

Committee on Development and Intellectual Property (CDIP)

Thirteenth Session
Geneva, May 19 to 23, 2014

REPORT

adopted by the Committee

1. The thirteenth session of the CDIP was held from May 19 to 23, 2014.
2. The following States were represented: Algeria, Andorra, Angola, Argentina, Australia, Austria, Bahamas, Bangladesh, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Chile, China, Colombia, Costa Rica, Côte d'Ivoire, Czech Republic, Democratic People's Republic of Korea, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, France, Georgia, Germany, Ghana, Greece, Guatemala, Guinea, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Japan, Jordan, Kazakhstan, Kenya, Latvia, Luxembourg, Madagascar, Malaysia, Malta, Mexico, Monaco, Morocco, Mozambique, Myanmar, Netherlands, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Slovakia, South Africa, Spain, Sri Lanka, Sudan, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe (91).
3. The following intergovernmental organizations (IGOs) took part as observers: African Regional Intellectual Property Organization (ARIPO), African Union (AU), Eurasian Patent Organization (EAPO), European Union (EU), Organisation Internationale de la Francophonie (OIF), World Trade Organization (WTO), Central American Economic Integration Secretariat (SIECA) and Organisation of Islamic Cooperation (OIC) (8).
4. Representatives of the following non-governmental organizations (NGOs) took part as observers: Civil Society Coalition (CSC), Communia, *Conseil national pour la promotion de la musique traditionnelle du Congo* (CNPMTTC), International Centre for Trade and Sustainable Development (ICTSD), International Chamber of Commerce (ICC), International Federation of

Film Producers Associations (FIAPF), International Society for the Development of Intellectual Property (ADALPI), Knowledge Ecology International, Inc. (KEI) and Organization for an International Geographical Indications Network (ORIGIN) (9).

5. Ambassador Mohamed Siad Doualeh, Permanent Representative of Djibouti, chaired the session.

AGENDA ITEM 1: OPENING OF THE SESSION

6. The Director General welcomed delegations to the 13th session of the Committee on Development and Intellectual Property (CDIP). He noted that the agenda was quite heavy, with a significant number of important items to be discussed and agreed upon. First, the finalization of the Terms of Reference (TOR) for the Independent Review of the Implementation of the Development Agenda (DA) Recommendations. The review could only take place after the TOR were established. Second, the WIPO General Assembly (GA) decision on CDIP-related matters. Last year, the GA requested the CDIP to discuss and to report back on two issues, namely, the implementation of the Coordination Mechanisms and the implementation of the CDIP mandate. This could only be referred back to the GA when the CDIP reached agreement on a recommendation that could form the basis of a decision by the GA. Third, the International Conference on Intellectual Property (IP) and Development. The conference was postponed and could not be held last year due to a lack of agreement on the list of speakers. The Director General urged the Committee to finalize the list. Fourth, the continuation of the discussion on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. Fifth, a discussion on patent-related flexibilities in the multilateral legal framework. The Secretariat had undertaken a number of activities in this area. These would be discussed by the Committee. In addition to those five items, there were also five evaluation reports for completed DA projects and eight studies that had been presented to the Committee. Thus, the agenda was rather large, and required efficiency. The Director General urged delegations to focus on achieving results. Recently, successful results were not achieved in a few meetings due to disagreement. These included certain items in the Standing Committee on Copyright and Related Rights (SCCR); the convening of a diplomatic conference for the Design Law Treaty; and much of the work that was done last week in the Committee on WIPO Standards (CWS). The Director General appealed to delegations to look for ways to break the cycle of disagreement. He urged the Committee to achieve agreement on difficult items. Many of the items earlier were not significant in terms of what was happening in the world. These included the TOR for the Independent Review of the Implementation of the DA Recommendations and the list of speakers for the International Conference on IP and Development. These were not items where there should be disagreement. Thus, he urged the Committee to focus on reaching an agreement during the session and stressed that compromises would be required in that regard. The Director General then turned to Agenda Item 2 on the Election of Officers.

AGENDA ITEM 2: ELECTION OF OFFICERS

7. The Delegation of Kenya, speaking on behalf of the African Group, nominated Ambassador Mohamed Siad Doualeh, Permanent Representative of Djibouti, for re-election as Chair.

8. The Delegation of Uruguay, speaking on behalf of GRULAC, supported the nomination.

9. The Director General declared the re-election of Ambassador Mohamed Siad Doualeh as Chair, given that there were no objections from the floor. He invited Ambassador Doualeh to chair the session.

10. The Chair stated that consensus building was the key consideration. Since 2007, the CDIP had worked diligently on the implementation of the 45 DA Recommendations. The collective efforts had produced significant and concrete results. However, more work was required in certain areas. There was an increasing backlog of issues due to the lack of time in previous sessions. Therefore, he sought the cooperation of all delegations to engage constructively and to take decisions on matters that would pave the way for further consideration within WIPO's inter-governmental processes. The session would address the important issue of developing the TOR for the Independent Review of the Implementation of the DA Recommendations. The Chair intended to devote sufficient time to finalize this matter, as decided by the Committee at its 12th session. Other important matters included the International Conference on IP and Development, the GA decision on CDIP-related matters, the external review of WIPO's technical assistance, and patent-related flexibilities in the multilateral legal framework. He urged delegations to extend their efforts and goodwill to reach agreement on those issues. The Committee must break the cycle of disagreement, as highlighted by the Director General. The schedule of work for the session was available on the documentation desk. The Chair hoped delegations would agree to his proposed distribution of work. The manual on the delivery of WIPO technical assistance presented at the 12th session (document CDIP/12/7) had been published as a booklet following the request by Member States. It was available on the documentation desk. The process for the preparation of the Summary by the Chair would remain the same. The Secretariat would circulate a decision paragraph after the discussion on a document had concluded. The Summary would be a compilation of those paragraphs only. It would be brief and to the point. New elements should not be introduced unless they were of critical importance. The Chair wished the Committee a successful and productive session. He then turned to Agenda Item 3 on the adoption of the Agenda.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

11. The Delegation of Kenya, speaking on behalf of the African Group, requested for some items to be moved up the agenda. The TOR for the Independent Review of the Implementation of the DA Recommendations, the International Conference on IP and Development, the External Review of WIPO Technical Assistance in the Area of Cooperation for Development and the WIPO GA decision on CDIP-related matters could be discussed after the Director General's report. Other items such as evaluation reports and studies could be dealt with at a later stage.

12. The Chair enquired as to whether the draft agenda could be adopted. The Committee could return to the comments made by the Delegation of Kenya when the schedule of work was discussed.

13. The Delegation of Kenya, speaking on behalf of the African Group, could adopt the agenda with the understanding that it would like some items to be moved up so they could be discussed first.

14. The Delegation of Japan, speaking on behalf of Group B, shared the opinion that the TOR for the Independent Review of the Implementation of the DA Recommendations was a very important issue to be tackled by the Committee and should be dealt with at an early stage in the meeting. The Group drew attention to the decision taken by the GA at its 39th session. The decision stated that the CDIP, in accordance with its mandate, had the responsibility to monitor, assess, discuss and report on the implementation of all recommendations adopted. The decision also clearly indicated that this should be the first substantive item on the Committee's agenda.

15. The Chair proposed that the agenda be adopted. The Committee would discuss the

distribution of work at a later stage. It was adopted, given that there were no objections from the floor. As the Director General had other commitments, the Chair invited him to introduce his report on the implementation of the DA (document CDIP/13/2).

AGENDA ITEM 6: MONITOR, ASSESS, DISCUSS, REPORT ON THE IMPLEMENTATION OF ALL DA RECOMMENDATIONS

Consideration of document CDIP/13/2 - Director General's Report on Implementation of the Development Agenda

16. The Director General introduced his report. It sought to provide an overview of how the DA Recommendations were implemented by the Organization in the course of the last 12 months. He referred to five areas in this regard. First, the DA projects were an area where the Committee, Organization and Secretariat had been quite successful. By the end of 2013, the Member States had approved 28 projects. The estimated financial resources approved to date for the implementation of these projects amounted to 26,536,000 Swiss francs. 14 projects were completed and evaluated by the Committee. These resulted in three phase II projects. Overall, the projects contributed to strengthening local capacity building, additional learning resources and training workshops, including through the start-up national IP academies. The Access to Research for Development and Innovation (ARDI) program, the Access to Specialized Patent Information (ASPI) program and patent landscape reports also contributed to improving access to valuable information and data generated by the IP system. They showed how much valuable economic intelligence was actually developed as a byproduct of the IP system. The projects also contributed to a much better understanding of the relationship between IP and socio-economic development. Some of the studies done by the Office of the Chief Economist were very interesting in this regard. Prior to embarking on those studies, the Director General had been slightly skeptical about whether useful information could come out of some of them, such as studies on brain drain or the informal economy. However, he had been proven wrong as very interesting information had been generated. Second, with respect to the area of technical and legislative assistance to Member States, the focus was on developing national IP strategies in countries that wished to do so; assisting in the modernization of IP offices at the national level in the area of IT; implementing measures such as the IP Technical Assistance Database (IP-TAD) and the IP Roster of Consultants (ROC) to increase transparency in the implementation of technical assistance by the Secretariat; and seeking to provide technical and policy advice to Member States upon request, including on the implementation of the recently adopted Beijing Treaty and Marrakesh Treaty. Third, with respect to flexibilities in the IP system, a number of activities were carried out in the last 12 months. These included a regional seminar held in South Africa in January 2013 and a case study on the importance of patent-related flexibilities for developing countries and LDCs which was presented at the Inter-Regional Meeting on South-South Cooperation held in Egypt in May 2013. As requested by the Member States, a factual document on the legislative implementation of flexibilities with respect to the patentability of plants and software-related inventions at the national level was submitted to the Committee. Fourth, with regard to WIPO's cooperation with other UN and inter-governmental organizations, the Member States had indicated that they would like to closely follow the Secretariat's activities in this area. Last year, WIPO contributed to various multilateral processes, in particular those related to the post-2015 development framework, the Open Working Group on Sustainable Development Goals and the Rio+20 Conference. It also pursued close cooperation with the World Trade Organization (WTO) and the World Health Organization (WHO), particularly with respect to the intersection of innovation, health, and trade from the Organization's perspective. That led *inter alia* to the trilateral study on promoting access to medical technologies and innovation which was very well received. The Organization also actively engaged with ECOSOC in the substantive session held in the summer of 2013 in Geneva. The WIPO Global Innovation Index for 2013 was launched with the UN Secretary General, Mr. Ban Ki Moon in the opening plenary session of

ECOSOC last summer. Lastly, the Director General referred to the general area of efficiency, competence and integrity in the Secretariat. As a consequence of the Strategic Realignment Program (SRP), a comprehensive ethics system had been mainstreamed into the Organization's activities. In concluding, the Director General stated that there had been good progress on the whole and looked forward to its continuation in the course of the ensuing 12 months.

17. The Chair informed delegations that they would be allowed to comment on the report later in the session. He then turned to Agenda Item 4 on the Adoption of the Draft Report of the Twelfth session of the CDIP (document CDIP/12/12 Prov.)

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE TWELFTH SESSION OF THE CDIP

Consideration of document CDIP/12/12 Prov. – Draft Report

18. The Chair declared that the report was adopted, given that there were no contributions from the floor. He then invited the Committee to consider the distribution of work, taking into account that the evaluators who had been asked to speak on the evaluation reports would only be available until the next morning.

19. The Delegation of Kenya, speaking on behalf of the African Group, reiterated that certain critical issues should be moved up the agenda. In this regard, the Group would like the TOR for the Independent Review to be discussed earlier on in the session to allow for time to agree on the matter. The Independent Review was supposed to commence at the end of the last biennium. It could not begin due to disagreement on the TOR. It was late going by the language of the mandate given by the GA in 2010. Adequate time would be required to discuss outstanding elements in order for the TOR to be adopted to allow the review to commence without any further delay. Therefore, the Group would like this issue to be dealt with at the beginning of the session.

20. The Chair enquired as to whether there were any objections to the proposal by the Delegation of Kenya, taking into account the contribution by the Delegation of Japan.

21. The Delegation of Japan, speaking on behalf of Group B, shared the view that it was important to finalize the TOR. The Group appreciated the Chair's recognition of the issue it had raised earlier. It was important to also consider the availability of the project evaluators. If the agenda item on the evaluation reports was rescheduled, extra costs may be incurred. Such costs should be avoided. Thus, the Group requested the Secretariat to allocate time for the agenda item, taking into account the availability of the evaluators.

22. The Chair informed the Committee that he had consulted with the Secretariat. It was of the view that if delegations made short general statements and briefly considered the Director General's report, the Committee could start discussing the TOR on that day and the presence of the evaluators would be secured as planned. This was agreed, given that there were no objections from the floor.

AGENDA ITEM 5: GENERAL STATEMENTS

23. The Delegation of Bangladesh, speaking on behalf of the Asia-Pacific Group, noted that there were some extremely important issues on the agenda as in the case of previous sessions. They were important for the Member States and the Organization. The Director General's report on the implementation of the DA was one of them. The report sought to provide an

outline of WIPO's implementation of the DA Recommendations in its programs and activities. The Group appreciated the presentation of factual developments that had taken place in different WIPO bodies and the emphasis on the continuation of efforts to mainstream DA Recommendations in different programs, as approved by the PBC. In this connection, the Group also recognized the important contributions of the Director General and the WIPO administration towards the ongoing process and hoped that their efforts would be further complemented by the Independent Review. The programs and activities through which the DA Recommendations were being implemented were important. However, engagement by Member States was also important. The Group expected the TOR for the Independent Review to be decided on as soon as possible with sufficient time allocated to consult on this issue. The evaluation reports for projects approved by the CDIP for the implementation of DA Recommendations were extremely important for future endeavors with regard to the implementation of the DA as a whole and the use of IP for the benefit of developing countries and LDCs in particular. The new projects and second phases of successfully completed projects would help to implement the DA Recommendations. Its members would make interventions during the discussions on the projects and agenda items. The Coordination Mechanism was unanimously agreed upon by all Member States to enhance better and effective coordination among the different WIPO Committees in the field of development activities. In this context, the Group reiterated that matters had not yet been settled with respect to the PBC and the CWS which were very important committees for the realization of DA goals. The Group hoped that Member States would reach consensus on this long outstanding issue. Technical assistance was provided to countries to support them to achieve socio-economic development. Thus, the provision of WIPO's technical assistance should be development-oriented at the optimum level. In this regard, there was room for further improvement. The Group would like technical assistance to be demand driven and transparent. It should not focus heavily on enforcement. The Group hoped that the discussion on the external review of WIPO's technical assistance would bring uniformity, better organization and clarity to existing processes and practices. The era of the MDGs was ending. Member States were entering the process for the post-2015 UN Sustainable Development Goals and the post-2015 WIPO DA. The Group believed that the IP system was a tool that would enable people of all countries to add value to their productive, innovative, creative and marketing processes. In this context, its members would remain positively engaged in all future negotiations. The Group assured the Chair of its support. It hoped that the Committee would be able to break the cycle of disagreement during the session, as highlighted by the Director General.

24. The Delegation of Kenya, speaking on behalf of the African Group, noted that the adoption of the 45 DA Recommendations in 2007 marked a big milestone in the journey to make the IP system work for innovators as well as the public, with development at the center and as a guide for WIPO's work and activities. In this regard, the GA in 2010 decided to establish a coordination mechanism to guide the implementation of the DA Recommendations and in particular, instructed the relevant WIPO bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective DA Recommendations. Therefore, the Group was deeply concerned by the attempts of some Member States to redefine the mandate of the DA and to hamper its mainstreaming into WIPO's work and all its activities. The activities of the CWS fell under Program 12 of the Program and Budget for the 2014/2015 biennium. The Group noted that the CWS contributed to the implementation of DA Recommendations. The narrative for Program 12 referred, in particular, to Recommendations 30 and 31. Furthermore, it was clearly stated in the Program and Budget for 2014/2015 that the DA Recommendations continued to guide WIPO's development activities and that the linkages to the DA Recommendations continued to be substantially reflected in each program's narrative. The development share of the budget for each program was also indicated. The Group could not ascertain the source of the misunderstanding which had arisen with regard to the implementation of the DA in all of WIPO's work and activities, and the seeming attempts to exempt some Committees from the decision by the GA. The Group also noted with concern, the reference in the Director General's report to the Committee that the

future of the DA was in the hands of the Member States and the Secretariat would continue to facilitate a constructive dialogue on the ways in which IP contributed to socio-economic development. It did not understand the full purport of that assertion. The Secretariat was entrusted with the implementation of the DA Recommendations adopted by the GA in 2007. The Group turned to the agenda and recalled that the 2010 GA decision on the Coordination Mechanism requested the Committee to undertake an independent review of the implementation of the DA Recommendations at the end of the 2012/2013 biennium. The review was critical as it would provide the Committee with information on whether the Member States and Organization were on the right track in terms of the implementation of the DA Recommendations and on ways to strengthen implementation. The Review was even more critical given the increasing differences in the understanding and interpretation of what implementation should entail and the expected outcomes. Therefore, the Group welcomed the decision to bring forward the discussion on the TOR. It hoped that the TOR would be adopted during the session to enable the review to commence without further delay. The Group also noted that there were other important issues which needed to be agreed, including those related to the external review of WIPO's technical assistance and the joint proposal by the African Group and DAG on this matter. It hoped that these issues could also be moved up the agenda to allow sufficient time for their consideration. The Group would engage constructively in the discussions during the session.

25. The Delegation of the Czech Republic, speaking on behalf of the Central European and Baltic States (CEBS), stated that the Committee was the appropriate forum for Member States to share their expertise in the cross-cutting field of IP and development. The Group carefully observed the review process for the implementation of the DA. It included activities such as establishing the TOR for the Independent Review of the Implementation of the DA Recommendations and the continuing discussion on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. The outcomes of the reviews should enable delegations to obtain clear evidence on the benefits, effectiveness, quality and sustainability of the respective development projects and strategic proposals related to the future DA framework as such. It was ready to discuss other important topics and elements, in particular, the Director General's Report on Implementation of the DA, Patent-Related Flexibilities in the Multilateral Legal Framework, the Revised Proposal on Possible New WIPO Activities Related to Using Copyright to Promote Access to Information and Creative Content and the project proposal on IP and Tourism: Supporting Development Objectives and Cultural Heritage. It was particularly looking forward to discuss the proposal on IP and tourism which was put forward by the Delegation of Egypt in the last session. It also paid attention to other matters on the agenda for the session and supported the continuation of the CDIP's work concerning those matters on an *ad hoc* basis. The Group reiterated that the discussions on the modalities of the Coordination Mechanism for the DA needed to be concluded in order to secure the continuation of the substantive work of the Committee in those areas. It was ready to participate in the work of the Committee in the spirit of mutual cooperation, responsibility and maximum effectiveness.

26. The Delegation of China stated that considerable work was undertaken by WIPO to integrate and mainstream the DA recommendations into its activities, including the implementation of 29 DA projects and the adoption of the Beijing and Marrakesh Treaties. The Delegation appreciated the important contribution of the Director General and his team to the implementation of the DA. In 2013, China again participated in the implementation of the DA Recommendations. This included participation in the Project on IP and Socio-Economic Development. It undertook research with respect to the Study on Patent's Role in Business Strategies: Research on Chinese Companies' Patenting Motives, Patent Implementation and Patent Industrialization. It also participated in the Experts' Meeting on IP and Socio-Economic Development. The Committee had a lot to do. The Delegation hoped that all parties would demonstrate flexibility, open-mindedness and cooperation during the discussions. It was prepared to discuss issues with other Member States under the guidance of the Chair in order

for the session to be successful.

27. The Delegation of Japan, speaking on behalf of Group B, noted that the draft agenda included many items and was clearly overburdened. The Group greatly appreciated the Chair's work program and stood ready to follow it. The Group urged all Member States to demonstrate efficiency and discipline in order to deal successfully with as many issues as possible, as proposed by the Secretariat at the information session preceding the present CDIP session. The Committee had to finish work at 6pm each day, including on the last day of the session. Unresolved issues should be brought to the next session, keeping in mind the necessity to appropriately prioritize work and to consider the number of issues to be dealt with at each session. WIPO's development work should be balanced in the context of WIPO as a whole. Leaving aside detailed comments on each agenda item and reserving the right to elaborate at a later stage, the Group referred to some issues. With regard to the TOR for the Independent Review of the Implementation of the DA Recommendations, the Group recognized the necessity to finalize drafting work at this session. It was committed to engage in that work with cooperative and constructive spirits to achieve the goal mandated by the GA. The Group welcomed the Director General's report on the implementation of the DA which clearly indicated that relevant WIPO activities, including technical assistance, had been successfully implemented in the relevant WIPO bodies. It recognized the importance, long history and complexity of the WIPO GA decision on CDIP-related matters and the International Conference on IP and Development. The Group was ready to engage in those discussions in a constructive spirit and hoped the Committee would be able to achieve some progress within the allocated time. It welcomed the topics to be discussed at the meeting, including the project evaluation reports, studies and new proposals. The Group assured the Chair that he could count on the constructive spirit and support of its delegations during the session.

28. The Delegation of Uruguay, speaking on behalf of GRULAC, stated that the Independent Review of the Implementation of the DA Recommendations was an important exercise to evaluate WIPO's work and to identify what could be improved. The discussion on the TOR for the review was crucial. The draft document submitted by the former Vice-Chair to the Member States a few weeks ago provided a sound basis to continue the discussions. The Group hoped the International Conference on IP and Development would take place in the foreseeable future. The first three measures taken with respect to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development (CDIP/8/INF/1) were in the right direction. It hoped the process would continue with the adoption of measures in other areas outlined in the review. The implementation of projects should take place in a comprehensive and inclusive manner for the benefit of all Member States. A project should be effective in order to optimize resources and efforts. The Group assured the Chair of its unflinching commitment and continued support.

29. The Delegation of Sri Lanka stated that its statement would be delivered on behalf of the Group of 15 (G15), a summit level group of developing countries comprising 17 Member States. The G15 was established in 1989 with the aim to *inter alia* tap into the enormous potential of South-South and North-South dialogue with a view to foster and to promote sustainable development with shared common goals and leveraged capacities. In a changing world where the knowledge economy had become a vital component in the international economy, IP was a key factor for growth and development. In this context, WIPO was a significant hub of the global economic system. For developing countries, this factor would be of great relevance if IP contributed to the promotion of progress and the socio-economic development of all. Indeed, IP could be a key factor in fostering economic development by encouraging innovation and facilitating access to knowledge and technology. WIPO could play a greater role in promoting the understanding and adoption of IP policies and laws in Member States, respecting their different levels of development as well as enhancing the flexibility of public policies in areas of IP. The adoption of the DA was an important step in terms of achieving the aspirations of developing countries for an international IP system that responded to their needs. The DA

recognized the need for WIPO to revise and reorient its work to ensure that the IP system was more inclusive and development-oriented. The CDIP played an important role in coordinating, promoting, and monitoring the implementation of the DA. The Committee helped maintain high level discussions on the 45 Recommendations adopted by the GA in 2007. WIPO activities should be supportive of the new development goals agreed within the UN system. Accordingly, WIPO should be required to play a proactive role to support national, scientific, and technological capability, foster access to knowledge and explore all possible mechanisms for innovation to effectively promote development. Furthermore, WIPO should maintain a member-driven process. It welcomed the Director General's Report on Implementation of the DA. The implementation of the DA was critical and ongoing. Work had yet to be done at WIPO to bring about needed change to the Organization, mostly to effectively achieve results on the implementation of the 45 Recommendations. It was agreed that completing a DA project did not mean exhausting the implementation of the relevant DA Recommendations. In this context, the key Recommendations would be to uphold a holistic approach to development and IP; identify concrete and specific actions necessary to implement the agreed DA Recommendations in letter and spirit; and develop and support the holistic approach to development and IP through coherent national policies. The Delegation remained convinced that WIPO should continue to pursue balanced development-oriented activities. It was committed to work closely with Member States and the Secretariat to achieve that aim. It wished the Committee every success in its work.

30. The Delegation of Egypt, speaking on behalf of the Development Agenda Group (DAG) welcomed the adoption of the agenda. The Group took note of the Director General's Report on Implementation of the DA, its contents and the way in which it was drafted. It reinforced the case for undertaking the Independent Review of the Implementation of the DA Recommendations in order to determine whether the Member States and Organization were moving in the right direction and were on the right track. The review and its recommendations would contribute to a comprehensive overall assessment of how far the DA Recommendations in their entirety were being taken up in all aspects of WIPO's work and activities. It was reassuring to listen to the statements by various groups. They indicated a will to finalize the TOR with a view to start work on the review as soon as possible. There was also a need to consolidate and further empower the Coordination Mechanism to oversee the mainstreaming of the DA into all of WIPO's work and the activities related thereto. The Group would make further detailed comments on other agenda items when they come up.

31. The Delegation of Greece, speaking on behalf of the European Union (EU) and its Member States, stated that it was clear the Committee had a sizeable agenda which would require intensive work, cooperation and flexibility to ensure that everything was completed within the time constraints. Accordingly, they called on the Chair to ensure that work was completed within the planned timeframe. The EU and its Member States were firmly committed to continue working in a positive and cooperative manner. With regard to future work, they stood ready to constructively discuss possible ways to improve the work of the Committee for the benefit of all delegations.

32. The Delegation of Indonesia associated itself with the statements made by the delegations of Egypt and Bangladesh on behalf of DAG and the Asia-Pacific Group respectively. The Delegation took note of progress in the implementation of the DA Recommendations, as reflected in the Director General's Report on Implementation of the DA. It would like the Director General to lay down his vision for more effective implementation and mainstreaming of the DA. WIPO was not merely an IP-oriented organization. It should also be a development-oriented IP organization. WIPO had undertaken a number of activities to support IP development in Indonesia. Technical assistance, legislative support and cooperation in the form of training, seminars, meetings and conferences were organized and conducted by WIPO on a regular basis. WIPO's assistance to Indonesia with respect to the Industrial Property Automation System (IPAS) helped to achieve a more effective and efficient IP administrative

system and to provide a better service for IPR registration. It hoped that cooperation between WIPO and Indonesia could be further enhanced in future. Many programs on law enforcement and IP awareness had been implemented in Indonesia. It was committed to protect IPR as well as to prevent and tackle IPR infringement. The Delegation supported the role of the CDIP in norm-setting processes, including the work of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC) in the formulation of a *sui generis* legal system to effectively protect genetic resources, traditional knowledge and folklore. The Delegation stressed that it was important to put development at the center of the negotiations to ensure a meaningful outcome. It urged the Committee to expedite the finalization of the TOR for the Independent Review of the Implementation of the DA Recommendations. It hoped that the review could provide some recommendations to fully implement all the DA Recommendations. The review should be aimed at mainstreaming the DA into all of WIPO's work.

