the Chair to undertake informal consultations with delegations on proposed themes for projects. Perhaps this would help avoid the issues that they had to struggle with in the CDIP 3. The Delegation said that it strongly supported what had already been stated that six weeks prior to the meeting, all documents should be made available. This would not be difficult, as they would still have enough time to prepare, and hopefully with constructive consultations on an informal basis, would be able to reach that deadline. The Delegation asked the Chair if he would be willing to consider that element in the Summary as it pertained to future work, which it considered was an Agenda Item that had not been discussed.

620. The Chair stated that he was not sure that the lessons learnt from that session was something that a Chair should document in a Summary to guide future work. If the lessons

had really been learnt, all that needed to be done, would be to remember the lessons learnt. The key lessons learnt in the current session that had not been learnt beforehand, were captured in the top of the paragraph, in the three points. That had been the greatest challenge, shifting from the way they worked before to the new approach. In terms of opportunities to be met and in early 2008, before CDIP 1, in the first session, they had entertained and had quite a few inter-sessional meetings that were helpful. There had been one inter-sessional meeting between Session 1 and 2, but there were some delegations that resisted the idea of having inter-sessionals. As far as the Chair was concerned, unless the Committee proposed and agreed, and he agreed to dialogue with the delegations that had difficulties with inter-sessional meetings, to see if in the future they could get to a different position, but for now, that was the position it was at. Trying to get a proposal to the General Assembly in September 2009, on the coordination issue was impossible. The Chair said that the Committee had to agree on something to put forward to the General Assembly, and they had not agreed on anything other than to continue discussions, and how to continue those discussions.

621. The Delegation of Egypt agreed that the Chair's Summary was the Chair's document, so as such, it would not request him to include something that should not be included. Meanwhile, in the Delegation's intervention, it specifically did not use the word "inter-sessional" precisely because it knew that it would be difficult to arrive at a consensus. What it mentioned were "informals" and they had already held two sessions of informals one week prior to the current Committee Session, as the Chair had called for it. The delegations had engaged in the informals in a spirit of transparency, and it believed that if that exercise were to be replicated in advance of CDIP 4, but well in advance, rather than just one week before, and it was replicated while discussions were still on-going, rather than on a complete written proposal on the Thematic Project, it would be a constructive way forward, in the sense that there should be a minimum degree of agreement on some of the projects being presented. This, of course, was without prejudice to what Member States might propose, but it stated that if the Chair believed that it was not correct to reflect it in his Summary, it abided by his ruling, but believed that holding informal discussions in advance would assist in progressing CDIP 4, and that the CDIP 3 was the first initial attempt. Those considerations could be taken into account when planning CDIP 4. On the issue of how it might assist the General Assembly, the Delegation realized that it could be a far shot, but obviously Member States were free to propose whatever proposal they wanted in the General Assembly. The CDIP was not needed to suggest to Member States that it could bring any issue forward during the General Assembly. It believed that even if a minimum of consensus was achieved on some aspects of the proposals, then perhaps it would be achieving something before engaging in a discussion in CDIP 4, as was present in the document. Therefore, to give more time to consider the proposals, perhaps Argentina could be asked if it agrees with the change of date to be June 30, rather than July 30.

622. The Chair said he did not have a problem changing the date, but still did not know how that was going to help. The Delegation of Egypt made a key point that any Member State could raise the issue in the General Assembly, but he did not think there was anything that the Chair or the CDIP could do, at that stage, to make the laudable objective effective. The Chair wished to move on as Member States could do it, and he was sure they would hear the response from some members that this matter had been discussed, no agreement had been reached, and the CDIP had agreed to continue the discussion in the next session. The Chair admired the intervention from Egypt for its stated recognition, he did not imply that it had not been recognized before, the need for urgency and the matters under discussion. The meeting

that it proposed would be welcome at anytime. If they could find a frame for such a meeting that did not offend any Member State who has expressed discomfort with meetings between sessions. Regarding the two meetings prior to the current CDIP session, the Chair stated that there had been a new process established that needed some discussion and introduction beforehand, and it had made sense and had been accepted.

623. The Delegation of Egypt thanked the Chair for taking care of that matter and requested confirmation with the Delegation of Argentina, on whether it agreed with June 30, rather than July 30.

624. The Delegation of South Africa wished to echo its support briefly on one or two points. Firstly, the point raised on the proposal by Thailand. The Delegation thought it would be helpful to clarify a sentence, referring to a point that was raised on the inclusion of the word “decision” in paragraph 9 of the last line. It did not think that too much harm was caused by putting the word “decision”, indicating that a decision could be taken, not to make a decision. Finally, referring to point 2 of paragraph 8, the Delegation stated that it had noted that the Chair had said “activities”.

625. The Chair confirmed that he thought he did say “activities”, but Canada pointed out that “activities” would be the wrong word to reflect what was really meant. Guinea had also pointed out a problem with a word in French, which could be a similar situation. The Chair said he would be happy to use the subject matter if the identical activities that Canada had identified created a problem. Therefore, he would go back to the subject matter unless there was some opposition.

626. The Delegation of Nigeria referred to the issue of June 30, as Egypt had very cleverly brought to the floor and asked Argentina to agree. Anything after July 30, would not be possible as many diplomats would be on vacation after that date. Work would only start again in September or at the end of September. There was too much to foresee and a lot of the thematics. On paragraph 9, on the issue of discussions and decisions, even if a decision was put there, and a discussion was had without reaching agreement, there would not be a decision. On subject matter and activities, it did not know if they had reached the sentence preceding, which talked about each recommendation and activity. Then referring to the following sentence regarding subject matter the fact remained that the word “activity” was more in line.

627. The Delegation of Argentina referred to paragraph 8 and understood that after implementation would be 3(i) where it stated “implementation would be a structure ...project and other activities as appropriate” then Thailand included “with the understanding that an initial activity may be proposed in CDIP 4”, and asked for a change in the wording. Instead of “may”, would be “can” “additional activities can be proposed” and instead of “CDIP” would be “future meetings”. The issue was that they were “cross-cutting” issues. Therefore, some activities developed in other committees could also implement the recommendations. It would be more accurate to put “with the understanding that additional activities can be proposed in future meetings.”

628. The Chair said that he would have to go back to Nigeria on that question and asked what was the difference between “can be” and “may be”? There could be a legal technicality.

629. The Delegation of Argentina said that additional activities may not necessarily be proposed so it preferred “can” instead of “may”, and it did not want any reference made to the fourth session of the CDIP. If the Chair wanted to put a full-stop, proposed with the understanding that the additional activities could be proposed if agreed, but it did not want a mention to the fourth session of the CDIP.

630. The Chair indicated that somewhere in the document he would make the point that the Secretariat would need stable project documents in order to proceed. There was the flexibility that Member States could come in anytime and make adjustments, but he believed that once they agreed on that project, the project should be allowed to go ahead. If the result of that project did not meet all of the expectations that arose out of the relevant recommendation, new activities could be discussed as Brazil had mentioned. That project did not mean the end of the implementation of the recommendation. The previous year when they broadly agreed on activities, and the Secretariat came back with the human and financial resources, it was accepted that the project went ahead. The Chair stated that this year, there was debate over the opportunity and possibility of making changes and additions. The Chair did not deny that there was a possibility always open to Member States, however it would be included in the document that it was recognized that the Secretariat would need a stable project document in order to proceed. However, he wanted to put in context the fact that it did not stop members from making minor adjustments on the project, that it did not upset the process nor that they could not make major adjustments to new projects.

631. The Delegation of the United States of America said it had listened carefully to the interventions of those delegations who would insert the word “decision” in the last sentence of paragraph 9, and it understood the intent of those interventions. The Delegation expressed that it also came to each meeting of the CDIP with the hope and even the expectation, that there would be a coming together of minds that would allow the consensus recommendation to go forward, on a particular project or activity before the Committee. Indeed, it had just such hope and expectations with respect to a broad range of activities that it did not get an opportunity to discuss. It also agreed with the Chair’s very wise analysis that it could never be guaranteed that there would be a coming together of minds. Therefore, the United States of America could certainly not agree to agree. That said it believed the way forward might be to insert the word “possible” before “decision”.

632. The Delegation of Thailand stated that despite the statement that it had made three hours before regarding the delay of the meeting, it wished to support what Argentina had recently proposed, but only for the last part that either they took out “the fourth session of the CDIP” or put in “future meetings”. Regarding “can” or “may” it found no difference because they “could” anyway.