33. The Delegation of Pakistan aligned itself with the statements made by the Asia-Pacific Group and DAG. IP and development was not an isolated activity. It was an integral part of the international IP system. Therefore, it was also an integral part of all facets of WIPO's work. A fair and equitable IP system that was fully cognizant of the need to balance public interest and private rights was required. It should focus not only on enforcement, but also respect IP flexibilities such as the exceptions and limitations to copyright, and provide adequate safeguards against the misappropriation of the traditional assets of developing countries. This required effective implementation and mainstreaming of the DA. Therefore, the finalization of the TOR for an objective, robust, and thorough Independent Review of the Implementation of the DA Recommendations should be expedited. The Delegation hoped that Member States could reach agreement on the joint proposal by DAG and the African Group in this regard. On the International Conference on IP and Development, the Delegation stated that it was important to exchange ideas and to develop consensus on debatable IP issues. In order to be productive, the choice of themes, speakers and panelists should reflect pertinent issues in IP, especially challenges facing developing countries and LDCs. A balanced approach was needed. The themes should highlight not only the positive aspects of IP for development but also the impediments to development objectives that emanated from the IP system and how they could be removed. Further, as a developing country, technical assistance was of great importance to Pakistan. WIPO's technical assistance needed to be development-oriented and responsive to the priorities and needs of developing countries in order for it to be effective. Therefore, the Delegation attached great importance to the external review. It was a useful tool to evaluate the effectiveness, impact, efficiency and relevance of WIPO's technical assistance activities. The Delegation hoped there would be focused discussions on this topic based on the joint proposal by DAG and the African Group during the session. It looked forward to productive discussions and a fruitful session.

34. The Delegation of the Republic of Korea recognized that the CDIP had made good progress in implementing the DA Recommendations in the last few years. The Delegation made some comments in this regard. First, sustainable development in the beneficiary countries should be promoted by maximizing the impact of DA projects through follow-up measures. The Committee was established for the implementation of the DA. Strong partnership between the Secretariat and Member States could contribute to achieving WIPO's goals on cooperation for development. Second, IP had become an economic growth engine in the modern age. Therefore, the Delegation understood the importance of implementing projects that relied on IP information to promote sustainable and balanced growth among developed and developing countries. It was also essential to increase public awareness of IP strategies in order to carry out these projects successfully. The implementation of a DA Recommendation did not end when a specific project was completed. Follow-up measures must be taken to ensure sustainable future growth. Third, with regard to the discussion on WIPO's activities in the area of cooperation for development, a balanced and constructive approach was required to maximize the outcomes. The quality of WIPO's activities should be further enhanced for the

benefit of its Member States. Therefore, WIPO and its Member States should engage on the implementation of best practices and lessons learned with regard to all existing IP assistance activities. Finally, the Delegation highlighted that development was beneficial to all. It served to improve the economic structure of the country and the socio-economic conditions of its population. Case studies such as those on the informal metal working sector in Kenya, traditional herbal medicine in Ghana, and the informal manufacturers of home and personal care products in South Africa spoke volumes in this regard. The Delegation recognized the important nexus between IP and development. It would continue to make constructive statements on individual issues during the session.

35. The Delegation of Thailand associated itself with the statements made by the delegations of Bangladesh and Egypt on behalf of the Asia-Pacific Group and DAG respectively. The Delegation reaffirmed its support for the implementation of the DA Recommendations. In that regard, the Delegation fully appreciated the proposals made in the progress reports presented in the last CDIP session. It also appreciated the evaluation reports to be presented during the session. It especially welcomed the success of the project on IP and Product Branding for Business Development in Developing Countries and LDCs which concluded in 2013. Thailand was one of the three pilot countries and stood ready to share its experiences with other countries. The Delegation referred to the Independent Review of the Implementation of the DA Recommendations and stated that it was crucial. It hoped that the right experts would be selected, especially those in the field of economic development. It was essential that appropriate experts were selected with the necessary expertise, knowledge and understanding of developing countries and LDCs. It expected these important requirements to be reflected in the TOR. However, it was open as to whether or not there should be a balance in the experts selected from developing and developed countries. Finally, the Delegation reiterated its support and commitment to work in a constructive manner to ensure that significant progress was achieved by the Committee.

36. The Delegation of Malaysia associated itself with the statements made by the delegations of Bangladesh and Egypt on behalf of the Asia-Pacific Group and DAG respectively. It also associated itself with the statement made by the Delegation of Sri Lanka on behalf of the G15. Malaysia subscribed to the view that IP should not be viewed as an end in itself, but rather as a means to serve and contribute to the larger objectives of development. In this regard, the CDIP provided a necessary forum for discussion while performing the very important role to ensure that the DA was mainstreamed across WIPO's work through its coordinating, monitoring, assessing and reporting mechanisms and modalities. The Delegation stressed on the need for WIPO to continue ensuring the effective implementation of the DA Recommendations. It commended WIPO on the implementation of the various projects approved by the CDIP. There should be a proper and objective evaluation of the implemented projects *vis-à-vis* the DA Recommendations. The Delegation hoped for constructive and positive engagement by Member States in the discussions. On the Independent Review of the Implementation of the DA Recommendations, the Committee should try to reach consensus on the finalization of the TOR and methodology for the Independent Review of the Implementation of the DA Recommendations. The Committee should also try to address the issue of the selection of independent IP and development experts that would conduct the review. In this regard, the Delegation called on Member States to support the joint proposal by DAG and the African Group on the objectives, scope, methodology and selection of IP and development experts for the review. Further, technical assistance contributed towards innovation and economic growth, especially in developing countries. In this regard, the Delegation looked forward to the Committee advancing its discussions on the issue of technical assistance in the area of cooperation for development. Member States should consider using the joint proposal by the African Group and DAG as a basis for the discussion on this matter. The Delegation looked forward to constructive discussions with Member States during the session.

37. The Delegation of Brazil stated that the richness of the agenda was indisputable evidence

of the growing importance of the Committee. This year was a landmark in the process of setting development as a guideline for all the work done in the Organization. The debate on the DA was launched by a group of countries, including Brazil, ten years ago. Although this was the tenth anniversary, a word of caution was also in order. The 45 Recommendations were not objectives that could be considered as accomplished at a specific point, but rather a work in progress. Above all, it had to change mindsets as advances were made in implementation. As the Director General's report correctly stated, although progress was made in this process, it was important not to lose focus of the fact that it merely indicated that it was on the right track. The Delegation highlighted the importance of establishing the TOR for the Independent Review of the implementation of the DA Recommendations. The importance of this exercise could not be understated. It was essential to receive inputs from independent experts on the work done and what could be improved. In this regard, the Delegation reaffirmed its commitment to the development of guidelines for the review and hoped the Committee could agree on a text for the timely beginning of the process. During the session, there would be an opportunity to receive information on the activities of the IP and Global Challenges Division. The information session was requested by developing countries in order to learn more about the activities and objectives of WIPO projects. Without information on WIPO's activities, Member States could not provide guidance on how to implement and improve the delivery of services. The Delegation stood ready to engage in the discussions on WIPO Green and WIPO Re:Search, and hoped these would become regular practice in the Organization. In addition to project evaluation reports and new project proposals, the session also included other important matters which had been discussed for a while. The Delegations hoped a solution to those matters would be found during the session to help create a good momentum for the other discussions in WIPO. One of the subjects was the International Conference on IP and Development. The event was supposed to take place last year. The Delegation hoped that common ground would be found in order for it not to be further postponed. The other pending issue was the link between the work of WIPO bodies and the Coordination Mechanisms and monitoring, assessing reporting modalities. In this regard, the Delegation expected a long overdue discussion which was based solely on facts and the groundwork laid by the GA. It looked forward to fruitful and productive discussions during the session.

AGENDA ITEM 6: MONITOR, ASSESS, DISCUSS, REPORT ON THE IMPLEMENTATION OF ALL DA RECOMMENDATIONS (RESUMED)

Consideration of document CDIP/13/2 - Director General's Report on Implementation of the Development Agenda (continued)

38. The Chair invited Member States to consider the report which was introduced by the Director General earlier on.

39. The Delegation of the Czech Republic, speaking on behalf of CEBS, noted the positive outcomes for last year and the impressive progress made throughout the Organization over the past five years. The Group noted that 28 projects were approved by the end of 2013, implementing 33 DA Recommendations. The estimated financial resources approved to date for the implementation of these projects amounted to more than 26 million Swiss francs. It was essential for Member States to develop adequate expertise in the field of IP in order to strive towards a successful innovative economy. Therefore, the Group fully supported projects focused on the training of various stakeholders, including managers of SMEs, IP offices officials, policy makers, researchers and others. A particular area of interest was the development of IP management systems for universities in order to promote technology transfer. With regard to WIPO activities in the area of ICT, the Group considered these to be effective. They promoted development. However, it had to be borne in mind that infrastructure must be established in a strategic manner, taking into account its sustainability and long term maintenance. The Group also supported WIPO's engagement with various stakeholders, particularly with other IGOs and

various NGOs. The evaluation of DA projects after their implementation should be further assessed and strengthened. The system for obtaining feedback from participating Member States, lessons learned and collecting best practices should be simplified and clarified. In addition, it was very important for technical assistance projects to be demand-driven and specifically tailored to the conditions in the recipient country. It must be based on close cooperation between the Secretariat and the Member State concerned. The Group was satisfied with the progress achieved by WIPO in implementing the DA Recommendations.

40. The Delegation of Japan, speaking on behalf of Group B, welcomed the comprehensive nature of the Director General's report. It described key highlights in the implementation of the DA into WIPO's regular program activities and its relevant bodies. It also described key developments in the implementation of DA projects. The report clearly indicated that the DA had already been successfully implemented in the relevant activities of WIPO through the implementation of the respective DA Recommendations. It could be seen from the report that the Coordination Mechanism was being implemented in a successful and comprehensive manner in line with the decision by the GA. The Group strongly believed that the future development-related activities of WIPO should be built on best practices and lessons learned from the work done in this field. On top of that, it had to be guided by the overarching objective of the Organization to promote IP protection.

41. The Delegation of the United States of America stated that the Director-General's report clearly demonstrated how far WIPO had come since the adoption of the DA Recommendations. WIPO had made great progress in implementing the DA Recommendations. Although the Delegation may have some concerns about the efficiency and sustainability of some WIPO activities for implementing the Recommendations, its overall impression was that the activities had a significant impact on IP and development in the countries where they had been carried out. Indeed, the report highlighted many positive developments in the past year. Several, in particular, deserved special mention. The first was the completion of the project on Specialized Databases' Access and Support. The Delegation was pleased that the project's activities had been incorporated into WIPO's ongoing work by including these services as part of Program 14 on services for access to information and knowledge, and linked to other CDIP projects at the national level. A national level program that appeared to have had significant positive impact was the Technology and Innovation Support Centers (TISCs). The report noted that 39 TISCs had been established to date. In the CDIP discussions, a number of developing country Member States had stated that the building of national and local innovation support centers as hubs for information and assistance to inventors had a significant impact on innovation in their countries. In addition, the Delegation was pleased that the accessible content for scientific and technical journals continued to increase in the ARDI and ASPI databases. The Delegation highlighted the establishment of start-up national IP academies which included four national IP training institutions in Colombia, the Dominican Republic, Peru and Tunisia. It understood that arrangements for national academies in Egypt and Ethiopia were also underway. The Delegation stated that these kinds of practical projects with a real world impact on IP and development were the types of activities it would like the Committee to discuss and implement. They were practical projects with a real world impact on IP and development. Stepping back from the details, the Delegation stated that the report made it clear that the Committee had made significant progress since the GA approved its creation in October 2007. After six years, 28 DA projects had been approved with a budget of well over 26 million Swiss francs. The practical impact of these activities was being felt all over the world. It looked forward to future reports from the Director General.

42. The Delegation of Brazil welcomed the fact that the Director General had presented, for the fifth time, an update of the actions taken by WIPO to implement the DA in all its bodies. It helped to consolidate the process for creating a development-oriented mind set with regard to all the work done in the Organization, as provided in the GA decision on Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities. The Delegation agreed with

the Director General that steady progress had been made since the launch of the DA in 2007 due to positive transformations at WIPO. Member States, IP rights holders and other civil society actors had benefited. By becoming more transparent and mindful of the interests of different actors interested in and affected by IP, the Organization reinforced its role as the main forum for discussions and negotiations in this area. However, several aspects of the DA still required further improvement. The Coordination Mechanism was one of them. Although the GA was quite clear in its instructions for the execution of the mechanism, Member States had failed in the execution of some of them. The obstacles that prevented the timely beginning of the Independent Review of the implementation of the DA Recommendations were good examples of those failures. There were also other areas in which Member States had lagged behind in terms of following through with their commitments undertaken four years ago. With regard to the point made by the Director General in paragraph 14 of the report on the contribution of the stakeholders' platform to the implementation of the DA Recommendations, some clarifications were in order. In this area, priority should be given to the implementation of the Marrakesh Treaty rather than to the stakeholders' platform. The Treaty was a result of intense discussions among Member States. It was signed as an effective and balanced solution to facilitate access by the blind or visually-impaired to published works. On cooperation between WIPO and other international organizations, the Delegation welcomed the establishment of this channel as it opened up possibilities for a wider assessment of the impact of IP on other areas of public interest. Nonetheless, for the purposes of transparency, the Delegation reiterated the need for further information on the way in which cooperation was pursued. It had followed, with interest, the developments of the project on IP and Technology Transfer: Common Challenges – Building Solutions, referred to in paragraph 46 of the Director General's report. The feedback from the Brazilian experts that followed the Latin American and Caribbean consultations was very positive. They reported that the discussions were productive and the recommendations made by all the experts that participated in the consultations were reflected in the final document of the event.

43. The Delegation of Egypt also noted that it was ten years since the discussions on the DA were launched. The DA was a work in progress and must remain as such. The information in the Director General's report shed a lot of light on the activities and actions undertaken by WIPO in accordance with its mandate to implement the DA Recommendations. However, the Committee should not lose sight of the prospect of a comprehensive DA for WIPO. When assessing the projects for which Member States were beneficiaries, there was a need to assess how far these led to an overall picture of a development-oriented IP Organization. The overall picture should not be lost, despite the fact that the projects indicated some success and commitment by the Secretariat to implement the DA. Egypt was a beneficiary of some of those projects. It intended to remain on the roster of beneficiary countries in accordance with its views and perspectives on how IP and development should be linked, and the need for creating a balance between public interest and the exclusive rights of rights holders, innovators and those who sought IP protection. This balance must be geared towards development. Egypt would request WIPO's assistance in this context. The Delegation referred to its general statement on behalf of DAG and reiterated that the Director General's report reflected the need for an overall evaluation of how the Organization was heading towards development rather than exclusive IP protection.

44. The Delegation of Japan was pleased to note that 29 projects had been approved and a large majority of the DA Recommendations had been implemented in a comprehensive manner. Like other Member States, Japan attached great importance to the DA activities. These included technical assistance and capacity building. It had provided various types of assistance through the WIPO Japan Funds-in-Trust (FIT) with respect to those activities. One of the funds was for Member States in Africa and LDCs. Another was for Member States in the Asia Pacific region. The FIT activities included organizing regional, sub-regional and national seminars, workshops, training courses, expert advisory missions, long term fellowship programs and translating selected WIPO materials. Through those channels, Japan had supported a number

of WIPO administered projects and activities. It also shared its experience in the use of IP to create wealth, enhance competitiveness and promote economic development. The Delegation strongly believed that improving IP systems would drive the self-sustained economic development of developing countries and contribute to the global economy. WIPO's contribution to this kind of development based on the implementation of the DA should be in that direction, keeping in mind the objective prescribed in Article 3 of the WIPO Convention. Japan was strongly committed to the implementation of the DA, as reflected in the significant increase of its contribution to the FIT since last year despite the current difficult economic situation.

45. The Delegation of Greece, speaking on behalf of the EU and its Member States, noted that the Director General's report provided a comprehensive assessment of the work carried out by WIPO in 2013 to implement the DA. They welcomed the positive assessment of the work undertaken by WIPO to implement the DA and the efforts made by the Director General and his staff to achieve the goals for the preceding year as set out by the Member States. They were pleased to note that 28 projects, implementing 33 DA Recommendations, had been approved. The EU and its Member States looked forward to future reports from the Director General and continuation of the work within the Committee.

46. The Delegation of Kenya, speaking on behalf of the African Group, noted the continued mainstreaming of the DA Recommendations into the work and activities of WIPO. However, a lot remained to be done. It also noted the number of projects that had been undertaken so far in the implementation of the DA Recommendations. It further noted that the project based approach was only one of the mechanisms for the implementation of the DA Recommendations. It was certainly not the only one. In this regard, what mattered most in the final analysis, was not how many projects had been implemented, but rather how the Recommendations had been mainstreamed into the long term work of WIPO. The Group reiterated the concern mentioned in its general statement that the future of the DA laid in the hands of Member States. It would like the Director General to clarify what this meant and describe his vision for the long-term implementation of the DA Recommendations.

47. The Delegation of Chile found the Director General's report to be comprehensive. It provided an assessment of the work carried out by WIPO to implement the DA in 2013. The Delegation noted with satisfaction that a report was presented year after year. It was very important for Member States to be updated on the activities. With regard to the mainstreaming of the DA into the work of WIPO bodies, the Delegation stated that improvements could be seen through the Coordination Mechanism and other means. However, the mainstreaming of the DA remained a work in progress. Development considerations should be permanently in the mindset of the Secretariat and Members States in order for it to be considered as an integral part of WIPO's work. With regard to the projects, the Delegation was pleased that 29 projects had been approved thus far. Chile had benefited from some of them. The project on IP and Socio-Economic Development was an example. The Delegation agreed that the projects should lead to specific outcomes for Member States. At the same time, the Delegation reiterated that the implementation of the DA did not end with the implementation of these projects.

48. The Delegation of the Islamic Republic of Iran associated itself with the statements made by the delegations of Bangladesh and Egypt on behalf of the Asia-Pacific Group and DAG respectively. The Delegation also associated itself with the statement made by Delegation of Sri Lanka on behalf of the G15. In recent years, the CDIP had made good progress in the implementation of some parts of the DA. Some concrete results were achieved. The Delegation reiterated that the Director General's report was a self-assessment by the Secretariat on progress made in the implementation and mainstreaming of the DA. As such, an independent evaluation was greatly needed to assess the implementation of the DA in WIPO's work and activities. The Delegation hoped that the TOR for the independent review would be finalized

during the session in order for the review to begin as soon as possible to fulfill the decision of the GA in 2010. The review should not only address technical assistance but cover all aspects of WIPO's work in the implementation of the DA, including the work of the CDIP, the Secretariat's work on the DA activities that had been undertaken, planned activities, aspects of the DA that had not been addressed and others.

49. The Delegation of South Africa supported the statement made by the Delegation of Kenya on behalf of the African Group. The Delegation took note of the Director General's report and its contents. It reiterated that the most important aspect was the mainstreaming of development within the Organization. Development had no timeline. It was an ongoing exercise. Projects had timelines and they end. What happened after a project ended was more important. Therefore, the focus should be more on mainstreaming within the Organization. The Independent Review would provide some answers to questions concerning the effectiveness of the project based approach to implement the DA Recommendations and what more could be done by the Organization to implement those Recommendations. The Delegation would also like the Director General and the Secretariat to present their vision of how they saw the future implementation of the DA. It agreed with the Delegation of Chile that the end goal was for development to be an integral part of the Organization's work. Although the Delegation took note of the projects and their importance, this was the most important goal.

50. The Chair invited the Secretariat to respond to the questions and comments from the floor.

51. The Secretariat (Mr. Onyeama) found a lot of the comments to be positive and encouraging. They clearly showed that the Organization's work in this area was yielding fruits. It was responding to the vision that Member States had with respect to the DA. On the mainstreaming of development, the delegations of Brazil, Egypt, South Africa, Chile and others had pointed out that projects were not ends in themselves and did not necessarily achieve the main objective of the DA which was to mainstream development within the Organization. It was stated that the mainstreaming of development was an ongoing process. Some also pointed out that the mainstreaming should be looked at within the context of the Secretariat as well as the membership. The Secretariat fully agreed and subscribed to that view. This was an ongoing process. As indicated in the Director General's report, mechanisms were being put in place within the Secretariat and the SRP to institutionalize the mainstreaming of the DA. The Secretariat also took the point that an independent review was extremely important. It would provide an opportunity for an independent evaluation of what the Organization was doing, to examine the roadmap and see to what extent the Organization was achieving the goals that it had set and whether it was moving in the right direction. Thus, the Secretariat would certainly support the Member States in achieving consensus on how to start off and establish the modalities for the Independent Review. The Secretariat noted that a number of delegations had also requested for its vision of the DA. This was difficult because the DA was for the Member States and the Secretariat was there to support them in achieving their vision for the DA. Indeed, the comments made by some delegations indicated the vision that they had for the DA, including what mainstreaming meant and was supposed to achieve. The Secretariat was fully supportive of that vision. Its duty was to take on board the directives of the Member States and ensure that its work was in conformity with their vision. The Secretariat referred to the issue regarding the stakeholders' platform and stated that it could be taken up later by the sector dealing with the implementation of the Marrakesh Treaty.

52. The Chair closed the discussions on this item given that there were no further observations from the floor. He invited the Committee to consider the TOR for the Independent Review of the Implementation of the DA Recommendations.

AGENDA ITEM 7: CONSIDERATION OF WORK PROGRAM FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS

Terms of Reference for the Independent Review of the Implementation of the DA Recommendations

53. The Chair recalled that the Coordination Mechanisms and Monitoring, Assessing, and Reporting Modalities were approved by the GA at its 39th session in September 2010. The decision included the following, “To request the CDIP to undertake an independent review of the implementation of the Development Agenda Recommendations at the end of the 2012-2013 biennium. Upon consideration of that review, the CDIP may decide on a possible further review. The Terms of Reference and the selection of independent IP and development experts will be agreed by the CDIP.” The Committee discussed the matter at its 11th session and took note of the joint proposal by the African Group and DAG on the TOR and Methodology for the Independent Review of the Implementation of the DA Recommendations. The TOR was further discussed during the 12th session. Four informal drafting sessions were held, during which consensus was reached on the background, purpose, and scope of the review. The Committee decided as follows, “The Committee discussed the Independent Review of the Implementation of the DA Recommendations as requested in the Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities (WO/GA/39/7, Annex II). The Committee decided to continue discussions on this matter at its 13th session, and sufficient time will be allocated to finalize the TOR. To this end, Member States are invited to submit comments by the end of January 2014. The CDIP requests the Chair to prepare draft TOR based on the consensus achieved during the informal negotiations held during the twelfth session, the comments received, and the Secretariat’s input on budget and timeline. The CDIP further requests the Chair of CDIP to hold one informal consultation to discuss the draft TOR prior to the 13th session.” The informal session was held based on the draft TOR for the review prepared by the former Vice-Chair. The Chair invited her to inform the Committee of the developments with regard to this issue.

54. The former Vice-Chair informed the Committee that she could not be nominated as a Vice-Chair due to other commitments. However, she was ready to support and facilitate the Committee’s work during the session and act as an interim Vice-Chair if there were no other nominations. She turned to the TOR for the Independent Review. An informal meeting was held on April 24. The Chair’s draft TOR was presented to delegations and regional group coordinators. There was a very general discussion on the structure and general principles of the Chair’s draft during the informal session. It was noted that the draft should be thoroughly considered in detail by the CDIP at its 13th session. The drafting of the document took into account the proposals and comments made by the regional groups, including proposals by the African Group, DAG and Group B. Efforts were made to reconcile them and to prepare a balanced draft that would address all the various considerations. There were a lot of areas whereby the comments of the regional groups were compatible with each other. She believed the draft was neutral and quite balanced. She hoped it would allow Member States to reach consensus. An issue was raised during the informal session with respect to the budget. It did not include field visits by the experts and evaluators. The groups and Member States deemed the field visits to be a very important part of the methodology for the review. Thus, it was agreed that field visits would be included in the budget for this particular TOR. She had previously understood that the background, purpose and scope of the review were to a large extent already agreed during the previous CDIP session. This was mentioned during the informal meeting. However, there were Member States who maintained that they still had comments and suggestions on the wording. For example, the issue concerning the use of the words “WIPO’s work” versus “WIPO’s activity” was again raised during the informal session. She hoped this would be addressed and resolved. The background, purpose and scope of the review were not very challenging areas. The draft included the key questions to be addressed by the experts. In this respect, the suggestions by the groups were reconciled when it came to

addressing questions such as relevance, impact, effectiveness, efficiency and sustainability. The draft dealt with the methodology which also covered areas mentioned in the proposals and comments by various Member States and regional groups. Field visits were mentioned in the methodology, bearing in mind budgetary constraints. The wording was agreed in the informal consultations during the previous CDIP session. Field visits would be added to the draft budget. Although these were costly, Member States maintained that they were an important aspect of the methodology. There was consensus on this issue. The draft included a subchapter on the review team. Member States must decide on the process for selecting the team members, including whether the usual WIPO procedures for selecting experts and consultants should apply and if Member States should be consulted. The selection process was not agreed during the informal session. Questions were raised on the process as well as the composition of the review team. It was more or less decided that the team should consist of 3 experts - a lead evaluator and two other field experts in the area of IP and development. These considerations were also included in the proposals by Member States and regional groups. The draft also addressed the deliverables. It included an inception report which would be produced by the experts. The question of who would be responsible for accepting the report was left open. This was an issue to be discussed and agreed by Member States. The draft outlined the requirements for the report, including the number of words, length, structure, executive summary and other elements usually included in such a report. The draft contained a section on the budget for the review. As mentioned earlier, field visits would be added to the draft budget. The draft also dealt with monitoring. The Secretariat should be informed of progress made in the review on a regular basis. The draft report should be finalized within the required timeline. The former Vice-Chair highlighted that the process for the review was lengthy. It began with the hiring of consultants. The entire process for the review would take at least one year to complete. As such, she urged delegations to make good progress on the draft during the session and perhaps agree on the TOR in order for the process to begin as soon as possible and not be subject to further delay. She looked forward to the cooperation of Member States to achieve consensus. She was ready to facilitate the process and support delegations in that regard.

55. The Chair reiterated that flexibility and compromise were required to finalize the TOR. He enquired as to whether Member States would like to continue the discussions on the TOR in an informal setting or in the plenary that afternoon.

56. The Delegation of Kenya, speaking on behalf of the African Group, stated that the revised draft had not been made available to Member States. They needed to examine the draft. The best way forward was to engage in informal consultations in order for the drafting exercise to begin.