633. The Delegation of India wished to come back to the activities versus the subject matter issue and wanted to explain why it said “activities” as a replacement for the words “subject matter”. It captured what was discussed about the approach. “Subject matter” meant what you assumed was indicated by the title or the words of a recommendation. However, “activities” would mean the core of what it thought the subject matter should deliver in terms of activities for a particular project. Therefore, “activities” would mean interpretation of the subject matter by Member States and that was what was discussed and agreed upon, as one of the guiding principles for the Thematic Project. That was the subject matter of a recommendation which would be discussed, interpreted by the Member States, who would propose specific activities and then it would be converted into a project format and

implemented. The Delegation followed that logic, when it stated that grouping would be needed on the basis of the activities identified by the Member States, and not the subject matter in any particular recommendation. It was the member-driven aspect which was brought forth by using the word “activities”. The second point was to echo support for the suggestion made by the Delegation of Egypt, regarding future work. India understood that it may not be reflected in the Summary of the Chair, but the Delegation wished to say that having the documents six weeks in advance would help all delegations immensely, as they could process them better and come better prepared for the next meeting. An informal consultation as had been held before the current meeting, could be held at a more preparatory phase, with the idea of grouping them so that the process would be member-driven, speedy and smooth. The Delegation thought all three would be served by this approach.

634. The Chair confirmed that the idea of a preparatory meeting had been taken on board and stated that he would consult with the delegations that he knew had expressed difficulties with that type of meeting. On the subject matter “activities” some delegations had already mentioned that “activities” was the word used in Item 1, and he thought “activities” should be used in Item 2. Canada was asked if it strongly insisted on using “activities”, and wanted “subject matter”?

635. The Delegation of Canada said that it would not block a solution, but its impression was that the themes had been developed after looking at the recommendations and not the activities. So for the Delegation it would have been more accurate to reflect to subject matter, but again, it was the Chair’s Summary, so if he wanted to say “activities” it would agree with that.

636. The Chair said that if there was a problem, it was his own, and would put “activities”. When it came to deal with the issue, if “activities” presented a problem where subject matter would have been easier to deal with, the language could be altered. The language would be changed because the approach would be the same. The Chair stated he was sure that they all knew what was meant, and that he, like South Africa, recalled that he had said “activities”. The changes would be made and the document circulated again.

637. The Delegation of Serbia requested a clarification on paragraph 9, on the very last sentence, concerning discussion on that subject, and stated that if there was a discussion and a decision, it would also prefer the adjective “possible decision”.

638. The Chair said he was happy to go with “for possible decision” and hoped in November that a decision would be possible by compromising on the differences that were expressed. The Chair stated that that was the Chair’s Summary, which had taken much longer than expected.

Agenda Item 9: Future work

639. In terms of future work, in a broad way, the Chair repeated and requested Member States to give more time on the projects discussing the recommendations, and less time on reviewing reports that could always have to be reviewed in the future. That did not mean that he was discounting the importance of reports, but was advancing the preeminence of getting implementation started which ultimately it was up to the delegations. The Chair believed that they would have a report on projects 9 and 10, but would have the opportunity to discuss those two recommendations and the associated five projects. That was something that

would have to be done. Of course the discussion on the Thematic Projects would continue and the other suggestion would be that opening statements be completely eliminated, if for only one occasion. The Chair believed that opening statements, even though they had some political advantage, did not help with detail as they sought agreement on activities for recommendation, and projects that would go with them. The Chair did not think that opening statements added value to the process at that time. They were useful for the General Assembly and for the initial stages of the CDIP, but were currently into a technical environment to get the projects implemented. He also noted that most of the contributions to Item 7, "Issues", were made by Geneva-based delegates. For that reason, he supported the suggestion by the Delegation of Egypt, but was still constrained by the point that he had mentioned earlier, which was the general resistance to meetings between sessions. However, he would try and see if he could do some preliminary work on those themes, without coming to any conclusion, making any decision. It would all be preliminary work that would not impact on the process, and would have to undergo the formal sessions. The preliminary work would just assist in the general understanding and the Secretariat to understand what its members wanted out of particular recommendations, and they would have to, if the approach was accepted, find a way to bring the output of those informal discussions to the formal session for review and ratification. Any preliminary discussions to inform members and seek some broader understanding that would help with the work in the formal session would only be preliminary, informal, and not final or decisive. On that basis, the Chair would consult on the matter and hoped that future work was not as tedious as the work of that week. It was the first time that they had worked so late in any of the meetings, and the Chair did not want it to be an example to follow in the future. The Chair wanted the Secretariat to bear that in mind, that for religious reasons, meetings should not go passed 1.00p.m. on Fridays in the future.

Agenda Item 11: Closing of the session

640. The Delegation of India wished to place on record its appreciation and wished to thank all the delegations for their flexibility, especially the delegations of Canada, the United States of America and Germany, and it wished to thank the Chair for facilitating the meeting with so much expertise and competence.

641. The Chair thanked all the delegations.

642. The representative from IQsensato stated that its purpose was to inform international development policy-making by undertaking research, communicating research results and stimulating debate by providing access to the work and perspectives of developing country researchers and experts. It provided a platform for promoting the research and thinking of researchers and experts from developing countries in international policy debates and discussions such as the one that took place in that Committee. In that context, IQsensato was collaborating with the African Copyright and Access to Knowledge (ACA2K) Project; a project that was exploring, through empirical research at the country level, the relationship between national copyright environments and access to knowledge, particularly learning materials in the African countries. The prevailing phase of the project, supported by the International Development Research Centre (IDRC) of Canada, covered eight African countries, namely: Egypt, Ghana, Kenya, Morocco, Mozambique, Senegal, South Africa and Uganda. In essence, the ACA2K project sought to establish the extent to which copyright laws were fulfilling their objective of facilitating access to knowledge. He said that in a Briefing Paper, which was being made available to the Members and Observers at the CDIP and other stakeholders, it provided its preliminary findings that were relevant to the work in

that Committee. The final findings would be presented at IQsensato's Geneva Seminars on Development Research (GSDR), to be held at the World Meteorological Organization (WMO) headquarters, on May 20, 2009. On the basis of its preliminary findings, IQsensato sought to make brief comments, based on its findings, as follows. He pointed out that, in general, ACA2K research indicated that creative works were strongly protected by national copyright laws in all the African countries studied. At the same time, there was little awareness and implementation of copyright flexibilities that could facilitate access to knowledge. Indeed, the term "access to knowledge" had little salience within the corridors of copyright law-making and policy-making in most study countries. He mentioned that the connection between copyright law and knowledge production/consumption was, therefore, often ignored. While there were several aspects of national copyright law that were crucial to access to knowledge, the role of limitations and exceptions was particularly noteworthy towards that end. In that respect, he said ACA2K research indicated that in all eight ACA2K study countries, copyright limitations and exceptions were too narrowly and or vaguely defined to facilitate access in a balanced and effective manner. He informed that research findings indicated that across the board, there were several factors – not copyright law alone – that inhibited or restricted access to knowledge; those included unaffordability, unavailability and, in some cases, the lack of a reading culture. Research also indicated that in all study countries (with the exception of South Africa) the effects of copyright law on the ground – however restrictive the law might have been – were minimal, due to weak enforcement. He mentioned that in South Africa, the relative strength of the law, coupled with the prevalence of globally integrated higher education institutions, resulted in an atmosphere where copyright was treated more significantly. He further said that in the field of Internet and ICTs, the regulation of copyright in the digital environment bore a special responsibility – applied judiciously, it had the potential to further learning through ICTs, and applied over-zealously, it had the potential to restrict access to knowledge. Of particular concern, he emphasised, were anti-circumvention provisions, that were, clauses in the law that made it illegal to circumvent technological protection mechanisms – even while, for instance, a user was taking advantage of copyright limitations and exceptions, including fair dealing in a work. Yet, in ACA2K study countries such as Morocco, Egypt and Kenya, they found that:

(a) anti-circumvention provisions had been implemented in the law along with a recognition of technological protection measures (even though digital technologies were at a nascent, growing stage in those countries); and

(b) no provision had been made to allow circumvention when exercising fair dealing and other limitations and exceptions, thus jeopardising the whole set of copyright limitations and exceptions within their national copyright laws.