57. The Delegation of Japan, speaking on behalf of Group B, did not deny that an informal drafting session would be useful. However, the plenary was also important for delegations to present their positions, views and opinions on those issues. Thus, the plenary and the informal format for drafting should be used in a balanced manner. In this context, the Group presented its general views on this issue. The draft text tried to reflect the comments submitted by Member States and to strike a balance in that regard. It could be a good basis for further work during the session, although there were still quite a few points to be resolved. During the informal consultations in April, the Group shared the view that it was important to include field visits in the TOR. These should be done within the allocated budgetary resources. The review should reflect the views of the direct beneficiaries of technical assistance and capacity building, namely, colleagues in capitals. This should be done in an appropriate manner for the purpose of identifying practical best practices and challenges. It was good that Member States had a common understanding on this point before the session. Work had to continue and the momentum should be kept in order for the objective to be achieved. The Group shared the sentiment that the TOR had to be finalized at the session to allow the review to be conducted in a timely manner in order to identify best practices, challenges, shortcomings and opportunities

in WIPO's activities to implement the DA Recommendations. Thus, this item should be prioritized among the items listed for the session. An adequate and appropriate amount of time should be allocated to discuss it. The Group reiterated its commitment to engage in the process with a view to finalizing the TOR at the session. Reserving the right to make further detailed comments at a later stage, the Group mentioned some overarching principles to be kept in mind when drafting the TOR. First, the contents of the TOR should be limited to practical elements that could actually be of use to the reviewers when conducting their work. It was important to think about the function of the TOR in the review process and how it could be realized in an efficient and effective manner. Philosophical discussions going beyond that would cause unnecessary diversions that would prolong the discussions rather than facilitate the process. Second, all the findings of the review process must be supported by facts, direct or indirect evidence and well substantiated logic. This overarching principle should explicitly appear in the TOR to ensure that the reviewers were guided by that principle and took proper action. Third, the language in the TOR should be precise and consistent. The GA clearly indicated that the review was on the implementation of the DA Recommendations. In this regard, the subject of the review was WIPO's activities undertaken to implement the DA Recommendations, not WIPO's work. This point should be reflected in the TOR in a coherent manner. Last but not least, it should always be kept in mind that WIPO's work was guided by the overarching principle of IP protection. This had to be duly taken into consideration in the composition of the review team. Article 3 of the WIPO Convention described the objectives of the Organization, namely the protection of IP. The Group assured the Chair of its constructive and forward looking engagement in the process.

58. The Chair referred to the request by the Delegation of Kenya for a copy of the revised draft and stated that there was only one version of the draft. It was shared with group coordinators at the last informal session and referred to in the general statements as a sound basis to continue the discussion. As highlighted by the former Vice-Chair, some tangible progress had been made. Member States were able to reconcile some differences on key issues. However, there was still work to be done.

59. The Delegation of the Czech Republic, speaking on behalf of CEBS, was open to various formats of work. The formal plenary was an important element. The Group was aware of the strategic reasons behind the Independent Review. In order for it to be of benefit to the Organization and other stakeholders, the expected form and scope of the outcomes must be clearly set out to secure the value added by the report and to avoid duplication with previous studies. This included the careful selection of independent experts that would constitute the review team. They should be selected in accordance with WIPO's established procedures, i.e. by the Independent Advisory Oversight Committee. The Group would remain vigilant in the review process. There was a need to ensure that the review was conducted in a cost effective manner. It should provide fact and evidence-based outcomes on which further strategies could be built upon.

60. The Delegation of South Africa understood that what was agreed in the consultations would be reflected in a revised draft to be submitted to the CDIP. Thus, the Delegation enquired as to whether that was available. For example, there was an agreement on field visits. The Secretariat was asked to include them in a revised budget. Preliminary agreement was also reached on other issues in the informal consultations. The Delegation noted that although the review was supposed to be independent, some of the comments seemed to indicate a move towards micromanaging the reviewers. Member States should not prejudge the outcome. They should be given the scope to do their work in an environment which allowed them to submit something meaningful. Thus, it would not assist the reviewers if the TOR were to specify that their recommendations needed to be fact based and so on. If the reviewers were provided with concrete TOR, they would be able to come up with an effective output that would assist the Organization. The Delegation would be making further comments in this regard. The Review was based on a decision taken by the GA in 2010. The Delegation expressed doubts about the

previous reference to the WIPO Convention. There was a decision by the GA in 2007 on the DA Recommendations to be implemented by the Organization. There was also a decision in 2010 to undertake an independent review. It should be carried out in that spirit. These were the Delegation's preliminary views.

61. The former Vice Chair stated that it was not agreed during the informal session that a revised draft would be presented at the CDIP session. It was agreed that the concessions would be put forward at the session. However, with the Secretariat's support, the draft could be revised after the lunch break to include field visits. The Committee was required to agree on this as it was an additional element to be included in the budget which would be increased. Consensus was required on the revision. The draft could be revised to reflect the field visits if the Secretariat could assist. The revised draft would then be distributed later in the day.

62. The Delegation of Kenya, speaking on behalf of the African Group, supported the revision of the draft. An updated draft was required to facilitate work. The Group would make further comments at a later stage.

63. The Delegation of Brazil believed that some progress was made in the last informal meeting. However, there was still a lot of ground to cover. Thus, the Delegation urged Member States to work in a constructive manner and not go back to issues that were already decided upon. The Delegation would make other comments at the appropriate time. Some of them would touch on the subjects raised by Group B. The Delegation recalled that principles were discussed extensively in the last meeting. The Member States must start tackling the points mentioned by the former Vice-Chair if they wanted to keep moving. Otherwise, they would be going around in circles and some of the points that were agreed upon would be brought back to the discussion. That would not be productive.

64. The Delegation of Egypt, speaking on behalf of DAG, noted that the Delegation of Brazil had covered almost all the points that it wanted to raise. The Group would like a revised draft to be presented as the TOR was still a work in progress.

65. The Delegation of Bangladesh, speaking on behalf of the Asia-Pacific Group, requested for the revised draft to be also sent to the regional coordinators so they could circulate it immediately. Many members were not attending the plenary.

66. The Delegation of Greece, speaking on behalf of the EU and its Member States, echoed the statements made by the delegations of Japan and the Czech Republic on behalf of Group B and CEBS respectively. They reserved the right to make further comments at a later stage.

67. The Delegation of Germany referred to the statement made by the Delegation of Brazil and would like to know what had been agreed.

68. The Delegation of Brazil referred to the last session. Some delegations stated that some progress had been achieved. At that moment, the Delegation believed there was an agreement on the purpose and scope of the review. This was the Committee's biggest accomplishment after a week of discussions. There were also discussions on the principles. In the last CDIP meeting, the overarching principles and guidelines of the UN with respect to reviews were discussed. These aspects of the discussion were reflected in the document. The Delegation merely requested for the consensus reached to be maintained and to build on what was agreed in the last session.

69. The Delegation of Germany noted that the Delegation of Brazil referred to the last CDIP session.

70. The Chair enquired as to whether there was consensus to consider a revised draft to be

distributed that afternoon based on the decisions reached in the informal session.

71. The Delegation of Germany wanted to be precise. It believed that a consensus was reached concerning field visits but a decision was not taken.

72. The Chair stated that the open questions would remain and hoped they would be resolved in the course of the session. It was agreed that a revised draft would be considered given that there were no objections from the floor. The Chair reminded Member States to nominate a Vice Chair to take over from the former Vice-Chair as she had stated that she would not be able to continue in that capacity.

73. The former Vice-Chair resumed the discussions on the TOR based on the revised draft that was recently circulated to Member States. Copies were also available outside the room. She informed the Committee that she was mandated by the Chair to lead the discussions on the document. She proposed that the document be discussed paragraph by paragraph beginning with the background. Those provisions merely repeated the GA's decision on the recommendations. They were largely agreed by Member States in the informal consultations during the last CDIP session.

74. The Delegation of Brazil sought clarification on the process. It enquired as to whether the paragraph by paragraph discussion would take place in the plenary or in the informal discussions. On the last occasion, Member States were in a small group and progress was very slow.

75. The former Vice-Chair stated that the plenary could discuss provisions that were not controversial and easy to agree on. An informal session would be convened on some of the outstanding issues that were either controversial or not easy to agree on. For example, if there were no comments or objections to the provisions on the background, these would be considered as adopted. The Committee would then move on to the paragraph. If there were provisions that were complicated or difficult for the Member States to adopt and agree on, they would be taken up in the informal session.

76. The Delegation of Japan, speaking on behalf of Group B, stated that the first paragraph was fine. It had already been agreed upon in the last CDIP session. On the second paragraph, the Group reiterated that the contents of the TOR should be limited to practical elements which could actually be of use to the reviewers when they conducted their work. From this perspective, the second paragraph was completely different from that purpose and should be deleted. The content of the second paragraph was also a little different from what was decided by the GA. In any case, it should be deleted to avoid a philosophical discussion that would merely cause unnecessary diversions that would prolong the discussion rather than facilitate the process.

77. The Delegation of Kenya, speaking on behalf of the African Group, referred to the process. The Group stated that the revised text was circulated a few minutes ago. Thus, the groups should be allowed to converge before discussing the draft paragraph by paragraph. With the current process, Member States ran the risk of returning the next day to discuss almost everything. Thus, the best way forward was to give the groups time to reconsider the new text before returning to discuss it in an informal mode.

78. The former Vice-Chair clarified that the only difference between this and the text circulated in the informal session was the addition of one budget item. She believed there would be more progress if the text was discussed in the plenary. The first paragraph had just been approved and would not be changed. She proposed continuing with the current process and reiterated that the only difference with the original text was the addition of one budgetary item. She urged the Committee to continue in this spirit and agree on as many paragraphs as possible.

Outstanding paragraphs that remained would be taken up in the informal consultations. She hoped this would be acceptable to the Member States.

79. The Delegation of Egypt, speaking on behalf of DAG, stated that it had wanted to make the same request as the Delegation of Kenya on behalf of the African Group. The groups could converge to take a quick look at the text and avoid getting into philosophical arguments in the discussions. A group had already stated that it did not want that to happen in this room.

80. The former Vice-Chair stated that the Committee could listen to the comments of the Member States on the different provisions. The Member States could then go back to their groups to discuss and formulate their own positions. For instance, Group B requested for the deletion of the second paragraph. The other Member States could go back to their groups and decide how to react to the request. She enquired as to whether this procedure was acceptable and noted that there were no objections to the proposal.

81. The Delegation of Brazil raised three points, one on the procedure and two on substance. First, the Delegation believed it could be agreed that the African Group had requested for time as delegations had expected to see a new text. In this regard, the Delegation enquired as to why the revised text was not submitted before. It recalled that this was agreed after the last informal meeting in April. That would have allowed the Member States to start. Now they would need time. Even though there were no changes, there was the expectation of a new revised text. Second, the Delegation wondered what really changed since the last meeting because during the two to three hours meeting in April, many parts of the text were discussed and the second paragraph was never mentioned, not a single part was mentioned. Thus, the Delegation wondered what really changed since then for Group B to want to delete the whole paragraph. It was almost a structural change as the paragraph followed the logic from the first paragraph. Third, the Delegation stated that when the principles were discussed, it was mentioned that the document should be based on facts. In that regard, there was nothing in the paragraph that was not fact based. Thus, it should not be deleted or even changed.

82. The former Vice-Chair did not want to dwell on the subject of why the text was not circulated in order to accelerate the discussion. As mentioned, the revised text was almost identical to the previous one. The only difference was the addition of one budget item. She proposed that the Committee continue discussing the text. She understood Group B requested for the deletion of the second paragraph because it believed that the paragraph did not correctly reflect the facts. The Delegation of Brazil was against the deletion. It believed that the paragraph reflected the facts.

83. The Delegation of Japan, speaking on behalf of Group B, supported the former Vice-Chair's proposal on the procedure. With regard to its request to delete the said paragraph, the Group recalled that it had proposed the deletion during the informal consultations. The fact embodied in the second paragraph was a little bit different from the decision by the GA. In addition, as mentioned in its earlier statement, the contents of the TOR should be limited to practical elements which could actually be of use to the reviewers when conducting their work. From that perspective, the second paragraph was not a practical element which could actually be of use to the reviewers. Thus, there was a second and more general reason behind its proposal to delete the second paragraph.

84. The former Vice-Chair noted that there was no consensus on the second paragraph. She suggested that it be taken to the informal consultations. This was agreed given that there were no objections from the floor. She stated that the first paragraph would not be changed as there was consensus on it. She invited the Committee to consider the paragraph on the purpose and scope of the review.

85. The Delegation of Japan, speaking on behalf of Group B, referred to the words "WIPO's

work” which was used in the paragraph and many others. The Group reiterated that the language used in the TOR should be precise and consistent. The mandate given by the GA clearly indicated that the review was on the implementation of the DA Recommendations. Thus, the subject of the review was WIPO’s activities undertaken to implement the DA Recommendations. It should not go beyond that. In that regard, the words “WIPO’s work” may give the impression that the subject of the review would go beyond the mandate. Thus, the Group strongly preferred the use of the words “WIPO’s activities undertaken to implement the DA Recommendations” instead of the words “WIPO’s work”, in this paragraph and elsewhere in the TOR. The Group believed the words, “WIPO’s activities undertaken to implement the DA Recommendations” was also used in the proposal by the African Group. Thus, the Group believed its suggestion could accommodate the concerns and interests of various groups.

86. The former Vice-Chair stated that the word “work” would be put in square brackets. She enquired as to whether the rest of the text was acceptable to Group B.

87. The Delegation of Japan, speaking on behalf of Group B, reiterated its proposal to use the words, “WIPO’s activities undertaken to implement the DA Recommendations” instead of the words, “WIPO’s work”. The rest of the paragraph was fine.

88. The Delegation of Kenya, speaking on behalf of the African Group, responded to the change proposed by Group B. It was clear that the implementation of the DA Recommendations was not isolated from the general work of WIPO. The main idea was to bring about a balance between the rights of right holders and the public interest. That required mainstreaming development considerations into WIPO’s work. Therefore, implementation was not only focused on activities. The project based approach used in the past to implement the recommendations was just one way of doing so. The main focus should be on making the DA part and parcel of what WIPO did today, tomorrow and for the foreseeable future. The implementation of the DA Recommendations did not end when projects were completed. That was not the purpose. The purpose was to ensure that at the end of the day, development considerations became part and parcel of what WIPO did on a day to day basis. Therefore, the Group requested Group B to reconsider its position. If the review only focused on activities, it would not be needed. It would serve no purpose at all. If the Committee really wanted something that would be of use to the Organization and Member States, the review had to consider other aspects of WIPO’s work. Otherwise, there would be no difference between the review and those that were already done on projects undertaken. Thus, the Group would like WIPO’s work to be maintained as the core of the review.

89. The former Vice-Chair enquired as to whether the word “work” was of paramount importance to the African Group.

90. The Delegation of Kenya, speaking on behalf of the African Group, stated that “WIPO’s work” was of paramount importance to the review. The word could not be changed. The Group could not go below that.

91. The former Vice-Chair urged Group B to consider and discuss the situation among its members after the session ended. WIPO’s work was of paramount importance for the African Group. This was a vital matter for them.

92. The Delegation of Brazil requested Group B to clarify its proposal. The Delegation recalled that there was a very long debate on the purpose and scope of the review in the last session. Developing countries in general wanted to recall the words “the review of the implementation” while others wanted to discuss the word “activities”. A compromise was achieved through the use of the words “WIPO’s work”. In the Summary by the Chair for the last session, the Chair was mandated to prepare a draft TOR based on the consensus achieved during the informal negotiations. Thus, the Delegation enquired as to whether the language concerning the

purpose and scope of the review was included accordingly. The Delegation recalled that the language was actually a compromise and consensus was achieved in the last session.

93. The Delegation of Egypt, speaking on behalf of DAG, shared the views of the African Group on this issue. The word “work” was of paramount importance. It would not accept any change in the language to dilute or reduce the perspective of the DA to merely technical assistance. That was not the purpose of the DA in the first place.

94. The former Vice-Chair noted that the situation was quite evident. She urged Member States to discuss it among themselves. This matter was of paramount importance for the African Group and DAG.

95. The Delegation of Ecuador suggested that the word “work” be removed and not replaced. That may solve the problem.

96. The Delegation of the Islamic Republic of Iran supported the intervention by the Delegation of Kenya on behalf of the African Group. The word “work” should be kept because it was important. The Delegation reiterated that the scope of the review should cover all aspects of WIPO's work in the implementation of the DA, including the work of the CDIP; the Secretariat's work on the DA; activities that had been undertaken; planned activities; and aspects of the DA that had not been addressed.

97. The Delegation of India also recalled the lengthy discussions at the informal meeting in the last session. There was some consensus on the purpose and scope of the review. Thus, the Delegation did not agree to the proposal by Group B to delete the second paragraph. The agreed language did no harm. The Delegation recalled there was previously a long text under the paragraph. Thereafter, a concise text with only one sentence was agreed. With regard to WIPO's work, the Delegation emphasized that the review was mandated by the GA through its decision in 2010. It included the following, “To request the CDIP to undertake an independent review of the implementation of the DA Recommendations”. It did not refer to projects or activities. In addition, the 45 DA Recommendations were classified under different clusters. For example, Cluster A was on technical assistance and capacity building, and Cluster B was on norm setting, flexibilities, public policy and public domain. Thus, it was much broader than just project-related activities. For instance, it addressed how norm-setting activities should be conducted in all the WIPO committees and in all of WIPO's work. Hence, it was much broader than what Group B emphasized. That was why the change it proposed would not be appropriate. Alternatively, the language could be replaced with something broader to ensure that the implementation of all DA Recommendations would be appropriately captured. The Delegation stated that it would be appropriate to undertake informal consultations to finalize the TOR. It may make further suggestions in the consultations.

98. The former Vice-Chair stated that the discussion was on critical elements that should be discussed within the groups. It was clear that the reference to WIPO's work was of paramount importance to the African Group, DAG and a number of delegations. She requested delegations to refrain from making further comments on this matter. She noted that there was only one group that objected to the wording. Thus, it would be appreciated if it could discuss the issue among its members. It would be taken up in the informal consultations.

99. The Delegation of Indonesia stated that it preferred the use of the word “work” as it was broader than the word “activities”. Activities and projects were only part of the work. As mentioned by the Delegation of India, the review should be undertaken in a comprehensive manner. It should include norm setting and other aspects. The Delegation supported the idea of an informal process. It was logical as more time was needed to read the draft that was just recently circulated.

100. The Delegation of Uruguay, speaking on behalf of GRULAC, would like Group B to explain why it would like the word “work” to be replaced. The Group would need to discuss it. The GA decision in 2010 included the following, “The aim of the DA is to ensure that development considerations form an integral part of WIPO’s work.” That phrase was also used on WIPO’s DA webpage. If delegations were to agree to Group B’s request, the language of the decision and the webpage would also need to be changed.

101. The former Vice-Chair reiterated that the reference to WIPO's work in the implementation of DA Recommendations was precise and not very broad. Thus, she enquired as to whether Group B could show flexibility or if it would need time to discuss it within the group.

102. The Delegation of Japan, speaking on behalf of Group B, stated that further details would be discussed in the informal drafting session. However, it would like to underline that the issue was also of paramount importance for the Group. The words “activities undertaken to implement the DA Recommendations” could reflect the mandate in a more precise manner. It was the instructions of the mandate that should be reflected and not what groups would like to do. That had to be kept in mind. A further detailed discussion could take place in the informal consultations at a later stage.

103. The former Vice-Chair stated that the matter would be discussed in the informal consultations. Group B would need to explain to what extent WIPO's work in the implementation of DA Recommendations harmed the national interests of its members and how vital it was for the Group. She understood it was vital for DAG and the African Group. She invited the Committee to move on to the key questions to be addressed by the review. She enquired as to whether the concepts concerning relevance, impact, effectiveness, efficiency and sustainability were generally acceptable to the delegations. These elements were mentioned in the comments and proposals by regional groups. The wording would be discussed during the drafting session.

104. The Delegation of Egypt, speaking on behalf of DAG, made some general comments on the questions to be addressed by the review. On relevance, the Group believed there were questions concerning the beneficiaries, criteria for their selection and the benchmarks for the process. Language could be found in this regard. With regard to impact, the Group highlighted that it covered both the impact of implementation on a case by case basis and the impact on the overall perspective and orientation of WIPO and its work in future, whether it was really heading towards development or still strictly concerned with the protection of IP right holders. The Group reserved the right to make further comments at a later stage.

105. The Delegation of Kenya, speaking on behalf of the African Group, referred to the five questions to be addressed. The Group would make specific comments on them during the informal consultations. In general, the Group could agree to the inclusion of those elements.

106. The Delegation of India stated that it would make specific comments on each of the five areas in the informal consultations. In general, it could agree to the inclusion of these elements in the sub-paragraph.

107. The Delegation of the United Kingdom assured the former Vice-Chair of its commitment to work constructively on this subject. Duplication of work should be avoided. It had the impression that what was said in the plenary would be repeated in the informal consultations. The Delegation understood the methodology. However, delegations should limit themselves to a sentence on whether they agreed or disagreed and then move forward. The Delegation had comments on the key questions to be addressed. It was not sure whether it would be useful to present them as they would be mentioned again in the informal consultations. A lot of time was spent on the word “work”. It was clear that some delegations could not accept that others wanted to use other terminology. Thus, when the former Vice-Chair asked the question of how

important that word was to some, other delegations should also be asked how important it was to use the word “activities” in order for the approach to be balanced and to see where delegations could meet halfway. The Delegation enquired as to when the former Vice-Chair would like it to present its points on the key questions.

108. The former Vice-Chair stated that the drafting exercise would be done during the informal consultations. She merely wanted to hear the general comments of delegations on issues in order to find ways to achieve consensus on them. Matters where there was disagreement could be discussed within the groups before being taken up in the informal consultations.

109. The Delegation of the United Kingdom made general comments on that section. With regard to efficiency and effectiveness, the Delegation would also like the review to address best practices and lessons learned as part of the exercise. On relevance, the Delegation believed there was a need to address whether the activities were relevant to the implementation of DA Recommendations. Clear guidance was required on what the review had to address. It should not be too broad as the outcome would be very important for Member States. There should be a short and concise outcome that could be understood by all and used in practice in the future. The Delegation would return to these matters in the informal consultations.

110. The Delegation of Indonesia had many comments to make on the draft TOR. However, it merely wanted to restate its position for the time being. In its general statement, the Delegation mentioned a solution or way forward on how to implement the DA Recommendations. In that regard, there was a point on the solution or way forward to implement the DA Recommendations that was not reflected in the TOR.

111. The former Vice-Chair turned to the section on the methodology for the review. This was discussed in the informal sessions at CDIP/12. She believed the section captured all the elements that were put forward by delegations with regard to the methodology.

112. The Delegation of India recalled that in the discussions on methodology during the last session, the idea of interviewing other stakeholders was flagged. They included NGOs and others who were involved in the DA process, not necessarily in the implementation of a WIPO project, and who were also participating in activities in other WIPO committees, not only the CDIP. Other committees were also relevant. The Delegation would like this aspect to be added. It would like the section to mention that inputs from diverse stakeholders could be gathered through means such as e-mail. It was frequently stated that the opinions of other stakeholders were also important and that should be reflected.

113. The former Vice-Chair stated that the section referred to Member States, WIPO staff and beneficiaries. This matter was discussed previously and there was a general consensus to include Member States, WIPO staff and beneficiaries in general terms. The elements that were listed under methodology could be conducted electronically, including surveys and interviews. The experts could be given some freedom to select the mode of communication as need be. However, it was up to Member States to decide on the exact wording and if precise language on electronic communications was required. This form of communication would be widely utilized during the Review.

114. The Delegation of Egypt, speaking on behalf of DAG, referred to the comments made by the Delegation of India on extending the review to other stakeholders. The word “beneficiaries” was used to refer to the beneficiaries of the IP system, including states and right holders. Thus, it was used in a limited context. As mentioned by the Delegation of India, the process would benefit from hearing the views of others such as NGOs and research centers who were involved in an overall evaluation of WIPO's work in relation to the DA from an outside perspective.

115. The Delegation of the United Kingdom returned to the issue of key questions. It referred to

the last paragraph after the five questions and proposed that the word “must” be replaced with the word “may”. For the Delegation, this part of the paragraph was extremely important and would make a difference in the review. The review was mainly about identifying challenges, gaps and opportunities where appropriate. Thus, the reviewers should be given some flexibility in this regard. It would like this to be reflected in that section.

116. The former Vice-Chair requested the Delegation of the United Kingdom to clarify its position. The paragraph referred to the recommendations that would be produced by the consultants. She enquired as to whether the Delegation objected to the production of recommendations or if this should be optional.

117. The Delegation of the United Kingdom stated that the section was not on deliverables. The Delegation had referred to what should be identified in the section on key questions to be addressed. It had not referred to recommendations versus other deliverables. The Delegation would like its proposal to be included in this section. It was not touching upon the question raised by the former Vice-Chair.

118. The Delegation of Kenya, speaking on behalf of the African Group, referred to the proposal by the Delegation of the United Kingdom. It was of paramount importance that the experts made concrete suggestions on how they viewed the implementation of the DA Recommendations. It was very important to receive their suggestions on what should be done in terms of the implementation process. With regard to the methodology, the Group recalled that it was agreed in the last informal consultation that field visits were critical in terms of validating or trying to ascertain the benefits that arose from the implementation of the various activities and recommendations. The current text was somewhat limiting. It seemed to lose some of that importance as it stated that field visits were deemed necessary, bearing in mind budgetary constraints. Thus, the Group would like the section revised to reflect the point that field visits were an integral part of the review process. It should also be revised to reflect what was mentioned by the delegations of India and Egypt on the involvement of other stakeholders who could also provide their opinion on how they saw the implementation process.

119. The former Vice-Chair believed the phrase “bearing in mind budgetary constraints” was largely agreed in the previous session. Delegations should avoid going back to this as field visits were now included under the budgetary items and were quite costly. The field visits would take place. Thus, perhaps the language could be accepted. Five missions were included as a lump sum under the budget.

120. The Delegation of South Africa referred to the change proposed by the Delegation of the United Kingdom. The reviewers were being paid to undertake a review and to come up with suggestions on how to improve the implementation of the DA Recommendations. There would not be a need to spend so much money if they were not required to come up with suggestions. Thus, it was not necessary to change the word from “must” to “may”. The Delegation did not know what was meant by the reference to budgetary constraints as the Secretariat had stated that there were sufficient resources to undertake the review.

121. The former Vice-Chair stated that the budget was constrained in the sense that it was provided in the TOR. It was useful for the experts to bear in mind that there were some constraints with regard to the field visits. Some of the visits may be replaced by teleconferences, electronic communications and so on. However, it should be borne in mind that the budget included five missions at a cost of 40,000 Swiss francs.

122. The Delegation of the United States of America referred to the statement by the Delegation of Kenya on behalf of the African Group. The Delegation noted that there seemed to be consensus around the idea of field visits. In the spirit of compromise, a way forward could be to remove the words, “as deemed necessary” from the current draft. The Delegation referred to

the comments made by the Delegation of South Africa. If there were concerns with regard to the words “budgetary constraints”, the text could state, “bearing in mind the allocated budget”.