[Annex follows]

ANNEX

I. ÉTATS/STATES

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

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Director General, Intellectual Property Board, Kabul

AFRIQUE DU SUD/SOUTH AFRICA

Glaudine J. MTSHALI (Mrs.), Ambassador, Permanent Representative, Permanent Mission,
Geneva

Johan VAN WYK, Counsellor, Economic Development, Permanent Mission, Geneva

Jeannette SWANEPOEL (Ms.), Deputy Director, Economic Relations and Trade, Department
of Foreign Affairs, Pretoria

Silindele THABEDE, Assistant Director, Economic Relations and Trade, Department of
Foreign Affairs, Pretoria

Susanna CHUNG (Ms.), First Secretary, Permanent Mission, Geneva

Tshihumbudzo RAVHANDALALA (Ms.), Second Secretary, Permanent Mission, Geneva

ALBANIE/ALBANIA

Agim PASHOLLI, Minister Counsellor, Permanent Mission, Geneva

ALGÉRIE/ALGERIA

Idriss JAZAIRY, ambassadeur, représentant permanent, Mission permanente, Genève

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

Hayet MEHADJI (Mme), premier secrétaire, Mission permanente, Genève

ALLEMAGNE/GERMANY

Reinhard SCHWEPPE, Ambassador, Permanent Representative, Permanent Mission, Geneva

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

Udo FENCHEL, Counsellor, Permanent Mission, Geneva

ANGOLA

Makiese KINKELA AUGUSTO, First Secretary, Permanent Mission, Geneva

ARABIE SAOUDITE/SAUDI ARABIA

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Ali BAHITHAM, First Secretary, Permanent Mission, Geneva

ARGENTINE/ARGENTINA

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

AUSTRALIE/AUSTRALIA

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

Trudy WITBREUK (Ms.), Minister Counsellor, Deputy Permanent Representative, Permanent Mission, Geneva

Katherine WILLCOX (Ms.), Third Secretary, Permanent Mission, Geneva

AUTRICHE/AUSTRIA

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

Georg ZEHETNER, First Secretary, Permanent Mission, Geneva

AZERBAÏDJAN/AZERBAIJAN

Gulnara RUSTAMOVA (Mrs.), Head, Patent Department, State Agency on Standardization, Metrology and Patents, Baku

BAHREÏN/BAHRAIN

Ammar RAJAB, Third Secretary, Permanent Mission, Geneva

BARBADE/BARBADOS

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

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BELGIQUE/BELGIUM

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BOLIVIE (ÉTAT PLURINATIONAL DE)/BOLIVIA (PLURINATIONAL STATE OF)

Luis Fernando ROSALES LOZADA, Primer Secretario, Misión Permanente, Ginebra

BOSNIE-HERZÉGOVINE/BOSNIA AND HERZEGOVINA

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Jovan SARAC, Deputy Director, Institute for Intellectual Property, Sarajevo

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BOTSWANA

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BURUNDI

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CAMBODGE/CAMBODIA

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CAMEROUN/CAMEROON

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DUAN Yuping (Mrs.), Director, Copyright Division, National Copyright Administration of China (NCAC), Beijing

LIU He Zhen (Mrs.), Deputy Director, Trademark Examination, State Administration for Industry and Commerce, Beijing

CHYPRE/CYPRUS

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JORDANIE/JORDAN

Bashar ABU TALEB, First Secretary, Permanent Mission, Geneva

Mohammed HINDAWI, Second Secretary, Permanent Mission, Geneva

Ghailan QUDAH, Third Secretary, Permanent Mission, Geneva

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KOWEÏT/KUWAIT

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LETTONIE/LATVIA

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LIBAN/LEBANON

Hani CHAAR, Adviser, Permanent Mission, Geneva

LITUANIE/LITHUANIA

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CONFÉRENCE DES NATIONS UNIES SUR LE COMMERCE ET LE
DÉVELOPPEMENT (CNUCED)/UNITED NATIONS CONFERENCE ON TRADE AND
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ORGANISATION DES NATIONS UNIES POUR L'ALIMENTATION ET
L'AGRICULTURE (FAO)/FOOD AND AGRICULTURE ORGANIZATION OF THE
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ORGANISATION MONDIALE DE LA SANTÉ (OMS)/WORLD HEALTH
ORGANIZATION (WHO)

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COMMISSION DES COMMUNAUTÉS EUROPÉENNES (CCE)/COMMISSION OF THE
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ORGANISATION DE LA CONFÉRENCE ISLAMIQUE (OCI)/ORGANIZATION OF THE
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Association internationale pour la protection de la propriété intellectuelle (AIPPI)/International Association for the Protection of Intellectual Property (AIPPI)

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