123. The former Vice-Chair believed the proposal by the Delegation of the United States of America could accommodate some of the concerns. It could provide a bridging point and would be taken to the informal consultations.

124. The Delegation of Egypt, speaking on behalf of DAG, referred to the proposal by the Delegation of the United Kingdom. The Group would discuss the matter amongst its members. However, it would like recommendations to come out of the exercise as it was the way forward. The paragraph or sentence could be placed somewhere else. The Group would also discuss this. It referred to the proposal by the Delegation of the United States of America on alternative language. The Group would discuss it. However, it would like to know whether a budget had been allocated. Although this was merely a draft text, the Group wanted to make sure that when the time came to allocate the budget, the Committee would not put constraints on the budget.

125. The former Vice-Chair noted that the paragraph could be moved under the deliverables. That could also be a bridging point.

126. The Delegation of Cameroon stated that words such as “deemed necessary” and “may” went against the contractual nature of the TOR. Some deliverables were expected. Therefore, it was not appropriate to introduce language that was conditional.

127. The Delegation of Chile made a general observation. The process for finalizing the TOR was very important. It was also important for it to be concluded in a timely manner before the end of the week. The Delegation would make specific comments on the draft in the informal session. What was said in the plenary would probably be repeated in those consultations. Based on past experience in the WIPO committees, Member States should try to limit the debate as much as possible so they could move as quickly as possible to the informal consultations to try to resolve these issues before the end of the week. The Delegation was trying to avoid making specific comments for the moment as it would be more efficient to present them during the informal consultations. It hoped other delegations would do the same.

128. The Delegation of the United Kingdom referred to its proposal to change the word “must” and stated that it was perhaps more optimistic about WIPO's work. It was not necessarily the case that there would be improvements. WIPO was undertaking many good activities. This should be acknowledged. The Delegation preferred to use the word “may” because suggestions should not be made just for the sake of it. Everyone in the house had gone through the experience of lengthy reports with many recommendations that nobody could take advantage of or use in practice. Thus, it was very important that suggestions were not sought just for the sake of it. There was a need to be clear. The deliverables would be discussed later. At this stage, an issue to be addressed was the identification of challenges, gaps and opportunities. The Delegation would not go into the deliverables. With regard to the methodology, as mentioned in the informal consultations, the Delegation strongly supported field visits and would encourage the reviewers undertake them as part of the methodology for the review. They could be extremely useful. There were some suggestions for finding some middle ground. The Delegation could also be flexible. Under the current budget allocations, some creativity could be used to find more funds for the field visits in order to accommodate the concerns of all parties on this issue. The Delegation reiterated that it did not want any duplication with previous reports. There were many reports in the house. The report must be focused with a clear objective and without any duplication with previous reports.

129. The Delegation of Kenya, speaking on behalf of the African Group, stated that the success of the review was very important. A lot of money could be saved if it was done well. Thus, the allocation of funds could be more flexible in order to come up with something that would be helpful and may even assist in saving resources by providing more focus in terms of how implementation should proceed.

130. The former Vice-Chair enquired as to whether there was consensus to delete the phrase, "as deemed necessary". This was agreed given that there were no objections from the floor. The other details under those paragraphs would be discussed in the informal consultations. She invited the Committee to consider the paragraphs on the review team. It was important for the Committee to decide on the process for the selection of experts, including whether and to what extent, Member States and the Chair would be involved in the process. However, it should be kept in mind that the process could be delayed if Member States were required to approve every single step in the selection of experts.

131. The Delegation of Uruguay, speaking on behalf of GRULAC, requested the Secretariat to clarify whether WIPO's established procedures included a mechanism to involve Member States in the process.

132. The former Vice-Chair recalled that in the informal meetings, the Secretariat clarified that there were no established procedures whereby Member States would be involved. However, the Committee was in a position to actually determine the mode of selection. She invited the Secretariat to elaborate on this matter.

133. The Secretariat (Mr. Baloch) stated that the former Vice-Chair's understanding was correct. To the best of its knowledge, there was no precedence whereby Member States were involved in selecting experts and awarding contracts. However, a synthesis could be found whereby the organization's rules were respected as well as the Committee's decision in terms of selecting the experts.

134. The Delegation of the Islamic Republic of Iran requested the Secretariat to clarify what was meant by the reference to WIPO's established procedures.

135. The former Vice-Chair recalled that this was discussed in the informal consultations. As in the case of any UN agency, WIPO had a procedure for contracting external experts and consultants.

136. The Secretariat (Mr. Baloch) confirmed this. The procedure depended on the value of the contract. For example, if it was less than 20,000 Swiss francs, the program manager could short list companies, suppliers or experts, as applicable. The pros and cons would be documented. The responsibility would be taken by the program manager and he could proceed with the hiring of the services, in this case, of experts. If the value was between 20,000 and 50,000 Swiss francs, a different procedure would be followed. If it was more than 50,000 Swiss francs, another procedure would apply. If necessary, the Director of the Procurement Division could be invited to provide further details on the procedures.

137. The Delegation of Egypt, speaking on behalf of DAG, stated that the criteria for the experts themselves may also require review as the current language was more focused on the delivery of technical assistance and capacity building, rather than IP and development.

138. The Delegation of Chile would wait for information to be provided by the Secretariat before coming to a conclusion on this issue. There were established procedures for the selection of consultants to undertake studies for the various WIPO committees. Under those procedures, the consultants were selected by the Secretariat. The Delegation wanted to understand why it was necessary for Member States to be consulted in the selection of experts to undertake the

review. It would also like to understand why the review should be treated differently from other studies undertaken in the past for the Committee and other WIPO committees.

139. The former Vice-Chair enquired as to whether Member States could agree to insert a full stop after the word “procedures” and allow the Secretariat to follow its own established procedures to select the consultants or if it was of paramount importance for Member States to be involved in the process.

140. The Delegation of South Africa stated that there was a need to take into account the mandate and decision taken by the GA in 2010 which included the following, “The TOR and the selection of independent IP and development experts will be agreed by the CDIP”. The CDIP included Member States. Thus, a way must be found for Member States to be involved.

141. The former Vice-Chair stated that it could also be construed that the CDIP would decide on the mode of selection. In other words, the CDIP could decide on its involvement in the selection process.

142. The Delegation of South Africa reiterated that the sentence, “The TOR and the selection of independent IP and development experts will be agreed by the CDIP” meant there was a role for Member States in the selection of independent IP experts and the establishment of the TOR.

143. The Delegation of Cameroon referred to the words “and/or” in the section. The Committee would need to decide on one of them. The Delegation believed it would be wise to select the review team in accordance with the established procedures and not make the process more burdensome.

144. The Delegation of the Islamic Republic of Iran requested the Secretariat to explain WIPO’s established procedures for the selection of experts. The Delegation supported the retention of the phrase in brackets as the review team should be determined in consultation with Member States.

145. The Delegation of South Africa explained that it had referred to the decision by the GA as some delegations wanted to know why the established rules should be circumvented. The rules would not be circumvented or changed. The mandate given by the GA clearly provided that the CDIP should decide on the independent experts.

146. The Delegation of Egypt, speaking on behalf of DAG, stated that it would wait for information to be provided by the Secretariat. There may be a difference in interpretation. It would look into that. However, it did not believe there was such a gap in the interpretation of the decision by the GA. Referring to the question raised by the Delegation of Chile on why the process was different from other processes, the Group stated that the process had more of a global nature in relation to WIPO’s work. Thus, perhaps some special treatment was required in the selection process. It was not a normal study.

147. The Delegation of Uruguay, speaking on behalf of GRULAC, would wait for information to be provided by the Secretariat. A full stop could be inserted after the word “procedures” for several reasons. It understood the mandate and the comments made by the Delegation of South Africa. The contracting process was always undertaken by the Secretariat. The Committee had never been involved in those activities. If the Committee was to be involved in selecting the experts or evaluating their skills, there would be implications for the timeline. The review was expected to be completed in one year. That may not happen. Although it would wait for information to be provided by the Secretariat, the Group supported the proposal to end the sentence with a full stop after the word “procedures”.

148. The Delegation of the Czech Republic, speaking on behalf of CEBS, reiterated that its preference was to use the established procedures. Therefore, the Group supported the proposal to put a full stop after the word “procedures” and to delete the sentence that was in brackets. It was aware of the mandate and the established procedures were in full conformity with it. The Group recalled the requests by a number of delegations and the Director General to speed up the process. Based on previous experience, the involvement of Member States in selection processes may delay rather than hasten the activities.

149. The Delegation of Kenya, speaking on behalf of the African Group, preferred to keep the current language for the moment and to reflect on it later to ensure that it provided for an appropriate balance between the established procedures and the mandate given by the GA.

150. The former Vice-Chair invited the Secretariat to elaborate on the procedure for contracting consultants.

151. The Secretariat (Ms. Bessière) noted that the Committee sought to recruit experts who were individuals rather than companies. The recruitment of individuals within WIPO was based on an office instruction which provided for different selection processes depending on the value of the contract. In the case of the TOR for the Review, the amount was between 20,000 and 50,000 Swiss francs. The applicable procedure would be the Request for Offer, which was simple and informal. The TOR was sent to experts who were potentially interested in undertaking the task. This was done in order to receive offers to provide services and CVs. Ideally there should be at least three. Following that, selection was required for each post. This was often done by the program manager and his or her colleagues. Written documentation must be provided on the reasons why a given expert was selected. Based on the documentation, the administration would award the contract to the person or persons selected. Thus, the procedure was relatively simple for those amounts. However, there was nothing to prevent the application of a more formal procedure, if required. It could include the publication of the TOR. The procedure described earlier was the minimum acceptable. That would be sufficient to respect WIPO’s internal regulations.

152. The former Vice-Chair stated that the matter would be taken up in the informal consultations due to the lack of agreement. She highlighted that the draft text also provided that the review team would consist of three experts. Various regional groups had put forward suggestions on the knowledge and skills required of the experts and how many should be recruited. The draft TOR budgeted for three experts. This included a lead evaluator and two IP and development experts with experience in this area.

153. The Delegation of Kenya, speaking on behalf of the African Group, stated that the draft text indicated that the members of the review team should be familiar with WIPO’s mandate and experienced in the delivery of technical assistance and capacity building activities in developing countries. As mentioned by the Delegation of Egypt, the review went beyond the provision of technical assistance and capacity building. It would look at WIPO’s work in a holistic manner in terms of the implementation of the DA Recommendations. Thus, the experience mentioned may be a limiting factor if it was given prominence in terms of the selection of the experts. The experts should possess broad expertise in the areas of development, economics and IP. The expertise could then be combined to holistically examine the implementation of the DA Recommendations and the impact of the activities or work on the overall implementation of the Recommendations. Thus, some modification would be required to reflect the goal to be achieved at the end of the review. On the number of experts, the Group highlighted that studies were undertaken since 2008. The DA Recommendations had been undergoing implementation for quite a long period. The Group wondered whether it would be possible for two individuals and the lead expert to carry out the required work which also included field visits, without unnecessarily increasing the length of the review. Thus, the Group also wanted to look at the numbers in the informal consultations and discuss how to approach the issue in the best

possible manner to achieve the said goal.

154. The Delegation of Japan, speaking on behalf of Group B, stated that it was fine with the general composition of the review team, namely one lead evaluator and two experts. However, it had comments on the provisions of the draft TOR with regard to the expertise of the two experts. The Group reiterated that the overarching objective of the Organization was to promote the protection of IP throughout the world through cooperation among States and, where appropriate, in collaboration with any other international organization. Although it was a fact that the DA was adopted in 2007, it did not overwrite the overarching objective of the Organization. The DA should be implemented under that objective. From that perspective, the Group strongly believed that the expertise of the two experts should include familiarity with the mandate or objective of the Organization.

155. The Delegation of the Czech Republic, speaking on behalf of CEBS, stated that the skills and knowledge set out in the paragraph and observing the guidelines in WIPO's evaluation policy were of high importance. Therefore, the Group would like the word "should" to be replaced with the word "shall" throughout that paragraph to imply that these were requisites.

156. The Delegation of Greece, speaking on behalf of the EU and its Member States, made a general comment. The EU and its Member States noted that the Director General had provided several reports on the implementation of the DA Recommendations. They concluded that the Secretariat had continued in a progressive manner, and in accordance with the collective decisions of the Member States. They also noted that independent evaluations had been carried out in respect of a great number of development projects. This led them to conclude that an independent review need not be onerous. It should be short and concise. The TOR should enable an efficient and pragmatic consideration. On the procedure, the EU and its Member States requested the Secretariat to prepare a revised timetable for the present CDIP session to facilitate work, and for work to be completed within the planned timeframe.

157. The Delegation of India referred to the proposals by Group B and the Czech Republic. It would like to know the criteria for establishing whether an expert was familiar with WIPO's mandate and who would decide on that.

158. The former Vice-Chair presumed that familiarity would be established in accordance with the experience of the particular expert, whether he or she had links with WIPO in the past, had undertaken consultancy work for WIPO, etc. The Committee would need to agree on who would make that decision. The former Vice-Chair ended the general discussion on the revised Chair's draft. An informal meeting on the TOR would be held the next day.

AGENDA ITEM 6: MONITOR, ASSESS, DISCUSS, REPORT ON THE IMPLEMENTATION OF ALL DA RECOMMENDATIONS (RESUMED)

Consideration of document CDIP/13/6 - Evaluation Report on the Project on IP and Brain Drain

159. The Chair recalled that the project on IP and Brain Drain was approved in the 7th Session of the CDIP. It was implemented over a period of 18 months, from January 2012 to June 2013. It consisted of two activities, namely, a mapping exercise on migration flows and innovation, and the convening of an expert workshop on the migration of knowledge workers. The project was evaluated by an independent evaluator. The Chair invited the Consultant to introduce his report.

160. The Consultant (Mr. Ogada) provided an overview of the report. The duration of the project was 18 months. It was implemented from January 2012 to June 2013. This DA project was aimed at addressing Recommendations 39 and 40. The project consisted of two activities.

The first was a research project that sought to exploit information on inventors' nationality and residence in patent applications to map the migration of scientists. The second activity was the convening of an expert workshop to bring together academia, relevant international organizations, and policymakers with a view to developing a research agenda on IP, migration, and associated knowledge flows. The project had two main objectives. The first was to contribute to greater awareness and enhanced understanding of the IP and brain drain linkages among policymakers. The second objective was to develop an informed research agenda on IP, migration, and associated knowledge flows, to provide the basis for future studies on this topic. The Consultant was appointed to evaluate the project after its successful completion. The evaluation process took around three months. It was guided by the following criteria - project design and management; effectiveness; sustainability; and implementation of DA Recommendations 39 and 40. The evaluation came up with nine findings in those areas. First, the project document was found to be sufficient as a guide for implementation and assessment of the results achieved. The two key activities of the project were successfully undertaken without any revision to the project document. Second, the tools for monitoring, self-evaluation and reporting were adequate and useful for providing information on the progress of implementation of the project. The project document provided for a mid-term progress report to be prepared nine months after the launch of the project; a final project review report to be prepared after the completion of the project; a report on the mapping exercise and another one on the workshop. Except for the final report, all the other reports were prepared on time. As those reports were adequate, there was no necessity to provide a final report. Third, the contribution of the other entities within the Secretariat was minimal. This did not adversely affect the project as the compilation of the database and the analysis of migration flows required skills only available in the Economics and Statistics Division. Fourth, the two risks that were envisaged in the project document did not occur. The first risk was whether information on inventors' nationality and residence available on PCT applications was sufficient to undertake the research project. The other risk was the fact that the success of the workshop depended on the active participation of the other International organizations and migration experts. The evaluation established that information on nationality and residence was available for 80.6 % of the inventors in the PCT applications. The participation by international organizations and migration experts in the workshop was overwhelming. Eight international organizations and 13 universities and research institutions participated in the workshop. Therefore, those risks did not occur. Fifth, the project took into consideration emerging trends, technologies and other external forces, given that the project itself was on research and information exchange on inventor migration flows. Sixth, the project was very useful in contributing to greater awareness and enhanced understanding of the linkages between IP and Brain Drain among policy makers. This was achieved through the generation of new knowledge on the subject matter; discussions and information sharing during the expert workshop; publication of the findings of the research project; and presentations of the research findings in seminars and conferences. Seventh, the project was fairly effective in developing an informed research agenda on IP, migration and associated knowledge flows, providing the basis for future studies on this topic. Eighth, there were high chances of sustainability due to strong indications of continued work by WIPO and others on the subject. This was based on the interest of the research community for continued work on the subject; the reactions of the online research community in the web media following the publication of the research project; and WIPO's potential for making use of the data generated on IP and brain drain. Lastly, the project had contributed to DA Recommendations 39 and 40. The research project on IP and Brain Drain contributed to the realization of Recommendation 39, while the active participation of UN agencies in the expert workshop contributed to the realization of Recommendation 40.

161. The Consultant continued by presenting his report's eight conclusions based on those nine findings. First, the project was successfully implemented as per the project document. Second, the project document was sufficient to guide and monitor the implementation of the project and to assess the achieved results. Third, based on the project's design, the participation of other WIPO departments was limited as the project required specialized

expertise and skills to implement. These were only available in the Economics and Statistics Division. Fourth, the main strength of the project's methodology was the use of PCT data on the residence and nationality of inventors. However, the change in US patent regulation which did away with the requirement for inventor residence and nationality may be a major blow to the continued application of the methodology in future studies, particularly with respect to US related research and studies. Fifth, the project contributed towards creating awareness and understanding on the linkage between IP and brain drain. Sixth, although the research agenda formulated by the workshop participants were general in nature, several research themes could be crystallized. Seventh, there was enough interest to continue research in the area of IP and brain drain, both by WIPO and the research community. However, to enhance sustainability, WIPO would need to support continued research activity on the subject matter: support capacity building of researchers from developing countries through joint projects; put more resources to provide services to meet the increasing number of requests for data bases prepared from the research project; organize more workshops and seminars to disseminate the results of the research project; and support the preparation of more publications'. Finally, although the project had contributed towards the realization of DA Recommendation 39, more studies would be required for it to be adequately realized. Based on those conclusions, the evaluation made three recommendations. First, the CDIP should support continued research on IP and brain drain, particularly on the causes and consequences of skilled migration; the use of names and surnames in order to characterize the inventors and their migratory background; surveys on inventors; and surveys on high skilled return migration. Second, the Secretariat should support African countries to undertake research that could lead to the implementation of policies to enable emigrants, including inventors, to return home; and better understanding and knowledge by many African countries on their diasporas. Third, to enhance sustainability of research on IP and brain drain, the Secretariat should support continued research activity on the subject matter; support capacity building of researchers from developing countries through joint projects; support capacity building to meet the increasing number of requests for databases prepared from the research project; support more workshops to disseminate the results of the research project; and support the preparation of more publications.

162. The Delegation of the United States of America made several comments on the evaluation report. The Delegation had supported the project throughout its development. Last November, it made several statements noting the usefulness of the mapping exercise and the value of the highly attended experts' workshop, both of which were indicative that WIPO's work in the area of IP and brain drain clearly contributed unique information to the study of high skilled migration. The Delegation agreed with the Consultant's finding that the project had made a successful contribution to the realization of DA Recommendations 39 and 40. Furthermore, it was delighted that the robust interest of the research community in the project provided a high chance of sustainability. The fact that six international organizations and thirteen universities participated in the experts' workshop and there was continued interest online indicated that there was likely to be continued work on the subject. The Delegation encouraged the WIPO Economics and Statistics Division to continue to give some of their attention to this area of research within existing budgetary resources and staffing levels, and as feasible, given their overall workload.

163. The Representative of the Third World Network (TWN) made a few comments on the evaluation report. The evaluation only consisted of desk review of literature linked to the research report and the workshop. It did not review the seven research papers that were presented during the workshop or any other literature on migration. Further, no inputs were received from other external stakeholders, although it was useful for the purposes of the evaluation. The Representative also noted that the report only looked at the project as a whole. It did not assess each of the individual activities. For example, it did not include a thorough assessment of the approach taken by the study. A further evaluation of the orientation, content and findings of the workshop would also have been useful. One of the objectives of the project was to create a more in-depth understanding of the linkages between IP and brain drain. The

evaluation report concluded from the study prepared by the Secretariat that the project indicated that the linkages between IP and brain drain could be successfully studied based on PCT applications. In this context, it concluded that the project was effective and sustainable. However, the study did not address the linkage between IP and brain drain per se. In fact, it looked at a separate question. In other words, how PCT applications could be used to provide information on migratory flows. This should not automatically lead to the conclusion that there was a definite link between IP and brain drain. With regard to the study on IP and brain drain, the Representative stated that some of the research requested to be undertaken by WIPO, for example, the causes and consequences of migration, may be outside the Organization's mandate and beyond its expertise. WIPO's mandate was quite narrow and it was hard to see a causal link between IP and brain drain. In this context, the use of PCT applications to assess migratory flows may not provide complete information as the residence and nationality of inventors may not always provide a complete picture.

164. The Delegation of Cameroon was encouraged to hear that brain drain contributed to the flow of science and technology in the scientific community. The Delegation had always perceived the concept from a different angle. Thus, perhaps the report should have gone ahead to establish who benefitted or lost from the brain drain. The report highlighted the fact that there were countries like the United States of America that did away with the nationality requirement for inventors. This seemed to contradict the recommendation for countries to implement policies to enable inventors to return home. Even if they were to encourage inventors to return home, it could not provide an automatic solution. In principle, WIPO sought to ensure an equitable distribution of know-how. Thus, the report should have endeavored to make some strong recommendations on how developing countries, especially African countries, could actually address this issue.

165. The Delegation of the United States of America noted that its national patent system was referenced in the evaluation and also by the Delegation of Cameroon. The Delegation clarified that changes to the patent law and regulations of the United States of America meant that inventor citizenship information would no longer be required, not residency and nationality. It was just citizenship information that was no longer going to be required. The Delegation understood this would reduce the amount of information available in the PCT database. However, the United States of America needed to ensure that its patent application process was as streamlined and efficient as possible, which was also a major goal of the work of WIPO and its Member States. It needed to ensure streamlining while still providing top quality patent examinations. The removal of the requirement for inventor citizenship was a carefully examined part of its application streamlining process.

166. The Delegation of Algeria, speaking on behalf of DAG, made three comments on the document. Its first comment was on the study itself. It had made comments on the study in the 12th session. These were recorded in the report for that session. The study did not establish any clear links between IP and brain drain. It only made some assumptions. Thus, the study was useful in terms of providing information, but not in terms of understanding what were the linkages between IP and brain drain. Its second comment was on the evaluation. The evaluator found that the study did not make any recommendations on the potential areas for future investigation. The workshop participants only came up with general statements indicating the direction research could take. This was stated by the evaluator. However, he also stated that the project was fairly effective. The Group could not understand how the evaluator assessed the project to be fairly effective when no recommendations were made at the workshop. Thus, the Group would like the evaluator to explain what he meant when he used the term "fairly effective". The third comment was on the project itself. It would be much appreciated if future project activities under Recommendation 39 were discussed with Member States prior to their implementation, as they did not know what action would be taken by the Secretariat in that regard. The Group would like to know what the Secretariat would be doing in that area.

167. The Delegation of India enquired as to whether the study covered migration with respect to non-technology areas. There was an underlying assumption in the study that better technologies and facilities were factors for migration. The Delegation would like to know the pattern for migration in non-technology areas and if it was provided in the study.

168. The Delegation of Kenya, speaking on behalf of the African Group, referred to the issue of sustainability. One of the key components was information obtained from PCT data. As such, the Group would like to know how the evaluator could conclude that the project could be sustainable, given the change in the patent law and regulations of the United States of America which did away with the requirement for inventor citizenship. The United States of America was one of the top patent filing countries in the world. Thus, a large portion of information may not be available for future use. In terms of using patent applications as a source of data, not all skilled migrant workers filed patent applications. For example, some ended up working in organizations and research institutions, and may never file a patent application. Thus, the Group would like to know how predictive the approach was in terms of really determining and mapping migratory flows based on IP.

169. The Chair invited the Consultant to respond to the questions and comments from the floor.

170. The Consultant (Mr. Ogada) pointed out that the document under discussion was an evaluation report of a project that was undertaken. A separate report on the research project was completed and presented to the CDIP. A report on the workshop was also presented to the Committee. Most of the questions raised were contained in those other reports. The Consultant referred to the issue of sustainability. Previous studies were based on censuses which were conducted every ten years. The data was based on a rough differentiation of skill and did not focus on inventors. Thus, the project provided a better methodology for conducting such studies. The only downside was the changes in the regulations of the United States of America. However, information that was available up to 2012 would still be available. Thus, studies on this topic up to 2012 with respect to the United States of America could still be undertaken. There were other countries where the methodology would still be applicable. Therefore, in terms of research, the methodology and the fact that data would be available clearly indicated that sustainability would be enhanced. The Consultant referred to the comments of the Representative of the TWN and stated that the evaluation was not on individual activities. The evaluation looked at the whole picture. It looked at things in total, in accordance with the TOR. The Consultant referred to the comment made by the Delegation of Algeria that he had indicated that the project was effective in realizing the objectives. The Consultant reiterated that the project had two objectives. The first was to contribute to greater awareness and enhanced understanding on IP and brain drain. The second objective was to develop an informed research agenda. The workshop came up with a general statement on the direction research could take. However, several research themes could be crystallized from the statement. In this regard, four topics were mentioned in the evaluation report. The Delegation of Cameroon referred to the question of who benefitted or lost from the brain drain. This was an important question. That was why one of the recommended areas for further studies was the issue of how countries could come up with policies to attract inventors back to their home countries. The issue of the benefits with respect to home countries and receiving countries was articulated in the report on the research project.

171. The Chair closed the discussions on the report given that there were no further observations from the floor.

Consideration of document CDIP/13/3 - Evaluation Report on the Project on IP and Product Branding for Business Development in Developing Countries and LDCs

172. The Chair opened discussions on the evaluation report for the Project on IP and Product Branding for Business Development in Developing Countries and LDCs. He recalled that the project was approved in the 5th session of the Committee. It had three components, namely, research and IP strategy development, capacity building, and awareness-raising. The project was implemented in Panama, Thailand and Uganda. It was evaluated by an independent evaluator. The Chair invited the Consultant to introduce the report.

173. The Consultant (Mr. O'Neil) provided an overview of the key findings, conclusions and recommendations included in the evaluation report. He began by providing a summary of the 21 findings that were included in the report. The evaluation found that WIPO successfully completed the necessary preparatory steps, notably the development of IP strategies and capacity building for the nine sub-projects. Three of those projects progressed well in the implementation phase, given that other elements had to be in place to bring brands to the market. Progress on the other projects was slower. There were issues concerning the absence of a project manager at the national and sub-project level, and the relevant partners developing a sense of ownership as well as an understanding of WIPO's role. IP registrations were made in all three countries as a result of the project. The processing of those registrations was a positive experience for the national IP offices. In some cases, it was the first time the office processed an application for a particular type of IP. However, improved capacity would only be developed through processing further registrations. An international conference on IP and Product Branding for Business and Local Community Development was held in the Republic of Korea in April 2013 to raise awareness. It was attended by some 200 participants from 18 countries. According to the participants, it was very useful in facilitating the sharing of knowledge and experiences on IP and branding. It was the first international gathering of this nature on the topic. A series of video documentaries were also produced to raise awareness. A paper entitled, "A Framework for Action for IP and Origin Branding: Supporting Local Businesses in Developing and LDCs" was commissioned by WIPO to document the experiences of the project and outline methodological guidelines for future projects of this nature. The document was still in draft form at the time of the evaluation. The nine sub-projects had the potential to contribute to the long-term sustainability of IP and product branding within the concerned communities. However, as six of them had yet to fully implement the IP and branding strategies, their sustainability was in question. Sustainability would depend on finding support for them to continue. Within WIPO, there was an increased demand for supporting IP and product branding projects from Member States. This year, WIPO established a cross-organization working group to review and determine its support for those projects. The evaluation report contained five conclusions. First, the project proved challenging to manage, given its broad scope and ambitious objectives, and limited WIPO resources. It was challenging for WIPO to manage projects at the community-level without a permanent presence or national partners with the capacity to do so. The use of IP to successfully bring brands to market was largely dependent on external factors outside WIPO'S control, notably product identification and inventory, stakeholders' mobilization, capacity building, marketing strategies and financial sustainability. The perseverance and commitment of its staff and partners to overcome these challenges and provide support beyond IP elements led to the successful implementation of the project. This was commendable. However, it indicated that for such projects to succeed, other elements that were largely outside the competencies of WIPO and national IP offices also had to be supported. Second, the project was effective in developing IP strategies at the community level and exceeded the targets set for IP registrations. The target was six registrations and eight were achieved. WIPO was able to demonstrate the importance of IP rights in business development for communities. However, the number of communities that were able to fully capitalize on this within the project timeframe and bring new brands to market was three out of nine. Given the challenges described above, this in itself should be considered a success. Third, the project was able to contribute to positive experiences for the three relevant national

IP offices. However, the project illustrated that these national IP offices currently had limited capacity to be involved with and manage such projects at the community-level. This was understandable as there were undoubtedly higher priorities for them, and community-level projects may not feature significantly in national IP strategies. In the future, for such projects to be considered a priority for national IP offices, their capacity to manage and support them would also need to be reviewed. Fourth, the project was successful in raising awareness on the potential contribution of IP to product branding for communities. The development of a framework was commendable as project experiences were used to produce practical and concrete guidelines for future work in this area. Lastly, it would be unfortunate if support was not found to conclude the sub-projects or to at least, provide the necessary follow-up to encourage progress. At the broader level, WIPO was currently considering its support for IP and branding projects in Member States. The findings of the evaluation should be useful for that purpose. The report included five recommendations for the consideration of the CDIP. First, for future projects of this nature at the community-level, the Secretariat had to consider if it was best suited to manage the projects, and if so, to use alternative project management methods. These could include, for example, sub-contracting to implementing partners present in the given countries or having an expanded project management role in a given country with clearly defined roles and responsibilities for key partners. Second, for future projects of this nature at the community-level, the Secretariat would need to further define the extent of its involvement and support during the implementation phase. Third, for Member States that were interested in developing IP and branding projects at the community-level, it was recommended that they should invest in developing the capacity of their national IP offices to support such projects and for them to feature appropriately in national IP strategies. Fourth, it was recommended that the Secretariat and Member States support and promote the IP and branding framework to increase awareness and application of the framework. Lastly, it was recommended that the Secretariat could continue to support the nine sub-projects in their implementation phase in 2014 through targeted support and follow-up visits from WIPO staff or external experts, and to limit support by defining an exit strategy for handover to Member States; WIPO could consider a more in-depth study of the project's impact. The cross-organization working group on IP and branding could take into consideration the findings and conclusions of the report.

174. The Delegation of the Republic of Korea welcomed the successful completion of the project which was approved by the CDIP and initiated by the Republic of Korea in 2010. The fruitful outcomes of the project were realized with the support of Member States and the Secretariat. The Delegation hoped the experiences and practices in the three pilot countries, namely, Panama, Thailand and Uganda, would be expanded to other Member States that wished to adapt them to their own circumstances. As recommended in the report, for future projects of this nature, particularly at the community-level, the Secretariat had to consider if it was best suited to manage the projects, and if so, to use alternative project management methods such as sub-contracting to implementing partners present in the given countries or having an expanded project management role in a given country with clearly defined roles and responsibilities for key partners.

175. The Delegation of Japan attached great importance to the evaluation processes that enabled the Secretariat to make full use of the lessons learned when formulating work plans for future projects. Therefore, the Delegation appreciated the evaluation that was undertaken by the Consultant. In terms of the findings and recommendations of the report, more importance should be attached to Recommendations 1 and 2 which were related to management methods and the role of WIPO in projects of this nature. Projects that were similar in nature were being implemented such as the Pilot Project on IP and Design Management for Business Development Countries and LDCs, approved at the last session of the Committee. Similar difficulties may occur in the implementation of its work plan. Therefore, the Delegation expected the Secretariat to appropriately address these recommendations in both future and ongoing projects.

176. The Delegation of El Salvador found the report to be of great value. The project could be used as a reference point for a concrete national request for cooperation. The report was also of interest as Panama was one of the countries chosen for the pilot project. The Delegation believed the findings of the evaluation were not very positive. However, the project was viewed positively by developing countries such as El Salvador, as it was trying to replicate the project at the national level. The Delegation referred to paragraph 14 of the report and would like the Consultant to provide more detail on the following, "The project proved challenging to manage, given its broad scope and ambitious objectives, and limited WIPO resources available". The problem appeared not to be the beneficiary countries but in the way the project was managed and implemented. The project was very important for El Salvador and would be used as a reference point.

177. The Delegation of Paraguay believed that such reports showed how the DA could work and hoped that the conclusions of the evaluation report would be taken into account. Necessary funds should be provided to respond to requests for future projects of this nature. The Delegation hoped the document entitled, "A Framework for Action for IP and Origin Branding: Supporting Local Businesses in Developing and LDCs" would be published soon in order for their authorities to familiarize themselves with the necessary elements required to take such projects forward. It would also be appropriate for the Secretariat to organize a workshop or an information event on the more concrete results of the project and the difficulties that could arise in the implementation of such projects.

178. The Representative of the Third World Network (TWN) made some comments on the report. First, the methodology could have been further enhanced by including the views of the key national stakeholders. Although 11 WIPO staff members were interviewed, only three consultants from the countries where the project was implemented were interviewed. Representatives from the national IP offices of Uganda, Panama and Thailand, and local producers such as farmers and SMEs were not interviewed. That would have been very useful for assessment purposes. Second, the project showed that IP branding in itself was not sufficient for a successful business outcome. This was apparent from the evaluation. Many other factors such as product identification, stakeholder mobilization, marketing strategies and financial sustainability played very significant roles. After two and a half years of activities, and the hiring of international and national experts, only three products reached the market. In respect of those products, the evaluation report did not provide any information on the benefits accrued by the respective communities and how it contributed to development. This area could have been explored in the evaluation. Third, the evaluation report considered the IP registrations which were facilitated by the project as a successful outcome. In this context, it was worth noting that registering and maintaining such types of IP involved significant costs. Unless an entity was able to commercialize the brand and generate profits, the mere registration of a particular trademark or geographical indication was not in itself a success. Against this backdrop and in view of the numerous challenges faced by developing countries, WIPO must be in a position to assist countries to overcome the various obstacles in order for them to generate benefits from IP. Otherwise, IP would not be of any use in the context of the conditions that prevailed in most developing countries. The Representative referred to Recommendation 10 of the DA on capacity building to make IP institutions more efficient and to promote a fair balance between IP protection and public interest. There was no indication in the evaluation report that WIPO's capacity building activities addressed the latter aspect of this DA Recommendation. This would have been very useful. Further, the evaluation did not undertake a qualitative assessment of the contents and orientation of the conference that was held in the Republic of Korea. It would have helped if the list of speakers and agenda for the conference had been provided. It would be useful if these were available on the WIPO website.

179. The Delegation of Mexico believed the evaluation report did indicate significant results. It looked at the practical implementation of the project in the pilot countries. The Delegation

appreciated the conclusions on the risks and problems associated with the management of such projects and the implications for countries. All projects needed to be examined from a practical point of view in order for future projects to be successfully implemented. The Delegation sought clarification from the Secretariat on the selection of countries for the project. Mexico's local communities produced a diverse range of products. If the project were to continue, Mexico would be interested to participate in the project in order for it to be implemented on behalf of those communities.

180. The Delegation of Guatemala requested the Consultant to elaborate on the recommendation for WIPO to consider a more in-depth study on the impact of the project.

181. The Chair invited the Consultant to respond to the questions and comments from the floor.

182. The Consultant (Mr. O'Neil) referred to the question from the Delegation of El Salvador. The challenges faced by the project were both internal and external. The internal challenges were linked to the resources made available by WIPO for the project. The project was managed by one professional staff utilizing 50% of her time. She was supported by a project assistant for 16 months utilizing 50% of her time. The personnel resources allocated to the project were rather limited, given the broad ambitions of the project. Like all other development projects, there were also many challenges at the community level. As mentioned earlier, the development of the IP element was just one factor in terms of bringing a brand to market. The project identified these elements, and in the sub-projects encouraged necessary collaboration and support to integrate them. Three sub-projects progressed well in the implementation phase. However, internal and external factors made things more difficult for the other six communities. These included the absence of a project manager at the national and sub-project level, and the inability to support the communities in other aspects of bringing brands to market. The Consultant referred to the comments of the Representative of the TWN and noted that they were mainly on the limitations of the evaluation. He agreed with most of the comments. Feedback received from the communities and national IP offices was limited. Efforts were made to establish contact and set up remote interviews but it was not possible within the given time frame. It was not possible to conduct on-site evaluations through field visits due to budgetary constraints. In that regard, the Consultant agreed that the report did not go into the benefits from a community perspective. There were no direct interactions with the respective communities. In this respect, one of the recommendations in the report was to conduct a more in-depth study at the community level on the impact of the project. The Representative of the TWN questioned whether the number of IP registrations could be viewed as an achievement. This was set as an indicator in the documentation for the report. Although it had some significance as an indicator, it could also be argued that IP registrations needed to be maintained and much would depend on how they were used. This was a good point. However, that was beyond what could be done within the evaluation. The Consultant referred to the question from the Delegation of Guatemala on the in-depth study. Given the limitations that were mentioned with regard to the evaluation, it was recommended that WIPO could consider a more in-depth study of the impact of the project, possibly by a third party institution. It would involve on-site assessment of the project's impact at the community level. It could be very useful, particularly as this was the first pilot project in this area. The in-depth study as well as the publication of the framework document would assist other Member States to make use of the experiences gained under the project.

183. The Secretariat (Ms. Toso) referred to the question from the Delegation of Mexico on the selection of the pilot countries. The considerations included geographical balance and requests from countries to take part in the pilot project. An analysis of countries that already benefited from other DA projects was also carried out. The choice was made in close consultation with the regional bureaus, based on an analysis of the requests presented to the bureaus for technical cooperation. On the publication of the framework document, the Secretariat stated that the text was being finalized and would be published later this year. There was demand for

the document and it would be made available. In response to the request for more information on the conference which took place in the Republic of Korea, the Secretariat stated that it had all the documents. The information could be made available on its website. On the benefits accrued by the communities, the Secretariat stated that the communities had just started to implement more comprehensive marketing and branding strategies. However, as recommended in the report, it would be very useful to conduct a study to document the benefits accrued. The IP component was only one element of a very complex environment involving other elements. This was in line with one of the findings of the evaluation. As mentioned in the report, other elements such as marketing strategies, financial sustainability and product identification were also important to bring a product to market. In this regard, strong links were created with other international organizations to intervene in such a process. The rallying of other organizations was a concrete result. The Secretariat was now aware of the need to consider the entire spectrum in future projects of this nature. WIPO would be responsible for the IP component and would work with organizations with respect to those other important areas. Those other organizations within the UN system shared the same understanding. This was an important outcome of the project.

184. The Delegation of El Salvador stated that the Secretariat had just confirmed the value added by the project. The intrinsic value of the project encouraged the country to continue with its national project.

185. The Chair closed the discussion on the report given that there were no further comments from the floor. He invited the Committee to consider the Evaluation Report on the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and LDCs.

Consideration of document CDIP/13/4 - Evaluation Report on the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and LDCs

186. The Chair recalled that the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and LDCs was approved by the CDIP during its 7th Session. The project was implemented from January 2012 to December 2013 for a period of 24 months. The main outputs included the organization of two interregional and two annual conferences, the establishment of web-based information, networking and exchange tools as well as the appointment of a focal point for South-South cooperation within the Secretariat. The project was evaluated by two independent evaluators. The Chair invited the evaluators to introduce their report.

187. The first Consultant (Mr. Musungu) introduced the first part of the evaluation report. The document also included an executive summary and appendices that provided additional information on the project and the report. The aim of the evaluation was to provide an overall assessment of whether the project had achieved its intended objectives. Thus, it did not evaluate specific activities. The evaluation was carried out in accordance with WIPO's evaluation policy. It was based on four main criteria, namely relevance, efficiency, effectiveness and sustainability. The methodology included a desk review of the project documentation and other documentation produced within the project, as well as individual interviews, interviews of focal groups and direct observation. The evaluation had some limitations. The web-based tools developed under the project were still being fine-tuned at the time of the evaluation to be fully in line with the new WIPO website. Therefore, statistics on their use were not yet available. An assessment of the use of those functionalities was also not possible. The evaluation took place immediately after the project ended. Translating outputs into specific outcomes in the context of the project objectives would need time. Thus, the evaluator could not assess the project's outcome and impact level results, and overall long-term benefits.

188. The Consultant introduced the main conclusions of the evaluation. First, the project was timely and of high relevance to international priorities, Member States and the direct

beneficiaries. Although South-South cooperation had been taking place within WIPO, this was the first time it was addressed through a specific project. It brought needed focus and highlighted the importance of the issue within the Organization. All stakeholders inside and outside WIPO highlighted the relevancy of the conferences and topics covered. Second, shortcomings in the project logic were partially a result of negotiating specific outputs in the framework of the CDIP and aligning them to different DA Recommendations. The application of standard project planning tools at the design stage had room for improvement, including the application of result-based budgeting. Partly due to the need to agree on an acceptable compromise, project deliverables were negotiated by Member States in the framework of the CDIP rather than determined based on what would be needed in order to achieve expected outcomes and meet the objectives of Member States. Expected outcomes were determined after defining a list of specific activities and linking them to existing DA Recommendations. As a result, the causal link between outputs and outcomes was weak. The preparation process could also explain why the project's outcome objectives were clearly unachievable within the given timeframe. Third, the project was well managed. The delivery and quality of outputs were regularly monitored. Resources were used economically. Only 63% of the project budget was used. The project generally provided the right type of support in the right way and achieved its objectives at the output level. It was too early to assess the outcomes. Although it was not possible to assess the use and impact of the web-based tools, they had a lot of promise in terms of what they could achieve. Only 3.9% of the budget was spent on those tools. Through the project, WIPO also actively participated in different South-South events organized within the UN framework, including in high-level South-South conferences. Informal links with other organizations were also maintained. Lastly, the long-term sustainability of initial results required mainstreaming of South-South cooperation into all WIPO activities and a dedicated coordination and support function. The sustainability of web-based tools as a platform for information exchange required them to be fine-tuned based on feedback and to promote them among potential users.

189. The second Consultant (Mr. Keller) introduced the recommendations included in the report. Recommendation 1 was for Member States and the Secretariat. It was on mainstreaming South-South cooperation as a regular part of WIPO activities. In this regard, the Secretariat could prepare, for the consideration by the Member States, a roadmap for the mainstreaming of South-South cooperation as a delivery strategy to complement existing approaches; and consider establishing a dedicated coordination function that would also coordinate with other organizations inside and outside the UN system, and a formalization of the cooperation with UNOSSC. Recommendation 2 was for the CDIP to approve an extension of the project for one year in order to fine-tune all web-based tools based on user-feedback, promote them among potential users and collect information for the databases; map existing South-South activities within WIPO, studying good practices within other UN organizations; and continue active participation in different UN initiatives relating to South-South cooperation and triangular cooperation. It was also recommended for the CDIP to approve the use of remaining project funds and additional funding for maintaining existing personnel resources for the extension period. Recommendation 3 was for Member States, project managers, DACD and the Resource Planning, Program Management and Performance Division. It was on project planning. The quality control of projects at the design stage should be strengthened to ensure that existing project planning tools were properly applied. Recommendation 4 was for the CDIP, project managers, DACD and sectors involved in technical capacity building. It was on the organization of conferences. In order to cater to the need of participants with expertise in specific fields relating to IP, conferences should focus on a limited number of topics that were closely linked to each other. When organizing conferences as back-to-back meetings with GA or CDIP meetings, the advantage of cost savings should be carefully weighed against the disadvantage of not reaching the right participants. Recommendation 5 was for the CDIP, project managers and DACD. It was on the Roster of Consultants. Experts who had not worked for WIPO but had the necessary expertise could be considered for inclusion in the

roster. The performance of external consultants could also be systematically rated and the information made available to all staff members.

190. The Delegation of El Salvador found the evaluation report to be positive. It encouraged the continuation of the project. The Delegation supported the recommendation for the Secretariat to prepare a roadmap for the mainstreaming of South-South cooperation. This was extremely important and should be considered by the Committee. The Delegation also supported the recommendation on making information available to the public, as practiced by the WTO.

191. The Delegation of Brazil had followed the project with great interest. Brazil hosted one of the interregional meetings and the results were very positive. It provided an opportunity for those involved to exchange ideas. Brazil firmly believed in the protection of South-South cooperation, particularly in the field of IP. For this reason, Brazil signed an instrument with WIPO in which it dedicated 1 million USD to trilateral activities of this nature. With regard to the report's recommendations, the Delegation supported the proposals to extend the project to create a coordination function dedicated to South-South cooperation and the establishment of a roadmap which could encourage initiatives and promote activities in tandem with other organizations that had experience in such activities. As proposed in the report, studying the good practices of UN agencies in terms of South-South cooperation could be a useful way for WIPO to determine the priorities in this area. South-South cooperation should not be seen as a replacement for traditional North-South activities. South-South cooperation was complementary in the sense that it increased the efficiency of the actions as a whole. It allowed for the exchange of ideas and experiences between countries with similar socio-economic realities in their search for solutions to common challenges.

192. The Delegation of Chile stated that South-South cooperation was part of the policies of its industrial property office and played an important role in its activities. For example, in recent years, it provided technical assistance to other Latin American offices. The office also supported the transfer of technology through tools it had developed. The Delegation turned to the evaluation report and highlighted some important elements. On Recommendation 1, the Delegation agreed that the Secretariat should prepare a roadmap for mainstreaming South-South cooperation as a delivery strategy to complement existing approaches. It was important for South-South cooperation to be mainstreamed into WIPO's work. It was often said that South-South cooperation could be more effective. It could also be more economical in financial terms. The idea of establishing a dedicated coordination function within WIPO to coordinate with other organizations inside and outside the UN system was very important and should be implemented. Recommendation 2 on an extension of the project for one year in order to fine-tune the web-based tools and map existing South-South activities within WIPO was also important. In principle, the Delegation would like projects to be carried out within the given timeframe. However, in this case, it was important for the recommendation to be adopted. Web-based information was crucial and should not be left incomplete. Recommendation 5 on the organization of conferences to meet the needs of participants with expertise in specific fields related to IP was important and should be examined. The advantage of cost savings should be carefully weighed against the disadvantage of not reaching the right participants. This was necessary for the objectives of the conferences to be achieved.

193. The Delegation of Egypt would like South-South cooperation to remain on the Committee's agenda and as part of WIPO's work. The Delegation acknowledged the findings of the evaluation report and supported its recommendations. With regard to Recommendation 1, the Delegation supported the establishment of a roadmap for mainstreaming South-South cooperation as a delivery strategy to complement existing approaches. The Delegation echoed the comment made by the Delegation of Brazil that South-South cooperation complemented North-South cooperation, it was not a replacement. It was a tool for countries to exchange experiences and lessons learned, and to customize them to their needs. The Delegation also

supported Recommendation 2 on the extension of the project for one year. It would help to fill existing gaps in relation to the databases and other issues that were raised in the report with respect to the web-based tools and other activities within WIPO. The extension should help to fill those gaps and provide the Committee with a clearer picture of how work should be done. Recommendation 3 on quality control at the design stage of projects should help to enhance the overall efficiency and effectiveness of projects. Recommendation 4 referred to conferences and the need to focus on a limited number of topics. This could be linked to the issue of quality control as focused discussions were needed for concrete outcomes to be achieved. The Delegation supported more focused discussions. It noted that the content of conferences was not assessed in the evaluation. Recommendation 5 was on the Roster of Consultants. The Delegation stated that it was time for WIPO to expand the roster. The scope should be widened in terms of the experts brought in to provide expertise and assistance with respect to WIPO's work and activities in relation to the DA and other areas. For example, although Egypt could extend its expertise to other countries such as those in the Arab region that may require such expertise, its experts were not on the roster. Thus, something had to be done in this regard. Egypt hosted a meeting on South-South cooperation in May 2013 and remained committed to the issue.

194. The Delegation of India noted that the delegations of Brazil and Egypt had already spoken in detail on the importance of the findings included in the evaluation report. The Delegation supported most of the recommendations in the report, including the preparation of a roadmap. This would be shared with Member States in order for them to be involved with the Secretariat in the development of the road map. The Delegation also supported the recommendation to extend the project for one year to fill in the gaps identified by the two experts. It also agreed with the recommendation for WIPO, as a member of the UN family, to be more actively involved in South-South activities. In the discussions on the post-2015 DA, the role of ICTs was declared to be vital for achieving the Sustainable Development Goals (SDGs) that would ultimately be finalized and adopted. WIPO's role would then be very important. The Delegation welcomed the report and supported its findings. The Delegation referred to the concerns expressed by some delegations on the Roster of Consultants. The roster needed to be expanded. It should not be limited to the regular consultants. It should also include other individuals who had a different or broader perspective on development and South-South cooperation.

195. The Delegation of the United States of America made comments on a few of the specific recommendations. Recommendation 1 in the evaluation report suggested that the Secretariat prepare a roadmap for the mainstreaming of South-South cooperation as a delivery strategy to complement existing approaches. The Delegation agreed this could be a useful exercise. As mentioned by the delegations of Brazil, Egypt and Chile, the focus was on South-South cooperation being mainstreamed as a delivery strategy to complement existing approaches, namely, North-South cooperation where it was used. It was important to remember that there would be aspects of WIPO activities where no delineation of North or South occurred. However, in places where North-South cooperation and technical assistance occurred, South-South cooperation should also be incorporated. The Delegation also emphasized that South-South cooperation, as described in the UN system, also included triangular cooperation which was defined as collaboration in which traditional donor countries and multilateral organizations facilitated south-south initiatives through the provision of funding, training, management and technological systems and other forms of support. The Delegation suggested that future WIPO efforts in the area of South-South cooperation could also include consideration of triangular cooperation. The question of the focal point within the Secretariat was discussed at length by the CDIP in May 2011. While the Delegation did not believe that an additional staff position should be created to fill the role of a focal point, it supported the Secretariat continuing to have existing staff take on that role. The Delegation saw the value of having some focus on this within the Secretariat. Likewise, the formalization of cooperation with the UNOSSC, as suggested in Recommendation 1(b), was something that could be pursued much in the way that WIPO had increased engagement with other UN bodies across the system. The Delegation

referred to Recommendation 2 on project extension. While the Delegation would not support additional funding for an extension of the project, it was clear that additional important work could be done within existing budgetary resources, in particular, focusing on enhancing, refining and populating the web-based tools. The evaluation noted that the project's web-based tools were of significant potential value and were a highly efficient approach to promoting information exchange and access to knowledge. Furthermore, to date, they had only cost 3.9% of the project budget. It seemed that the main issue was that they had not been up and running long enough for them to be adequately publicized and to receive feedback to help with the refining of the tools. Further work in this area would be of great value. Using the remaining 37% of the original project budget, the Secretariat should be able to do significant work in this area. The Delegation referred to Recommendation 4 on conferences. With regard to the organization of conferences, the Consultant made an interesting comment on the need to weigh cost savings against the type of participants reached. The Delegation agreed that there was great value in reaching regional stakeholders, industry, NGOs, small business owners, IP rights holders and government decision makers and so on, many of whom were only reachable when the conferences were organized outside of Geneva. They were then able to come together to discuss IP issues that really affected them. On the other hand, the Geneva based meetings were intended to complement the regional meetings and to provide a certain amount of read out for those who were in Geneva. It was noted that for the South-South project, the project managers did move the second Geneva based conference to be adjacent to the CDIP meeting where it could more appropriately inform the experts on the issue. Lastly, the Delegation referred to the Roster of Consultants. This issue was being discussed in depth in the discussion on the review of technical assistance. The Delegation believed that it was more appropriately addressed within that discussion, where WIPO technical assistance was being considered as a whole. However, it took note of the concerns raised that were specific to the South-South project.

196. The Delegation of Peru agreed that a roadmap was important. There was also a need to establish the objectives and goals for each meeting and to follow up on the elements mentioned in those meetings. Peru participated in the two meetings that took place. It shared some experiences and learned from the experiences of other countries. The Delegation supported the proposal to establish a dedicated coordination function within the Secretariat. South-South cooperation was absolutely essential and the UN GA had mentioned this as a priority recommendation for all UN bodies. For those reasons, the Delegation supported the proposal and the recommendations in the evaluation report.

197. The Delegation of Mexico referred to the conclusion that it was too early to assess the outcomes of the project. In this regard, the Delegation would like the evaluators to explain how long the project needed to be implemented in order to be able to assess its results.

198. The Delegation of Kenya, speaking on behalf of the African Group, stated that South-South cooperation was very important, especially for developing countries. A lot of learning could take place within and among developing countries. The Group noted the finding that for this project, Member States agreed on the outcomes before they tried to fill in the project management model and to fit in the DA Recommendations. This finding was pertinent. There was a need for the Committee to consider whether this approach would really help to achieve the ultimate objective to balance the IP system in order for it to work for the right holders and to serve the public interest. This was applicable to the mainstreaming of South-South cooperation and other activities. Member States should keep this in mind. The Group supported the recommendation to mainstream South-South cooperation within WIPO's work. It could go a long way in terms of efforts to achieve some of the objectives of the DA Recommendations. The Group also supported the establishment of a coordination function within WIPO and the expansion of the Roster of Consultants to include more individuals with diverse expertise to work in this area.

199. The Delegation of Cameroon appreciated the project. South-South cooperation to strengthen and develop IP systems assisted researchers in countries of the south to obtain IP protection for their research. It was not always easy to establish procedures for IP protection. Some countries in the South had more developed economies compared to others. Strengthening such cooperation would enable LDCs to obtain assistance from the more developed countries in the South. The Delegation referred to the third conclusion in the evaluation report where it was stated that conferences were the right initial approach to provide visibility and strengthen awareness on South-South cooperation. The Delegation noted that certain aspects were often neglected in the discussion on South-South cooperation. For example, there were independent researchers in countries such as Cameroon. Conferences or web-based information would not be sufficient to reach out to them and to help them understand that it was possible to obtain IP protection for their research results. Perhaps more practical aspects should be considered. For example, everyone had a radio in Africa. There could also be written correspondence between institutions. The Delegation understood that conferences were not always attended by all. Perhaps the internet was a better way to bring people closer. However, it was not necessarily a panacea for all. The evaluators for this project needed to take into account the reality of how information was communicated. Perhaps there was a need to think of a way for the many different countries of the South to become more familiar with such projects.

200. The Delegation of Sri Lanka stated that South-South cooperation was very important. It was the foundation under which the G-15 was created. South-South cooperation should be a tool for developing important and strategic partnerships to promote sustainable growth and contribute to the development of countries. The Delegation welcomed the recommendations of the report, especially recommendation 1 on the preparation of a roadmap and the establishment of a dedicated coordination function for mainstreaming south-south cooperation. It echoed the statements made by the delegations of Egypt and India to support the extension of the project by one year. Lastly, the Delegation reiterated that South-South cooperation could play an important role in achieving the objectives outlined in the relevant Recommendations of the DA. It hoped that South-South cooperation could be used as a tool to develop IP systems in developing countries and LDCs given the particular circumstances and challenges faced by them.

201. The Representative of the TWN highlighted a number of elements which could have strengthened the evaluation. For example, the evaluation report did not address the contribution of the project to the DA Recommendations that it pertained, namely, Recommendations 1, 10, 11, 13, 19, 25 and 32. These were the basis of the project. It would have been useful to assess how they were implemented. As mentioned by the Delegation of Egypt, the evaluation report did not include a qualitative assessment of the content discussed at the conferences. This would have been appropriate in terms of trying to find out how the project achieved its objectives and contributed to the DA Recommendations. In addition, the evaluation report did not contain more qualitative information on WIPO's engagement in South-South cooperation. The evaluation also did not undertake, from a development standpoint, a qualitative assessment of WIPO's engagement in different events organized under the UN framework. That would have been useful. The evaluators mentioned that they did not undertake an assessment of specific activities. However, more qualitative analysis would have been useful in this respect. As mentioned by a number of delegations, the project deliverables included the appointment of a focal point by the Secretariat. A focal point was appointed but only on an *ad hoc* basis. The evaluation report did not provide any explanation as to why it was not on a permanent basis. This would also have been quite useful. The evaluation report noted that not all the elements foreseen in the project were fully implemented. Thus, it was not able to assess key elements of the project such as the web-based tools. In this context, the Representative recommended that the evaluation report be revised to include an assessment of the web-based tools once those elements were completed and feedback was received. With regard to the recommendations of the evaluation report, a good way forward would be to extend

the project, as mentioned by a number of delegations. This would give WIPO sufficient time to implement and fine-tune the web-based tools, obtain feedback and undertake further work on IP-TAD, the Roster of Consultants, the web page on South-South cooperation and the interactive web portal. During this time, a focal point on South-South cooperation could also be permanently established.

202. The Chair invited the Consultants to respond to the questions and comments from the floor.

203. The Consultant (Mr. Musungu) noted that most of the comments and suggestions were on how to move forward. It was up to Member States to discuss which recommendations should be taken forward. The Consultant referred to the question from the Delegation of Mexico on assessing the outcomes of the project. When the evaluation was undertaken, the evaluators were not able to assess the impact of the project in the longer term. For example, whether the information gained from attending a conference was used, or if the web-based tools were being used and how they were benefitting people. At a later stage, for example, in the evaluation that was foreseen for the whole of the DA, it may be possible at that time to assess the longer term impact. The project's timeline was not the issue. It was just not possible to assess the outcomes or impact on the ground immediately after the project. The evaluation was a snapshot in time. At a later stage, it may be possible to understand much deeper issues. The Consultant referred to the comments made by the Representative of the TWN. He did not understand what the Representative meant when she used the term "qualitative assessment". The methodology used for the evaluation included quantitative and qualitative assessment. To understand the importance of a conference, qualitative assessment meant looking at what was presented, but most importantly, talking to the people who attended the conference to understand whether they appreciated the conference, the materials and the opportunity. As indicated in the report, the evaluators spoke to a wide range of people in Geneva and in capitals who participated in different activities to gain an understanding of their views on what they got out of the conference and whether the information was being used. That was qualitative assessment as opposed to counting how many conferences took place. That would be quantitative. With respect to the focal point, the Consultant stated that the project was time bound. The focal point could only be appointed in the context of the project. That is why it was recommended for the Secretariat to look at how South-South cooperation could be taken forward. The mere appointment of a focal point may not achieve the objectives in that regard.

204. The Consultant (Mr. Keller) noted that many delegations had rightly mentioned that South-South cooperation should not replace traditional North-South cooperation and triangular cooperation. The Consultant believed that the future of development cooperation was a combination of such cooperation depending on the specific requirements and type of project. The Consultant referred to paragraph 36 of the report. There were some case studies on that issue, including the case study mentioned in the report.

205. The Chair closed the discussions on the report given that there were no further observations from the floor. He invited the Committee to consider the self-evaluation report on the Project on Patents and the Public Domain.

Consideration of document CDIP/13/7 - Self-evaluation Report on the Project on Patents and the Public Domain

206. The Chair recalled the project was approved by the CDIP during its 7th session. The duration of the project was 15 months. Implementation began in January 2012. The project consisted of a micro level study on patents and the public domain. It was presented at the 12th session of the Committee. A self-evaluation report on the project was prepared by the project manager. He invited the Secretariat to introduce the report.

207. The Secretariat (Ms. Miyamoto) presented the report. The Project on Patents and the Public Domain was described in document CDIP/7/5 Rev. In accordance with the project document, a final self-evaluation report was prepared. It described the key project outputs and offered a final assessment of the project's achievements. The project consisted of a micro level study on patents and the public domain. The objective of the project was to enhance understanding of the impact of certain enterprise practices in the field of patents on the public domain and the important role of a rich and accessible public domain. A study was prepared by a group of external experts led by Professor James Conley from the Kellogg School of Management. It was presented during the last session of the CDIP in November 2013. In accordance with the project document, the comments from members and observers of the CDIP were appended to the study in their original language. The TOR for the study were prepared in accordance with the project document. The study covered the contents which were required in the TOR. The finalization of the study was delayed by five months due to the longer preparation period requested by the authors. The project was supposed to be implemented in 15 months. However, it was finalized in 23 months. Thus, a lesson learned was that even straight forward projects like this one required adequate time to be provided in order to ensure that the outputs were of high quality. The project was conducted within budget. A side event was organized during the last session of the CDIP to support the project's objective. In view of the limited time available during the CDIP plenary session, the side event provided an opportunity for the authors to better communicate the findings of the study to Member States. It also facilitated a further discussion on the study. A lesson was learned in this regard. It was important to provide for an extra opportunity to promote and discuss the contents of a study through a side event or any other forum. Feedback from Member States indicated that the study generally contributed positively to the objective of the project. That did not mean that Member States agreed with each on every conclusion of the study. On the contrary, different views were expressed during the discussions in the previous CDIP session. Those views and perspectives contributed to an enhanced understanding of the issues covered in the study. However, it should be noted that the amount of feedback received on the study may not be sufficient to make any statistically meaningful assessment. Thus, there could be more feedback from Member States.

208. The Delegation of El Salvador welcomed the document. The project was extended to 23 months so Member States could continue to contribute positively to the project. The document was a useful tool for El Salvador's industrial property office and its negotiators on the subject. As expected, the study provided a wealth of information on the subject.

209. The Delegation of Pakistan stated that it was perceived that the overall relationship between patents, innovation and a freely accessible public domain was very complex. Developing countries lacked technical expertise. Hence, they were unable to effectively use inventions which were in the public domain in their jurisdictions. The Delegation strongly endorsed the importance of an accessible public domain and the speedy transfer of patented technology to the public domain. To meet this objective, it had identified certain areas that required action. First, patent examiners should tighten the scrutiny of patent claims that appeared overly broad. Broader claims posed more risks in terms of patent infringement and litigation. Therefore, patent offices should adopt a strategy for not allowing overly broad claims. Second, some entities filed oppositions on frivolous grounds to delay the processing of patent applications. In this regard, patent offices should introduce stringent grounds for filing oppositions against accepted patent applications. Third, the judiciary in developing countries such as Pakistan was not well versed with IP or the patent system. A Patent infringement lawsuit took years to settle. As such, the revocation or invalidation grounds for granted patents should be stringent and evidence based. Pakistan would be setting up IP tribunals in the near future. The Delegation hoped these would facilitate the speedy disposal of patent infringement cases.

210. The Delegation of Chile reiterated that the public domain was a tool for maintaining balance in the IP system. Thus, it was very important. These studies were important for all

Member States. The Delegation referred to DA Recommendation 20 on promoting norm-setting activities related to IP that supported a robust public domain in Member States. Although the project did consider several aspects of the public domain, it was not necessarily an activity that promoted norm setting activities as mentioned in Recommendation 20. Work should continue in this area as the project did not necessarily exhaust the scope of Recommendation 16 or Recommendation 20 which called for specific action by the Secretariat and Member States on the promotion of norm setting activities.

211. The Representative of the TWN referred to the Secretariat's conclusion that the quantity of feedback received from Member States on the study when presented to the CDIP may not be sufficient to make any statistically meaningful assessment. In this context, a good way forward would be for additional time to be allocated for Member States, observers and other stakeholders to submit written feedback on the study. This would enable appropriate assessment of the project, including an independent evaluation.

212. The Delegation of India stated that it was unclear as to how patent asserting entities and non-practicing entities contributed to the public domain insofar as the information embedded in the documents for valid patents could not be freely utilized. The study assumed that developing countries could successfully use the invention in their markets to gain a competitive advantage in developing improvements and exporting to the developed countries. That assumption was a little simplistic. Moreover, abandoned patents often did not have much commercial potential. Thus, the Delegation questioned the extent to which they really enriched the public domain.

213. The Delegation of Cameroon referred to DA Recommendation 20. Patents played an important role in the development of countries. The public domain was an important source of technical information. Thus, there should have been some additional emphasis on the creation of technical capacity in developing countries. African countries such as Cameroon required technical capacity to use information in the public domain.

214. The Chair invited the Secretariat to respond to the comments from the floor.

215. The Secretariat (Ms. Miyamoto) referred to the utilization of the public domain by developing countries, particularly those that required more technical capacity to use it. This was discussed at the previous CDIP session with the author of the study. He acknowledged the challenges faced by resource poor countries to utilize information in the public domain. The study highlighted the importance of information disseminated to the public domain through the patent system when a patent was valid and when it expired. This was also highlighted in the other study related to patents and the public domain prepared in the context of the project on the IP and the Public Domain. The dissemination of information through the patent system, disclosure of information and how the public could access such information were issues related to the public domain. They were also discussed in other WIPO bodies.

AGENDA ITEM 7: CONSIDERATION OF WORK PROGRAM FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS (RESUMED)

Consideration of the following documents:

Country Study on Innovation, IP and the Informal Economy: Traditional Herbal Medicine in Ghana

Country Study on Innovation, Intellectual Property and the Informal Economy: The Informal Metalworking Sector in Kenya

Country Study on Innovation, Intellectual Property and the Informal Economy: Informal Manufacturers of Home and Personal Care Products in South Africa

216. The Chair invited the Secretariat to introduce the three country studies on innovation, IP and the informal economy.

217. The Secretariat (Mr. Wunsch-Vincent) began by introducing the project on IP and the Informal Economy which was related to the implementation of DA Recommendation 34. Innovation was important for developed and developing countries. The project recognized from the outset the ubiquity of the informal economy as a structuring element in the innovation systems of developing countries. The project also recognized the important contributions of the informal economy to employment and growth in developing countries. Finally the project recognized, to some extent, the creativity and ingenuity that was taking place in the informal economy. However, little was known about how innovation actually occurred in the informal economy and how intangible assets were monetized. The project was guided by three core questions, i.e. how innovation occurred in the informal economy; how benefits were monetized; and how intangible assets were appropriated. Member States also requested for policy recommendations to encourage innovation in the informal economy. The project had two main outputs, i.e., one conceptual study and three country case studies. The conceptual study was presented at the 11th session of the CDIP. The three country case studies would be presented at this session. They covered traditional herbal medicines in Ghana, the informal metalworking sector in Kenya, and the informal manufacturers of home and personal care products in South Africa. A side event on the studies would also take place in the afternoon. The project looked at an aspect of innovation that was not previously extensively explored. These were the first comprehensive country studies on the informal sector. Experts in three different areas, namely, innovation, the informal economy and IP, were brought together to work on the project. The project also supported efforts to measure innovation. Although many organizations worked on measuring innovation, few had looked at this particular aspect. It was hoped that the project could influence the agenda of those organizations with respect to this area. The Secretariat was encouraged by the fact that in the preface to the last African innovation outlook, the authors recognized that future editions of the outlook should look at the informal economy. The Secretariat hoped that the policy framework developed to contribute to innovation policy making in developing countries would be useful.

218. The Consultant (Mr. Essegbey) introduced the country study on traditional herbal medicine in Ghana. He believed the study would contribute to understanding the connections between IP and innovation in the informal sector. The traditional herbal medicine sector was important in the health care delivery system in Ghana. The study sought to identify the critical actors and to understand the drivers and inhibitors of innovation in this sector. It also looked at whether the IP system in Ghana facilitated innovation in this sector and how that could be enhanced. The traditional herbal medicine sector traversed the informal and formal sectors. A lot of innovation took place in relation to products as well as manufacturing processes. Regulations and policies drove traditional medicine practitioners to innovate and to access higher market values. The Consultant turned to the findings of the study and introduced some

of the highlights. These would be discussed in detail during the side event in the afternoon. Traditional medical practitioners were organized in associations and they connected with the Ministry of Health, the regulators and research institutions. The innovations took place through these connections. The drivers of the innovations were the policies put in place by policy institutions, specifically the Ministry of Trade. The regulations enabled traditional medical practitioners to make products that met specified requirements and standards. IP was not practiced in a formal way, for example, through patents and trademarks. It was practiced in a way that suited the environment and that had to do with secrecy. Secrecy enabled the traditional medical practitioner to ensure that he appropriated the knowledge that was fundamental to his products. However, the innovations that were observed pointed to the potential that IP had for up-scaling. This aspect could be further considered. The study was restricted to the traditional medicine sector. Further lessons could be learned from other sectors. It had also not been possible to prepare a more elaborate study on the traditional herbal medicine sector due to time constraints.

219. The Consultant (Ms. Kraemer-Mbula) presented the case study on informal manufacturers of home and personal care products in South Africa. In this context, the study identified innovative products, services and processes generated in the informal economy. The study adopted a systemic approach to examine the informal economic activities generated around the manufacturing of home and personal care products, exploring these activities as part of a broader economic, social and institutional system in which informal manufacturers operate. By mapping the innovation system around them, the study identified the key actors comprising the productive chain of home and personal care products (including formal and informal suppliers, informal manufacturers and distributors or retailers), as well as an array of educational and training organizations, funding organizations, government and regulatory bodies, knowledge and technology transfer organizations and industry representative bodies. Within that innovation system, the study tried to understand the mechanisms of knowledge appropriation and how they were used, the role of IP and the potential policy implications. Home and personal care products fell broadly within the chemical sector. They included products such as cosmetics, fragrances, moisturizers, hair care, detergents and cleaning products. Thus, it was a very diverse sector. Structured interviews were conducted for a sample of informal manufacturers directly engaged in the production of home and personal care products in two South African provinces. Survey tools were used for these manufacturers. Unstructured interviews were conducted with educational and training organizations, funding organizations, government and regulatory bodies, knowledge and technology transfer organizations and industry representative bodies. The study found that informal manufacturers did not operate in isolation. They interacted at various stages of production with a range of actors. The interactions shaped the innovative behavior, the nature of innovations and preferences in terms of exchanging and appropriating knowledge. Connections with the wider innovation system and the quality of those interactions were found to be critical in terms of understanding innovation and knowledge appropriation. There was a significant level of innovation in relation to products and processes. Most of the innovations were incremental and not new to the world. They were new to the firm and new to the context in which they operated. Most innovations were reactive in the sense that they were developed in response to specific customer needs. It was also found that entrepreneurs usually innovated as a response to something rather than proactively. However, there were examples of proactive innovations where informal manufacturers were reaching out to a wider customer base using a range of mechanisms such as developing products targeted at specific ethnic groups. Innovations were mainly collaborative as informal manufacturers usually lacked resources to invest in research and development. They relied on sharing resources in collaborative arrangements at different stages of the production process. Innovations emerged as a result of the collaborations. The study found that formal mechanisms of knowledge appropriation were not commonly used. This was similar to what was found in Ghana in relation to the traditional medicine sector. There was widespread use of semiformal and informal mechanisms of knowledge appropriation such as secrecy and the strategic division of labor. Informal institutions and rules of engagement were important in guiding behavior

around knowledge exchange and appropriation. Interactions with the wider innovation system were key drivers for upgrading and differentiation. Informal manufacturers that operated in isolation from the broader innovation system tended to be left behind. Those that proactively sought interactions with the wider innovation system were more likely to innovate and have a different attitude towards knowledge appropriation. Finally, the study found a lack of familiarity with the IP regulatory framework. Thus, there may be a need to bring the IP framework closer to the reality and constraints experienced by micro-manufacturers. They were mostly informal in the context of the African countries that were examined. That called for a systematic consultative process to take place.

220. The Secretariat (Mr. Wunsch-Vincent) proposed that the Kenyan study be presented during the side event on IP and the informal economy. This was agreed given that there were no observations from the floor.

AGENDA ITEM 6: MONITOR, ASSESS, DISCUSS, REPORT ON THE IMPLEMENTATION OF ALL DA RECOMMENDATIONS (RESUMED)

Consideration of document CDIP/13/5 - Evaluation Report on the Project on IP and the Informal Economy

221. The Chair invited the evaluator to introduce the Evaluation Report on the Project on IP and the Informal Economy.

222. The Consultant (Ms. Austin) stated that the objectives of the evaluation were primarily to learn from the experience during project implementation and to provide evidence-based information to support the CDIP's decision-making process. In this regard, it was necessary to understand what worked well within the project and what did not by assessing the project design framework, project management, the results and sustainability. The methodology for the evaluation was fairly standard. It included interviews with key stakeholders from the project team, the WIPO Secretariat and Member States; a review of key internal and external documentation; and incorporation of feedback from the Secretariat into the final evaluation report. The project aimed to provide a better understanding of how innovation occurred in the informal economy. It included a conceptual study and three country case studies (Ghana, Kenya and South Africa). The project was implemented under the supervision of a Project Manager from the Economics and Statistics Division. It was approved in April 2010. Implementation began in January 2012 and was completed by the end of last year. The Consultant turned to the findings of the evaluation. On project design and management, the evaluation looked at eight specific areas and there were six key findings. First, the creation of an informal expert group, based on the expertise required to help guide the case studies as well as the project as a whole, was important and allowed for the sharing of ideas on topics and project design. The group now had a stake in the project. Second, the overall project approach, involving regular referral to the Member States to ensure appropriate interpretation of the recommendation; the development of a conceptual study to help guide the country case studies; the holding of an initial workshop to ensure the application of coherent methodological approaches through project implementation; and the constant guidance of an informal expert group was extremely valuable in ensuring strong and coherent project design and management processes. Third, the wording of DA Recommendation 34 was not necessarily helpful in providing guidance to the project management team on how to implement a project that would respond to the Recommendation. The focus and substantive direction that the project was expected to take were not clear from the Recommendation alone and as a result it was necessary for the project team to draft a non-paper to ensure that there was agreement on the project's direction. Fourth, the creation of an expert working group consisting of representatives from a wide-range of organizations to provide inputs throughout the life of the project was a key part of its success. Fifth, the project was implemented within budget with minor implementation

delays in order to finalize the country case studies. Lastly, the budget for a project as innovative and cutting-edge as this one was limited. This may have stood in the way of smoothly ensuring agreed next steps at the country level and within wider academic, policy and political circles. The evaluation also looked at the effectiveness of the project and there were four key findings around that. First, ensuring that the conceptual study served as a basis for the three country studies whilst simultaneously allowing for feedback from those studies into the conceptual study, allowed for the cross-fertilization of information between the different studies, thereby strengthening all of them. Second, it was too early to measure the full extent of how instrumental the project was in terms of contributing to greater awareness of IP and the informal economy amongst policy makers. Such an assessment may be more feasible once the findings from the case studies were published. Third, there was a lack of clarity on the next steps for the project, if any. The project outputs had been delivered. The Recommendation had been fulfilled and foundational work carried out but whether and how this ground-breaking work would be continued was unclear. Lastly, the selection of the expert advisory group, country case study teams and institutions involved in the country case studies was considered to be successful. It contributed to achieving the objectives of the Recommendation and ensuring the project and its results were injected into relevant academic and political fora. On sustainability, there was lack of clarity as to whether or how WIPO would continue the work started through the project. This, to an extent, was in the hands of Member States. Some external efforts were being made to ensure sustainability. For example, through a linked project where complementary research was being carried out. The conceptual study also provided tentative policy and statistical suggestions which could allow for work to be continued. The project had planted the seeds necessary for gaining the attention of academics and policy makers. Many of those involved in the project, including the expert advisory group, also planned to continue the work started in the project. Thus, there were elements of sustainability. The project had laid some essential groundwork. In order to ensure potential furthering of the work, there was a need to obtain a confirmation from Member States that the project was going in the right direction in order to take it to the next steps. The sequencing of the various stages of the project had been crucial in ensuring successful project outputs, particularly as the cross-country coordination was extremely complex and required a consistent approach. The project also allowed for close collaboration between Member States and the Secretariat as the project team held close discussions not only with those Member States that hosted the case studies but also with the CDIP in order to ensure that the direction of the project was appropriate. Finally, although the project budget was limited, it allowed for some credible research which was enterprising, foundational and unique in nature.

223. The Delegation of Kenya referred to Recommendation 3 of the evaluation report. It noted that some Member States had not really been involved in the study. Therefore, there were doubts on the sustainability of the project. The Delegation referred to the interviews conducted by the evaluator which were listed on page 36 of the report. None of the States that hosted the project or even the relevant IP offices were interviewed to assess the relevance, sustainability or effectiveness of the project. Thus, the Delegation would like the project coordinator or the evaluator to clarify the extent to which countries and relevant IP offices had been involved, and if information had been shared in those countries for the purpose of sustainability. The Delegation had the impression that the project was conducted in Geneva. To the best of its knowledge, there was no contact in Kenya.

224. The Delegation of Greece, speaking on behalf of the EU and its Member States, made comments on the evaluation reports contained in document CDIP/13/3, CDIP/13/4, 13/5, 13/6 and 13/7. The EU and its Member States welcomed the external evaluations in respect of the Project on IP and Product Branding for Business Development in Developing Countries and LDCs, Project on IP and the Informal Economy, and the Project on IP and Brain Drain. It also welcomed the self-evaluation report for the Project on Patents and the Public Domain. They provided a valuable opportunity to assess the completed projects. Evaluation reports were useful tools to drive improvements and to identify shortcomings that should be avoided in future projects. The EU and its Member States referred to their previous interventions in highlighting

the importance of effectiveness, efficiency and transparency in the management of projects. In addition to these aspects, impact assessment and sustainability of projects must be systematically integrated into the development and implementation of projects. Although they were pleased to see clear recommendations, they urged WIPO to make sure that future development activities were focused on those areas for which it was mandated and had suitable technical expertise. They drew attention to lessons learned in the evaluation report for the Project on IP and Product Branding for Business Development in Developing Countries and LDCs and the evaluation report for the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and LDCs, where it was highlighted that the scope and ambitions of a project should be narrow and realistic. These should reflect WIPO's resources. It was vital for the project to have objectively verifiable outputs. The EU and its Member States referred to the Project on IP and the Informal Economy and stated that the research conducted by WIPO was scientifically sound and broke new ground in areas of high importance for stakeholders and Member States. The evaluation report concluded that such an approach and outcome should be pursued in relation to other WIPO projects. One of the key challenges identified in the reports was the absence of clear lines of responsibility and project management at the country level. The EU and its Member States urged WIPO to consider what lessons had been learned in addressing these issues and explore ways to secure improved project oversight and collaboration with relevant national experts. They urged the Secretariat not to lose sight of important lessons learned as they would be critical for ensuring effectiveness and efficiency in future projects.

225. The Delegation of the United States of America stated that it had been supportive of the project proposal since its inception and found value in the conceptual study that was presented in May 2013 at CDIP/11. It was pleased to note that the Consultant identified several ways in which the work done on this project was likely to have a sustainable effect into the future. Specifically, she referenced that the work done had allowed for the highlighting of the project and its outputs with an interested group of experts in the field, the project had generated credible evidence for these experts and others to use, and the involvement of this array of experts was likely to contribute to ensuring the sustainability of the work that was carried out. This was exciting work and an exciting development that WIPO had managed to provide, in engaging these outside experts and interesting them in this work. The Delegation referred to Recommendation 1. While it agreed with further promotion and dissemination of project outputs, the Delegation suggested that any additional work within WIPO be undertaken by the Chief Economist and his staff within existing budgets or with support from Member States that would like to apply the framework and methodological approach to examine a particular informal sector within their country. Given that the framework and methodology had been established and proven efficiencies had been developed, such as the successful predominantly virtual management of the project, which the consultant noted that it worked well despite the global spread of the experts involved, additional work could possibly be pursued in interested countries at relatively low cost. With regard to Recommendation 2, the Delegation encouraged the three case study countries to work with the Secretariat to identify institutions, sponsors or organizations within their countries that could assist with future monitoring of the informal sectors that were studied. This was very good work and it would benefit from being continued through that kind of active engagement on the ground. In this regard, the Delegation also supported the sentiment in Recommendation 3 that information and outputs from the three country case studies should be disseminated widely within those countries as feasible. This was also referred to by the Delegation of Kenya. Recommendation 3 advised that other interested Member States could gauge the relevance of the case studies to sectors within their own countries and promote similar studies domestically. The Delegation believed that partnerships with local academic institutions could provide local inputs and expertise as well as build local capacity for this kind of economic research. Recommendation 5 included a final project workshop. In this regard, the Delegation was pleased that the Office of Chief Economist would be holding exactly that type of workshop during the lunch break. A presentation on the informal economy would take place during the workshop.

226. The Representative of the TWN stated that the consideration of the report may be premature as the country studies had just been presented to the CDIP. The report should have been considered after the country studies were discussed. The feedback received could then be incorporated. The Representative then referred to some elements of the report. Individual studies were not assessed nor was there any assessment of the workshop. The evaluator interviewed six WIPO staff members, five Geneva-based delegates and three members of the project team. However, the evaluation report did not explicitly state the views of those who were interviewed. It was stated that the interviews “would focus on qualitative data collection”. However, it was not understood what qualitative data was used in the evaluation. Interviews were conducted with representatives from Brazil, Djibouti, Senegal, the United Kingdom and the United States of America. However, none of those countries were studied in the context of the project. It would have been useful to interview representatives from countries that were involved in the project itself as well as external experts who were not necessarily part of the project team.

227. The Chair resumed the discussions on the evaluation report. He hoped the side event held during the lunch break was useful and invited the Secretariat to respond to the questions and comments from the floor.

228. The Secretariat (Mr. Wunsch-Vincent) referred to the involvement of Member States in the project. When the three African countries were selected, a lot of attention was given to involve them in the process and also in the local workshops that took place. The country study was regularly sent to the different ministries. Some delegates were also involved in some of the workshops. It was important for the country studies to be conducted by independent experts. However, there were exchanges with the national authorities in order to get their feedback. The Secretariat referred to the point raised by the Delegation of the United States of America on future. Although the project had ended, further analytical work could be carried out on the basis of the framework and the country studies, as suggested by the Delegation of the United States of America. In this regard, the Secretariat suggested three areas for future work. First, analytical work could be further pursued. The experts that were selected and brought together for the project would continue to pursue this work stream outside WIPO. The issue had been brought to the attention of innovation policy circles at the national and international levels. It would also be interesting to pursue the application of the framework in other sectors and countries. There was a need to test whether the lessons generated were generally applicable. Second, an extensive and detailed policy framework was developed. Policymakers could test the framework in their own countries and provide feedback on areas that should be improved. Lastly, most innovation metrics were tailored to innovation in high income countries. R&D expenditure was an example. As innovation also took place in the informal economy in developing countries, the range of measurement metrics should be adapted to reflect this. The studies included some proposals. It was hoped that those working on innovation metrics, including in the OECD, UNESCO and WIPO, would take those recommendations on board and carry them further.

229. The Chair closed the discussions on the project given that there were no further comments from the floor. He invited the Committee to consider the GA decision on CDIP-related matters.

AGENDA ITEM 7: CONSIDERATION OF WORK PROGRAM FOR IMPLEMENTATION OF ADOPTED RECOMMENDATIONS (RESUMED)

Consideration of document CDIP/12/5 - WIPO GA Decision on CDIP related matters

230. The Chair recalled that the GA took a decision on CDIP-related matters at its 43rd session in 2013. The Committee discussed the matter at its 12th session and decided to continue the discussion at the current session, with a view to reporting back and making recommendations on the implementation of the CDIP mandate and the coordination mechanisms to the GA in 2014. He invited the Committee to resume the discussions on this matter.

231. The Delegation of Japan, speaking on behalf of Group B, appreciated the efforts by DAG to revise its proposal. However, the Group also confirmed its preliminary comments at the last CDIP session. The document (CDIP/12/11) submitted in that session did not present any new logic to justify the necessity for the new agenda item. The Group did not intend to repeat its position in detail. It remained convinced that the overall role of the Committee was to discuss specific issues on IP and development. That had actually been done without the new proposed agenda item. Examples included the preparations for conferences and/or seminars on IP and development, and WIPO's contribution to the UN MDGs which was also referred to in document CDIP/12/11 as a reason to justify the necessity for the new agenda item. The Committee would continue to fully implement the mandate given by the GA in 2007 by reflecting and further discussing specific issues with respect to IP and development. With regard to the Coordination Mechanisms and Monitoring, Assessing and Reporting Modalities, the Group believed the relevant bodies were not all WIPO bodies. That was crystal clear from the language. Relevancy was decided by each body by itself.

232. The Delegation of the Czech Republic, speaking on behalf of CEBS, remained convinced that the overall objective of the Committee was to discuss only issues related to IP and development. WIPO was a member-driven organization. Its Rules of Procedure provided for the opportunity to discuss concrete issues in respect of IP and development on an *ad hoc* basis. For example, the Group had devoted its attention to the IP and development-related matters contained in CDIP documents such as IP and the informal economy, brain drain, public domain and others. The work of the Committee concerning the related matters should be continued on an *ad hoc* basis. The *ad hoc* approach contributed to the streamlining of the Committee's efforts on IP and development-related matters and the avoidance of any duplication in its work. The Group was ready to discuss any IP-related issue covered by the Committee's mandate in this respect. The presentations given during Committee sessions, specialized studies elaborated for the Committee, relevant side events and expert meetings on IP and development related matters were valuable examples of modalities for dealing with development-related issues within WIPO. Taking into account all those aspects, the Group was convinced that the third pillar of the Committee's mandate was being fulfilled. The Group preferred to conclude the discussion on this issue at the current session. With respect to the Coordination Mechanism, the Group deemed the Committee to be the appropriate forum for Member States to share their expertise in the cross-cutting field of IP and development. The Committee should remain the most suitable body within WIPO to debate complex issues related to IP and development. This approach should be kept as the most efficient for Member States, the Organization and other stakeholders. The WIPO bodies themselves were eligible to consider whether or not they were relevant in terms of the implementation of DA Recommendations. In this context, the Group recalled that the GA decision on the Coordination Mechanism referred to "relevant" and not to "all" bodies. The reference clearly indicated the existence of non-relevant WIPO bodies with respect to the DA Recommendations. Therefore, the Group maintained its position that only committees devoted to substantive IP issues were relevant, namely, the ACE, SCT, SCP, SCCR and IGC. It did not regard the PBC and CWS to be relevant for the same reason.

233. The Delegation of India fully supported the statements it made on this agenda item at the 12th session. The Delegation firmly believed that what it stated earlier should be taken up as work in the Committee.

234. The Delegation of Kenya, speaking on behalf of the African Group, referred to the issue of whether some committees should be exempt from the Coordination Mechanism. As mentioned in its general statement on Monday, the CWS fell under Program 12 of the Program and Budget for the 2014/2015 biennium. It was clearly indicated under Program 12 that the CWS contributed directly to the implementation of DA Recommendations 13 and 31. Thus, linkages had already been made by the Secretariat in accordance with the instructions of Member States to mainstream the implementation of DA Recommendations into all WIPO bodies and work. Therefore, the view put forward that some committees should be exempted from the implementation of DA recommendations was a contradiction. The work of the CWS was on standards and they were supposed to help Member States implement various aspects of the IP system. Thus, in terms of work, the issue with respect to the DA recommendations was to balance and take into account the different needs of Member States based on their levels of development. If Member States were to state that they wanted to set standards that did not conform with the DA recommendations, they would also be implying that they were ready to circumvent the needs of developing countries through such committees. There was no other reason why there should be such an exemption. It would create a precedence whereby committees could dilute or strengthen the agreements reached in other committees. The Group referred to the implementation of the DA Recommendations in norm-setting activities. Two areas were mentioned as examples, namely, Traditional Knowledge (TK), Traditional Cultural Expressions (TCEs) and Genetic Resources; and the design treaty which was of paramount importance to developing countries. Norm setting activities should take into consideration the interests of both developed and developing countries. There was the question of how these could be balanced. This was part of the DA Recommendations. When norms were developed, countries may not be able to ensure that their interests were reflected in each and every aspect. At the end of the day, they had to look at the broad perspective. For example, if developing countries were not able to have their interests covered in the design treaty but these could be covered under TK, there could be a balance. This was what the DA recommendations spoke about. If the Committee were to state that some committees which set standards were not subject to the DA recommendations, then it would also be stating that at some point, there would be a regime that gave on one hand and took with the other. That would be unacceptable. The Committee must continue to focus on the fact that the Organization had to serve the interests of developing countries and developed countries. Otherwise, there would be a risk that some would be escorting others to a party where they were not able to participate and enjoy the meal. It should be recognized that all Member States had interests. If some countries expected others to be involved in negotiations on issues that they were interested in, they would also need to participate in good faith in negotiations on issues that were of interest to others. The Group was not going to deny the interests of others. It also did not want its interests to be denied. No committee should be exempt from the DA recommendations. The issue was to make sure that IP worked for all countries at their level of development. It must work for those at the highest levels of as well as for those at the lowest levels. These boundaries must be respected.

235. The Delegation of Egypt, speaking on behalf of DAG, believed that it could not be more eloquent than the Delegation of Kenya on why the decision by the GA was being discussed. Some may tend to forget why the CDIP was established and why the DA Recommendations were adopted after a very difficult process involving more than three years of negotiations. It happened because a number of Member States were committed to push for a reorientation of WIPO's work. This taught others who were initially reluctant to engage in the process to do so and put forward papers and proposals for establishing a DA. They thought that being in was better than being out. Thus, the Group wanted everyone in to fulfill the mandate of the CDIP. Part of the mandate required the Committee to take a panoramic look at all aspects of the work

and functioning of WIPO, how it was being geared towards development and the extent to which it was development-oriented. It included looking at how the Secretariat functioned, norm-setting activities and bodies, how technical assistance was provided and so on. These were defined under different clusters. If implementation was lacking in some aspects, all members of the Committee should claim the failure to achieve the mandate and fulfill the mandate of the Committee. The third pillar of the Committee's mandate required it to discuss IP and development related issues. It linked up all the work of the Organization. The GA requested the CDIP to report back in 2014 on the implementation of the CDIP mandate and the implementation of the coordination mechanisms. The reporting required substance in order for it not to be a failure. The Group did not believe delegations would want to report failure after failure to the GA because that would mean the Organization was dysfunctional because it could not undertake a decent discussion on the interests of Member States. As mentioned by the Delegation of Kenya, topics would not be excluded from the discussion, inputs could be provided by all Member States for discussion and priorities could be determined. However, a standstill would not serve the interest of anyone in the Organization.

236. The Delegation of Bangladesh, speaking on behalf of the Asia Pacific Group, stated that it did not have a unified position on this particular issue. However, most of its members considered the CWS and PBC to be relevant committees for the Coordination Mechanism.

237. The Delegation of Brazil aligned itself with the statements made by DAG and the African Group. The Delegation referred to several of its initial interventions and reiterated that the DA was more than just one or two activities of the Organization. As mentioned in its earlier intervention, the DA was supposed to change the way the Organization worked. Thus, it was not possible to pinpoint committees that should follow what was agreed four years ago. Discussions at the CWS addressed different aspects and parts of the mandate, notably the parts about technical assistance, but not limited to it. As mentioned by the African Group, the setting of technical standards had to take into consideration the different levels of development among countries. In this sense, it was not possible to pinpoint committees that should follow what was agreed. The language in the GA decision was very clear when it stated that all committees stood on an equal footing. That should guide the Committee in its discussion on this subject.

238. The Delegation of Greece, speaking on behalf of the EU and its Member States, took note of the GA decision on CDIP-related matters. WIPO had made great progress in the implementation of the DA Recommendations, as highlighted several times by the Director General. By definition, the core objective of the CDIP was to discuss IP and development. It had been successful in doing this. In this regard, the Committee fully delivered on its mandate. With regard to the Coordination Mechanism, much time had been spent by the CDIP and other bodies to discuss the implementation of this mechanism. The EU and its Member States knew that different interpretations existed on the meaning of the term "relevant WIPO bodies". The EU and its Member States reiterated their position that the WIPO bodies should themselves determine whether they were relevant for the purpose of the Coordination Mechanism. They noted that protracted discussion on this topic would take time away from more concrete and meaningful discussions on CDIP projects.

239. The Delegation of the Islamic Republic of Iran associated itself with the statement made by the Delegation of Egypt on behalf of DAG. It also fully supported the statement made by the Delegation of Kenya on behalf of the African Group. The Delegation raised its concerns with regard to the implementation of the decision by the GA on the Coordination Mechanism. The mechanism had been agreed by all Member States to enhance coordination among different WIPO committees in the field of development activities. As a matter of principle, the DA should be at the core of all WIPO activities. The Coordination Mechanism for the implementation of DA Recommendations was established in 2010. The Recommendations of the DA should be an integral part of the work of all WIPO bodies, including the CWS and PBC. However, the

decision on the Coordination Mechanism had not been resolved with respect to the PBC and CWS. These were very important committees for the realization of DA goals. The Delegation hoped these issues would be settled in order to resolve the deadlock. The comments of Member States did not fully reflect the decision by the GA. The Secretariat and the committees should be engaged in preparing substantive and analytical reports on the contribution of each committee to the implementation of the DA Recommendations in accordance with the mandate given by GA.

240. The Delegation of Kenya, speaking on behalf of the African Group, stated that it was very clear that the CWS was a relevant WIPO body in terms of the implementation the DA Recommendations. Each committee should be able to report to the GA on its actions to implement the DA Recommendations. If a committee believed it had made no contributions, it should say so. It could not be stated that the committee concerned did not play a role in implementation. The activities change with time. Its future activities may involve the implementation of DA Recommendations. The work of the committees was not static, new ideas were always added to the table. There would be new ideas in future. If a blanket exemption was introduced, it would mean that the committee concerned had no role to play in future even if its future activities may involve the implementation of DA recommendations. Thus, there was a need to differentiate between what was currently on the table and what would be done in the long term. The Organization was not folding up today. There would be new agenda items as time progressed. Development was a continuing process. Development was not an end. The developed countries themselves were still developing. The implementation of the DA Recommendations was a continuous process. Activities would change when new ideas were put on the table. Therefore, no committee should be exempt from the implementation of DA Recommendations. If a Committee stated that it did not have anything to report in a given year that would be fine. However, that was different from saying that it should not report. The report could be negative or positive. A committee could state that it did not implement DA Recommendations that year because its work did not allow it to do so, but all committees should comply with the reporting mechanism.

241. The Delegation of Egypt, speaking on behalf of DAG, aligned itself with the comments made by the Delegation of Kenya on behalf of the African Group. When a gap was identified in the implementation of one of the pillars of the CDIP's mandate, a request was made to the GA for a further decision to consolidate that role in a manner that was imperative to all the working bodies of WIPO. A Coordination Mechanism was established in 2010 by a GA decision that explicitly stated that its role was to oversee or to look into how the DA could be mainstreamed across all WIPO bodies, and to monitor and assess the implementation of the Recommendations. All meant all. It was not all minus one body here or one body there. The Group did not want to bring up painful experiences. However, last week, Member States were unable to reach consensus in the CWS due to disagreement on this issue. Setting standards was a norm-setting activity. Norm setting was one of the clusters of the DA Recommendations. Thus, it was development-related. Budget allocation and determining how much would be spent on individual programs was development-related when it was geared towards development-oriented action by WIPO. Thus, the explanation that was provided with respect to a selective approach in terms of which bodies should be involved was not convincing. The Group did not want to dwell further on this issue because it was very clear.

242. The Delegation of South Africa fully agreed with the statements made by the delegations of Kenya and Egypt, on behalf of the African Group and DAG respectively. It did not want to repeat what had already been said. The Committee had been discussing this issue for at least seven sessions. The GA made a decision in 2010 on the Coordination Mechanism. The question was whether the decision was being fully implemented. The answer was no. The Committee should then ask itself why the decision was not being fully implemented. It was not only about the CWS and the PBC. All the other committees implemented the decision on an *ad hoc* basis. At every session preceding the GA, DAG had to request for an agenda item to

assess the contribution of that particular committee to the implementation of DA Recommendations. It was something that had to be requested. This indicated that the decision of the GA had not been fully implemented. It was up to the Member States to get to a point where they would start respecting the decisions of the GA. The CDIP was required to make recommendations to the GA on this matter. If it was up to the Delegation, it would recommend that all committees report on their contribution to the DA Recommendations. The CDIP was the main body tasked by the GA to coordinate with other WIPO bodies on issues of IP and development. The GA could reject the recommendation and take it to the different committees. However, there was a need to send a strong message to the GA that when it requested the Committee to do certain things, the Committee respected those decisions and executed them. This could be done by recommending to the GA that all the committees should report to the GA on their contributions to the implementation of the respective DA Recommendations.

243. The Delegation of Japan, speaking on behalf of Group B, stated that the first GA decision on the Coordination Mechanism did not instruct all WIPO committees to report on the implementation of the DA to the GA. The phrase “all WIPO committees” was used once in paragraph (c) in the preamble. It only characterized the relationship between all WIPO committees and the GA. It meant that the CDIP did not prevail over all other committees, and all committees should be treated in equal manner. It was no more than that. As for the concrete reporting mechanism, the decision included the following, “To instruct the relevant WIPO bodies to include in their annual report to the Assemblies, a description of their contribution to the implementation of the respective DA Recommendations”. This was the part which instructed the relevant WIPO bodies to report on their contribution to the implementation of the DA Recommendations. Thus, in this part, the GA decision stated “relevant WIPO bodies” and not all WIPO bodies. Relevancy with the Coordination Mechanism and DA Recommendations had to be decided by the relevant WIPO bodies themselves. The mandate of a committee should be taken into consideration and not the program as a whole which included that committee. This was applicable when considering the relevancy of the CWS in relation to the Coordination Mechanism. Although the activities of the committee would evolve, the evolution would be within its mandate. Thus, if its mandate was not relevant to the DA Recommendations and the Coordination Mechanism, the activities of that committee were out of the scope of the Coordination Mechanism and the DA Recommendations. That would continue to be the case unless the mandate of that committee was changed. Thus, the Group continued to believe that the CWS and PBC had no relevancy with the Coordination Mechanism and the DA.

244. The Delegation of Chile stated that the country had actively participated in the DA process since it began. It was a proponent of the recommendations that was part and parcel of the Committee’s work. The DA belonged to all the Member States and work should be carried out meticulously. The Delegation was concerned about the level of discussions on the Coordination Mechanism. The positions of a few delegations remained rigid. They had not changed in four years. This was harming not only the Committee but the entire Organization. The discussion on the Coordination Mechanism and the committees to which it applied was very important. However, it lacked substance. The Delegation recalled the work done on the Marrakech Treaty. It included a discussion on development and the implementation of the DA. In that discussion, Member States had managed to make headway on substance. The Treaty was much more important than the report submitted by a committee to the GA on its contribution to the respective DA Recommendations. The Delegation urged the Committee to focus on substance and not on editorial drafting issues. The CWS had not substantively discussed development. Thus, the Delegation questioned what that Committee could report on. It urged delegations to engage in a sincere discussion and not restate positions that were well known to all. Chile was about 12,000 kilometers away from Geneva. The Delegation could not allow the situation to persist without expressing its concerns. It appealed to all delegations to try to find a solution. The results of the discussion would affect the whole Organization.

245. The Delegation of Uruguay, speaking on behalf of GRULAC, endorsed the statement made by the Delegation of Chile. The Group was deeply concerned about the discussions in the committees on this issue. The discussions in the Committee lacked dialogue as well-known positions were merely restated. This had continued for years. The discussion was on the wrong track and it could paralyze the whole Organization. The Group appealed to all delegations and Regional Groups to listen and engage. They should avoid repeating what was known as it would not lead to anything. Everyone would be affected. The real issue was development and not political issues that may be related to development. The Group urged all delegations to focus and try to reach a solution.

246. The Delegation of Venezuela supported the statements made by the Delegation of Chile and GRULAC. The Group always helped to find a solution. Venezuela was also a member of the Friends of Development. It had been interested in the subject since 2005. The participation of developed countries could help to achieve progress. Development was an issue for everyone. Empty discussions would not lead to anything. The Committee should focus on substance.

247. The Delegation of India requested the Secretariat to describe the background to this issue as some members may not be aware of all the facts. It would help to clarify any misunderstanding or misinterpretation of what was decided in the past.

248. The Secretariat (Mr. Baloch) responded to the request by the Delegation of India. It recalled that the CDIP negotiated and adopted the Coordination Mechanism in 2010. There were several elements. One of the elements was that all relevant WIPO bodies should provide a report to the WIPO GA on their activities related to the implementation of the DA. There were different interpretations of the expression, "relevant WIPO bodies", among delegations. That had created confusion since the adoption of the Coordination Mechanism. The issue was discussed by the GA last year. Its decision was before the CDIP. The Committee was requested to discuss the issue and report back to the GA. That was one issue. The second issue concerned the proposal by DAG that the third pillar of the CDIP's mandate should be part of the Committee's standing agenda items. The proposal was presented by the Delegation of Brazil, on behalf of DAG, in the Sixth Session of the CDIP (document CDIP/6/12 Rev). There was a lack of agreement on this issue. However, the Secretariat was required to continue to include it in the agenda. This issue was also included in the decision by the GA last session. The CDIP was requested to discuss these two matters and make its recommendations to the Assembly this year. It was supposed to discuss this at its 12th and 13th sessions, and go back to the GA with a proposal on how to proceed on these two issues as they had been referred back to the Committee.

249. The Delegation of Kenya, speaking on behalf of the African Group, referred to the explanation provided by the Secretariat. It was clear that the implementation of the DA recommendations was supposed to be coordinated through the Coordination Mechanism. The issue was for all relevant WIPO bodies to report on their activities related to the implementation of the DA recommendations. The reporting should not be difficult if the DA recommendations served as a guide to help calibrate work in WIPO in order for the IP system to work for all countries. Every year, all the committees should be able to provide the GA with a report on how they took into account the DA recommendations in their work. Perhaps the Committee was trying to discuss how that reporting should be done, whether through an agenda item on that matter or by instructing the Secretariat to prepare a report on how activities contributed to the implementation of the DA recommendations. That report could be discussed by the Member States. Contribution basically meant that when work was undertaken, it took into account the DA recommendations. There were two aspects. A committee could state that on a particular activity, it looked at how the DA recommendations could be taken into consideration but was not successful because that activity concerned a model. However, it could also be stated that these considerations could be offset in another committee. For example, in the case of a model law,

considerations in other committees could make the standards more palatable or easier to implement. Thus, the Group was looking at different levels of reporting. It was looking at WIPO as a whole. By doing so, it should be very easy to take into account what happened in all the committees to achieve that balance. Hence, it was a simple issue of how the reporting mechanism could be instituted, whether the Secretariat should prepare a report on the activities which could be discussed by Member States and forwarded to the GA, or if an agenda item should be established on this matter. The Group believed that the debate was really on how the reporting should be done. Delegations merely differed on the way this should be undertaken. The Group had proposed an agenda item on the contribution of each committee to the implementation of the DA recommendations as no other mechanism had been introduced on reporting. However, there could be another way of doing it. A factual report could be prepared by the Secretariat on activities that were undertaken to mainstream or take into consideration the DA recommendations. It could be discussed by Member States before it was forwarded to the GA. The reporting could be as simple as that.

250. The Delegation of Thailand associated itself with the statements made by GRULAC and the delegations of Chile and Venezuela. The Delegation was concerned that specific discussions on IP and development-related issues had not taken place. Progress had been achieved in implementing the first two pillars of the CDIP's mandate. However, there was still room for improvement. As mentioned by the Delegation of Egypt the previous day, the CDIP should be more involved in fulfilling the agreed third pillar of the CDIP's mandate. In that regard, the Delegation fully supported the proposal by the Delegation of Brazil, on behalf of DAG, for the creation of a new standing agenda item on IP and development. The preparations for the International Conference on IP and Development should be discussed under that new standing agenda item. The Delegation urged those who opposed the proposal to demonstrate flexibility. It requested the CDIP to establish a specific agenda item on this subject as soon as possible and to report it to the GA.

251. The Delegation of Japan, speaking on behalf of Group B, referred to the Coordination Mechanism and stated that the objective interpretation of the word "relevant" was very clear. The meaning of the word "relevant" was completely different from the word "all". The Coordination Mechanism had worked well, in line with the GA decision in 2010. On the proposed new agenda item, the Group stated that it had exhausted its comments and did not want to repeat them. The Group strongly believed that no further action would be necessary on this agenda item. It highlighted the comment made by the Chair of the GA that the Committee should not bring unresolved issues to the Assembly that would just leave it overburdened. The Committee had to be cautious about that.

252. The Delegation of South Africa understood that the Committee was requested to make recommendations to the GA. Therefore, it could not understand how this issue could be left without taking any action. The Committee had to make a recommendation even if there was no agreement. The recommendation could state that there was no agreement and the GA should look into what could be done. However, the issue could not be left without taking any action as the GA had clearly requested the Committee to make recommendations and to report back on its discussions.

253. The Delegation of Japan, speaking on behalf of Group B, stated that the Committee could make a recommendation to the effect that further action would not be necessary on this issue. The Group clearly understood that the GA had instructed the Committee to discuss the issue and make recommendations. The Group did not state that the Committee should not make recommendations. The Committee had to make a recommendation. It was in line with the decision by the GA. However, the recommendation could be that no further action would be necessary.

254. The Delegation of Kenya, speaking on behalf of the African Group, referred to the comment by Group B that the Committee should not take any further action on this matter. The Group recalled the deadlock on this item the previous week. The Coordination Mechanism was referred to in the informal discussions. It was suggested that delegations should contact their capitals to see whether there could be flexibility on those two words. That was a surprise as further political flexibility would not be required when matters had been agreed in the GA. The Member States had made a decision. This issue was important as it blocked progress in the last four years. Stating that further action would not be required also implied that there should not be any further action in other committees where there was contention. The work of those committees should stop. If that was the intention, the work and purpose of the Organization were being scaled down. There could be a point whereby Member States had to decide whether WIPO was really relevant in terms of meeting their needs if issues could not be resolved through discussion and agreement on the way forward for the benefit of all. The main issue was how developing and developed countries could make WIPO work for all of them. If things could not move forward because a group did not agree with the position of another group, it meant that there was no consideration for the other group's position. That was a very serious matter. Another party was required in order to negotiate in any organization. If a party was negotiating with itself, there would be no need for another party. There was a need to go back to the basics of negotiation. It required give and take as well as mutual understanding. The multilateral system was created to enable countries to discuss and agree on matters. Although positions differed, a solution must be found. The Group had no intention to close down WIPO. It believed that was the intention of the comments made by Group B. When Group B stated that no further action was needed, and nothing could be done the week before, it basically stated that it was ready to close shop if Member States could not agree with each other. The Group believed the Organization and the IP system were wide enough to accommodate the interests of developed and developing countries. There were no limitations. The developed countries would not be worse off if developing countries got something that day. It was a matter of balance.

255. The Delegation of South Africa fully agreed with the statement made by the Delegation of Kenya. The Committee could not state that no further action needed to be taken. The CWS was unable to do its work the previous week because of this issue. Thus, when Group B stated that no further action needed to be taken, it also implied that the CWS should no longer be reconvened. Group B stated that the Coordination Mechanism had been working well. However, the Delegation reiterated that even in other committees, the Coordination Mechanism was being implemented in an *ad-hoc* manner. Thus, it did not understand how the mechanism was working well. The Committee needed to make a recommendation. It could state that there was no agreement and emphasize that the GA should provide guidance to the Committee on the Coordination Mechanism as the Assembly was the highest decision making body and it approved the Coordination Mechanism in 2010. It would not be wrong to do so. However, it would not be acceptable to state that no further action needed to be taken.

256. The Delegation of Cameroon noted that the debate appeared to be isolated from the global debate on development. The CDIP agenda was introduced because Member States recognized that IP could contribute significantly to global development. That continued to be the rationale. The Delegation aligned its thoughts with the views expressed by the delegations of Kenya and South Africa. There were two issues. The first concerned the substantive questions raised by Group B on the issue of relevant bodies. The second was on procedure. A question was raised by the Delegation of Kenya on whether a report should be presented by the Secretariat or if the relevant bodies concerned should actually table their own reports on their respective contributions to the implementation of the DA. If Group B stated that there should be no further action, it was merely the view of those delegations. It was not a decision by the Committee. Thus, it may be useful to obtain the views of other delegations on whether or not there should be further action. The Committee should not be too preoccupied with the view of Group B. Although its view was respected, it was not a decision. It should always be borne in

mind that the CDIP was part of the global debate on how IP could contribute to the achievement of the MDGs. Their achievement was intended to address questions concerning all of humanity. The agenda of the CDIP was intended to benefit all countries.

257. The Delegation of Japan, speaking on behalf of Group B, stated that it was merely the Group's position that no further action would be required on this issue in the Committee. The Group did not state that it would not engage in the negotiations in a constructive and positive spirit. Each Committee should decide on its relevancy with respect to the DA recommendations and the Coordination Mechanism. Therefore, no further action by the CDIP on this matter did not mean that the CWS would be closed. The CWS could decide on its relevancy and that was a completely different scenario. That fact should not be distorted. Member States had to ask themselves what prevented the CWS from undertaking technical work in line with its core mandate.

258. The Delegation of Venezuela referred to the GA decision on the Coordination Mechanism and stated that the discussion should not focus on the word "relevant". Relevancy was not permanent. Therefore, the relevancy of the bodies themselves should not be considered. The CWS should have adopted its agenda the previous week and discussed item 4 included therein. The outcome should have been reported. All committees should report on whether or not progress was made on particular issues, regardless of whether or not a committee itself was relevant, as relevance did not last through time.

259. The Delegation of El Salvador believed the discussion was going nowhere. The Delegation proposed that it be left in abeyance. The Chair could convene a meeting with group coordinators to discuss the matter. Perhaps something positive could emerge from that. The Committee was not the relevant body to interpret the decision by the GA. The session would not be productive if that discussion was pursued.

260. The Delegation of Kenya, speaking on behalf of the African Group, referred to the GA decision on the Coordination Mechanism and drew attention to the following, "The GA decides to adopt the following CDIP coordination mechanism principles". This was mentioned at the outset of the decision. Therefore, it was up to the Committee to decide on whether or not a body was relevant. The decision also instructed the relevant WIPO bodies to identify the ways in which the DA recommendations were being mainstreamed into their work and urged them to implement the recommendations accordingly. A committee could not instruct itself. Given that there was a Coordination Mechanism and an overall committee to coordinate the implementation of the DA recommendations, it was up to the CDIP to decide on whether or not a committee was relevant. If the CDIP decided that a particular committee was relevant to the implementation of the DA recommendations, that committee was responsible for providing a report when instructed to do so by the Committee. Therefore, it was not a matter of self-selection. The Committee played a role in coordinating the implementation of the DA recommendations. That role had to be respected. The Group would like Group B to be flexible on this matter in efforts to balance interests. If the responsibility was left to every committee, they could state that they had nothing to do with the DA recommendations. There would be no implementation and what was adopted in 2007 would be useless. The Group believed that the issue was how best this could be done without creating new instructions or decisions. What had been decided was sufficient. It was just a matter of being flexible and the Committee could move forward. It was not a matter of life and death. If a committee were to report to the GA, nothing would happen to anyone because it would just be a report.

261. The Delegation of the United Kingdom appreciated the efforts by delegations to explain why the Committee could not make headway on this issue. The current situation was best described by the Delegation of Chile in its opening statement. There were a lot of good arguments in that statement. Time was wasted on procedural issues. The Committee should focus on substance. That was the only way to move forward, and not discuss agenda items

and issues that in reality had no importance to the countries that were beneficiaries of WIPO's technical assistance and capacity building activities. The Delegation also drew attention to the fact that the CWS failed to undertake its work the previous week as there was no agreement on its proposed agenda. Group B was in favor of the agenda and could agree to it. However, there were others who could not agree. That was why it failed and this had to be made clear. A few issues had to be acknowledged with regard to the Coordination Mechanism. The members of Group B believed that all relevant WIPO Committees already fell under the Coordination Mechanism. That was a fact. It should also be accepted that different delegations held different views. There were also several principles in the Coordination Mechanism that all Member States had agreed on. Some had not been recalled, including the basic principle that all WIPO Committees stood on equal footing. The Committee should be very careful in maintaining that principle and balance. There was also the principle that the Coordination Mechanism should be used in existing governance structures and procedures. Duplication should be avoided. The decision also stated that the Coordination Mechanism should be flexible, efficient, effective, transparent and pragmatic. That was something that the Committee was missing at this stage. It should be more pragmatic and try to find solutions in that direction, and not only on procedural matters. There was an impasse and much more would be required to resolve it. The Committee needed to spend time on issues that really mattered to developing countries such as the use of WIPO technical assistance and capacity building, and allow the experts that came to the meeting to express their views on how such activities were carried out in the field.

262. The Delegation of Switzerland associated itself with the statements made by the Delegation of Japan on behalf of Group B and the statement made by the Delegation of the United Kingdom. The discussion should be confined to the decision by the GA. Delegations should not try to renegotiate points that were discussed at length when the Coordination Mechanism was established. The question of whether all committees should be subject to the Coordination Mechanism was negotiated at that time and a compromise was reached. The mechanism was only applicable to relevant WIPO bodies. Relevancy was decided by a committee itself. It was not decided by the CDIP. The Delegation referred to the point made by the Delegation of the United Kingdom that all Committees stood on equal footing. Therefore, it was not up to the CDIP to decide on the relevancy of other committees. The Coordination Mechanism had functioned well in all relevant committees. They were judged to be relevant for a given year. The Delegation fully agreed with the delegations of Kenya and Venezuela that things were not fixed forever. When Group B agreed to include a specific agenda item on the Coordination Mechanisms in the SCP and the SCT, the Group stated that it was on an *ad hoc* basis because one year the committee may decide that it was relevant and report, while in another year the committee may decide that it was not relevant and would not report. It would be artificial to systematically include an agenda item on this matter when it was agreed at the outset that a committee may or may not be relevant in a given year. Member States should adhere to the terms of the GA decision in 2010. The terms were thoroughly discussed and established in detail. Time was wasted on discussing procedural matters. The Committee was discussing symbols. It was not making headway on projects and substantive issues that really mattered. The best decision the Committee could take would be to tell the GA that it had discussed the issue, and the decision taken in 2010 and the way in which the mechanism currently functioned was the right way to move forward. The Delegation recalled that the CWS had included an agenda item the previous week whereby this issue and the relevancy of the CWS could be discussed. However, it had not been possible as delegations could not adopt the agenda. The Delegation did not see why this issue should be discussed that week when there had been an opportunity to do so the week before. On the proposed creation of a standing agenda item on IP and development, the Delegation stated that it was a symbolic issue that did not add to the actual work of the Committee. For years, the Delegation had repeated that it agreed to discuss development and IP issues. The Committee had been doing so since it was established. The third pillar had been implemented since then. When delegations had specific proposals, these were discussed. The proposal to discuss the Conference on IP and Development was an example. It was also included as an item in the

agenda for that session. Thus, if a delegation had a specific proposal, it could be included on the agenda for discussion. Therefore, on these two matters, the best thing would be for the Committee to inform the Assembly that they were discussed and settled. That would be best for the Committee as well as the Assembly.

263. The Delegation of Greece, speaking on behalf of the EU and its Member States, reiterated that the core objective of the CDIP was to discuss IP and development. The WIPO bodies should themselves determine whether they were relevant for the purpose of the Coordination Mechanism. With regard to the request for an extra agenda item, the EU and its Member States saw no purpose in adding an item on the agenda with the precise same objective and which would only repeat the title of the Committee. However, they were always open to discuss specific agenda items related to individual issues with respect to IP and development. The EU attached great importance to development projects. However, in a multilateral environment, diplomacy was slow and there was a reason for it. In that sense, delegations should be pragmatic. The EU and its Member States supported and aligned themselves with the statements made by Group B as well as the delegations of the United Kingdom and Switzerland.

264. The Delegation of Egypt, speaking on behalf of DAG, believed it could not be more eloquent than the Delegation of Kenya in explaining what the Committee should be doing to respond to the GA decision on this agenda item. It was unfortunate that some interventions bordered on disrespect for the interests of the majority of delegations in the room. It was not only a misinterpretation, misunderstanding or difference in interpretation of what should be done based on the decision by the GA; it was a purposeful interpretation that was geared to direct the work done by the Committee and WIPO, and to reduce the DA in its entirety to technical assistance projects. That was not the intention of the proponents of the DA. It was not the purpose of the discussions in WIPO over the last ten years on the DA. The Committee could not reach an outcome because of the reluctance of a few delegations to remain committed to a process in which they had voluntarily engaged from the very beginning.

265. The Delegation of Germany aligned itself with the positions expressed by the delegations of Japan and the United Kingdom. It did not see any point in prolonging the discussion. The Delegation disagreed with the strategy to discuss the importance of the Coordination Mechanism in all other committees to the effect that those committees were unable to do their tasks. The text of the decision on the Coordination Mechanism stated that coordination by the CDIP should facilitate the work of the Committee and the respective WIPO bodies. Work would not be facilitated if a committee could not agree on its agenda. The Delegation urged members to be mindful of the tasks of the committees and not overburden them with a discussion on whether or not they fell under the Coordination Mechanism.

266. The Delegation of India did not want the matter to be turned into a political issue. It recalled the frustration in the last session of the CWS. However, as pointed out by the Delegation of Egypt, the work of the CDIP was not only on technical assistance and capacity building projects. The work of the CDIP was on IP and development, as mentioned by the Delegation of Greece. That was the core issue and it was very broad. It was not just capacity building and technical assistance as emphasized by the Delegation of the United Kingdom. India had been supporting the DA based on its fundamental belief that IP protection was not an end in itself but a means to an end. It would be a catalyst in promoting sustainable social, cultural and technical economic development in countries with different levels of development. The DA recommendations were adopted and the Committee was created to bring a balance from the development perspective as WIPO's mandate dealt with the interests of right holders. The UN system was currently discussing the post 2015 DA and other development goals. The protectionist approach had to be balanced. That was the angle of the discussions on the DA, as emphasized by the Delegations of Cameroon. Some delegations had stated that although relevant committees had been reporting under the Coordination Mechanism, they could be

irrelevant in future as they may not have any substance to report on development issues. The Delegation did not think so because it believed development concerns would actually be incremental in future. That would be the case unless and until all countries stood on equal footing in terms of their social, cultural and economic development. The Delegation urged other delegations to adopt a flexible approach. There should be give and take in order to reach some middle ground and achieve consensus to fulfill the GA's mandate on this issue.

267. The Delegation of Cameroon reiterated that substantive questions were as important as matters of procedure. As mentioned by the Delegation of Kenya, the intention was not to make the relevant WIPO bodies answerable to the CDIP. It was not possible to leave it to each body to decide whether or not it was relevant to the implementation of the DA as that would lead to disorder. As a matter of procedure, the Committee needed to agree that the CDIP would not impose on the relevant bodies. The principle of equal footing was recognized. However, for the purpose and objective of achieving the implementation of the DA, there should be a procedure. The Delegation of Kenya had asked an important procedural question on whether the Secretariat should prepare a report or if each relevant body would prepare its own report. This was a major procedural issue which required a decision by the Committee. This was as important as achieving capacity building because the GA would not be able to follow-up on the work of the CDIP without the reports. Questions of achieving the goals were as important as these matters of procedure.

268. The Delegation of Zimbabwe stated that it had been listening to the same positions since 2010. Rotational systems were introduced to bring new ideas to the table. The Delegation noted that some delegates had attended WIPO meetings for many years and their perspectives on issues never changed. Some delegates had become institutions and they hindered progress. The statements by the delegations of Japan, the United Kingdom and Switzerland indicated that they did not want the CDIP to play a meaningful role. Yet, as mentioned by the Delegation of Egypt, the majority of delegations would like it to do so. The issue of how to proceed was not procedural, technical or substantive. It had to do with political will. Relevance was a very subjective criterion. The Delegation did not believe that the Committee could even agree on the notion of relevance. The Committee had been engaging in a hypothetical discussion on whether or not the so-called "untouchable committees" should report to the GA on their contribution to the implementation of the DA when those committees had not even been allowed to report. The Committee was prejudging the outcome of the reporting. Those committees had not even undertaken to do the reporting. The Delegation proposed that these committees be allowed to report on a pilot basis to see whether it affected the objective of their work. If so, it would be reviewed. That would be a practical and pragmatic solution. The Delegation recalled that when the decision was drafted in 2010, the issue of "equal footing" was taken on board and it was stated that if some committees felt that reporting to the CDIP would put them in an inferior position, they would report to the GA instead. That was why the decision stated that the committees would report to the GA.

269. The Chair suspended the discussion and stated that he would continue consultations with the Regional Coordinators on this issue.

Terms of Reference for the Independent Review of the Implementation of the DA Recommendations (continued)

270. The Chair invited the former Vice Chair to brief the Committee on the outcome of the informal consultations on the TOR for the Independent Review.

271. The former Vice-Chair informed the Committee that informal discussions were held the previous day on the updated draft TOR. The paragraphs on the background, purpose and scope of the review were discussed and some progress was achieved. She referred to the section on the background and stated that she had proposed that it be reworded to take into

account the concerns of some delegations on the Coordination Mechanism and the wording of the GA decision in 2010. Some delegations wanted the second paragraph to be retained while some others would like it to be removed. The Coordination Mechanism was supposed to be mentioned in the background. As such, one paragraph would mention the Coordination Mechanism and two annexes would be attached in order for the experts to be clear as to what it referred to. The first annex would be the entire GA decision in 2010 on Coordination Mechanisms and Monitoring, Assessing, and Reporting Modalities. The second annex would contain the 45 DA recommendations. She hoped that the regional groups had conducted consultations within their groups and reached agreement on this section. It was square bracketed with the hope that agreement would be reached. The next section was on the purpose and scope of the review. There was a critical issue concerning terminology. It was unacceptable for certain delegations to remove the term "WIPO's work". Some other delegations had concerns that it was too general and would like the term "WIPO's activities" to be used instead. Therefore, she had proposed wording for the consideration of delegations. She suggested that the term "WIPO's work" be kept as it was vital and of paramount importance for a number of delegations. However, the term should also be defined in the context of the document. There were proposals from some delegations to remove all of the said terminology. However, that would complicate matters as it was used throughout the document. There was a need to define the term "WIPO's work" and to link it to the DA recommendations in order to be clear as to what kind of work was being referred to. The wording was in square brackets. She urged delegations to agree on the first two sections of the draft TOR as it would assist in the discussions on the rest of the document. She would not like to receive further proposals for the rewording of those sections as they would open further discussions and take up time. She hoped that consensus would be reached on those sections in order to move forward and discuss the rest of the TOR. She was ready to continue facilitating the process.

272. The Delegation of Uruguay, speaking on behalf of GRULAC, reiterated that it was committed to progress. The Group supported the proposal by the former Vice Chair. Progress on the first two sections of the TOR was encouraging. The Group urged delegations to be flexible and not try to complicate matters. The proposed solution was sound middle ground for all the concerns that were expressed. The Group believed discussions could continue on the rest of the text. The Committee was on the right track.

273. The Delegation of Egypt, speaking on behalf of DAG, requested for the discussions to continue in an informal mode in order for the discussions to be more effective.

274. The Chair referred to the request by the Delegation of Egypt and proposed resuming the discussions on this issue in an informal setting from 4pm to 6pm that afternoon. There were only two days left. If the discussions continued at this pace, nothing may be achieved.

275. The Delegation of Japan, speaking on behalf of Group B, supported the Chair's proposal.

276. The Chair stated that it was agreed, given that there were no objections from the floor. He then invited the Committee to discuss the International Conference on IP and Development.

The International Conference on IP and Development

277. The Chair noted that the Committee had discussed the International Conference on IP and Development for a very long time. There was a cycle of disagreements. The issue concerning the conference was considered in the 10th session of the CDIP. The Chair held four informal meetings in the period between the 10th and 11th sessions of the Committee. Delegations decided that the conference would be held on November 14 and 15, 2013. That was seen as a breakthrough. The outcome of those meetings was presented at the 11th session (CDIP/11/5). The Committee agreed that the Secretariat would draft a list of speakers for the conference. It would be circulated to the group coordinators for endorsement. That was

when the problem arose. There was a huge difference in relation to the selection of speakers. The Chair was faced with a situation where he had to recommend to the Director General to postpone the conference. The matter was discussed in the 12th session. The Committee decided to continue discussions at this session.

278. The Delegation of the Czech Republic, speaking on behalf of CEBS, was in favor of the International Conference on IP and Development to be organized in Geneva. Generally, the Group supported an academic conference of experts that would bring a more in-depth insight into IP and development related issues, focusing particularly on how IP contributed positively to economic development. At the same time, the Group deemed the CDIP to be the principal decision making body with respect to WIPO activities in the area of IP and development. The Committee and the Secretariat had invested efforts in deliberating the proposal containing the thematic panels and the list of speakers. The Group referred to the selection of speakers for the conference and stated that it would prefer the Secretariat to arrange the list.

279. The Delegation of Japan, speaking on behalf of Group B, stated that it was very disappointed that the conference was postponed due to differing opinions presented at a late stage, although agreement had been reached on the themes and a balanced list of speakers was prepared by the Secretariat following a long series of informal consultations. The Group had engaged constructively in those discussions. The Group reiterated that it completely supported and endorsed the list of speakers prepared by the Secretariat. The list should be kept to avoid micromanaging the activities of the Organization. It hoped that the balanced work done by the Secretariat would be respected and transformed into a tangible outcome. The Group reiterated that the CDIP constituted the principal forum within WIPO for discussing IP and development matters. Therefore, follow up activities decided in the CDIP sessions should take place within the Committee.

280. The Delegation of Greece, speaking on behalf of the EU and its Member States, hoped that new dates for the conference could be agreed. The conference would provide an interesting opportunity for all to reflect on how economic growth and development as well as creativity could be achieved through IP protection. The EU and its Member States highlighted their understanding that the CDIP remained the principal decision making body for WIPO's work on IP and development. They endorsed the list of speakers developed by the Secretariat. WIPO should proceed with the organization of the conference as soon as possible.

281. The Delegation of Kenya, speaking on behalf of the African Group, referred to the disagreement on the list of speakers. Perhaps the best way forward would be to hold informal consultations to try to resolve the issue. A list of speakers who could present different perspectives on IP and development issues was required. The speakers must understand the issues that the Committee dealt with. That was required to enable the Committee to benefit from the conference in terms of how to move forward in the implementation of its mandate to discuss IP and development. That was the purpose of the conference. It was not being organized just to fulfill an agenda item. There was a need for the Committee to move forward because it was agreed that IP and development was important to the Organization. The main issue was how the Committee could benefit from the conference in terms of furthering its mandate. The speakers should be easy to select if the Committee decided that the conference should be constructive and useful for its work on these issues. The Conference should not be held for the sake of fulfilling a decision, but with the understanding that the Committee was trying to build consensus on how to move forward and to build on what it already had. The Chair could hold informal consultations in order to move forward on the list of speakers, given that there was a disagreement. It would also avoid reopening the debate on why there should or should not be a list.

282. The Delegation of China noted that some progress was achieved in the preparatory work for the conference. It was an important meeting and could assist the Committee to further its discussions on IP and development. That would help countries, especially developing countries, to mainstream IP. Therefore, the Delegation hoped that differences could be eliminated in order for the conference to be held as soon as possible. It also hoped that the deliberations at the conference would assist in the achievement of goals.

283. The Delegation of Egypt, speaking on behalf of DAG, noted that some delegations emphasized the mandate of the CDIP as the body entrusted with discussing IP and development related issues. That was heartening although it appeared to contradict the positions expressed by some delegations on the same mandate when deciding on which WIPO bodies were relevant to the DA and its implementation. The organization of a conference on IP and development should contribute to broadening perspectives on issues being discussed in the Committee, and help to move away from the polarized atmosphere that was hampering progress in all of WIPO's work. In order to achieve that objective, there should be a balance not only in the themes and sub themes to be discussed at the conference, but also in the list of speakers as the presentations would direct the discussions and affect the outcome of the conference. These issues had been agreed upon. There was a list of criteria for the selection of speakers. However, both the Group and the African Group believed that the criteria had not been met and the Committee was now at odds on how to select a list of speakers. Speaking in its national capacity, the Delegation suggested that the options should be widened as proposals had been made with a list of names that were not accepted. Efforts made to find a way out of the deadlock were not very well received. Thus, perhaps the Secretariat could be requested to widen the list of speakers in the screening process. The Chair could hold consultations with group coordinators and try to select names from that wider list. Perhaps that could be an option. The Delegation emphasized that it was thinking aloud and would need to seek clearance from its Group on that proposal.

284. The Delegation of Cameroon stated that it was an extremely important subject for third world countries, in particular African countries. The Delegation had nothing to say on the speakers. However, with regard to the content and objectives of the conference, the Delegation enquired as to whether facilities could be set up to enable as many as possible to follow the discussions. It was unlikely that all the organizations dealing with IP in the various regions would be attending the conference. Such facilities would enable the conference to reach out to the various segments of the population and assist in the dissemination of information to the public.

285. The Chair referred to document CDIP/11/5 and highlighted that a web page would be established on the WIPO website to provide information on the conference. He did not know if this responded to the question by the Delegation of Cameroon. However, the question could be taken up at a later stage.

286. The Delegation of the United Kingdom stated that it had participated in all the lengthy informal discussions on the organization of the conference. The negotiations were tedious, difficult and lengthy. At the end of the consultations, delegations were able to agree on all the modalities. In accordance with the usual practice, they entrusted the Secretariat to make the final step and go ahead with the conference. It seemed that some delegations that could not agree to elements that had already been agreed before were trying to delay the conference. The Delegation fully supported the holding of the Conference. That reflected its commitment to the work and issues related to the Committee. The Delegation hoped that an agreement would be reached on issues that had already been agreed upon in the informal consultations. With regard to the requests for informal consultations, the Delegation reiterated that there was a need to prioritize as there were many issues on the agenda. It assumed that the Committee would prefer to tackle unresolved issues that were more important such as the TOR for the

Independent Review and leave issues that had been agreed to the Secretariat to execute them, as it had done on many other occasions.

287. The Delegation of Venezuela stated that the conference was important in terms of addressing development issues within the Organization. The worst thing that could happen would be for the conference not to take place. Its outcome would be important for the next steps to be taken in this area.

288. The Delegation of Germany believed the Committee should endorse the list of speakers proposed by the Secretariat. It was agreed that the list prepared by the Secretariat would be endorsed. Although the Delegation liked some speakers more and others less, it could accept the list because there was a balanced approach. The Delegation recalled there had not been a single argument against any of the speakers in the last meeting. The Committee should continue with its efforts to hold the conference which was already delayed by seven months. The Delegation hoped it would be held this year.

289. The Delegation of Trinidad and Tobago stated that it had also taken part in the informal discussions on the conference. Everything had been agreed except for the list of speakers. It was a pertinent issue because the conference could not take place without speakers. This was the most important issue to be discussed. The conference was important for Trinidad and Tobago, particularly in building the country's institutional knowledge on IP. The Delegation endorsed the proposal by the Delegation of Kenya to continue the informal discussions as well as the suggestion by the Delegation of Egypt to broaden the existing list of speakers. These proposals could work in tandem. There was a need to resume the informal consultations and see if the list could be broadened in order for the issue to be resolved.

290. The Delegation of Brazil referred to the comment by the Delegation of Kenya that the conference should not be organized just for the sake of it. That should be considered because delegations seemed eager to decide to undertake what was proposed. However, the Committee should be careful and not fall into the same trap as in the case of other items. The scope of IP and development was very wide. It motivated the discussions as well as the proposals by DAG and the African Group. CEBS supported the idea of an academic discussion on the contribution of IP to development. However, it was much more than that. There was a need to also discuss whether or not the discussions in the Committee promoted development. In this regard, the details and names of the speakers were important. The need for balance was mentioned. However, it was also mentioned in the Committee and elsewhere that balance was in the eyes of the beholder. The ownership of the list was important. In this context, the Delegation supported further discussions before agreeing on the list.

291. The Delegation of South Africa agreed with the proposal by the Delegation of Kenya to hold informal consultations and the proposal by the Delegation of Egypt to broaden the list of speakers. The African Group and DAG had made proposals for speakers to complement the list provided by the Secretariat. The Committee had agreed that the Secretariat would provide a list to the Regional Coordinators for approval. However, the list could not be approved because the African Group and DAG believed it was not adequately balanced. Therefore, the discussion would not move forward if the Committee merely stuck to the list provided by the Secretariat. The list had led to the breakdown in the discussions. Thus, broadening the list could provide a way out. The Secretariat could also propose possible dates for the conference. That would help speed up the process if the list of speakers was agreed during the consultations.

292. The Chair recalled the language agreed by the Committee, "It was agreed that the Secretariat would draw up a list of speakers for the Conference, and circulate it to Group Coordinators for endorsement." The following was also agreed in terms of the selection criteria, "The Secretariat was requested to select speakers based on geographical balance, appropriate expertise, and balance in perspective."

293. The Delegation of the United States of America agreed with the comment made by the Delegation of Brazil that balance was in the eyes of the beholder. That was why the Committee entrusted a neutral body, namely the Secretariat, to compose the list of speakers. The Delegation fully endorsed the list. As mentioned by the Delegation of Germany, it liked some speakers more and some others less. However, the Delegation could accept the list because it was balanced.

294. The Delegation of Japan, speaking on behalf of Group B, recalled that a procedure was adopted in the past to avoid micromanagement and never-ending discussions on the list of speakers. Thus, it was a pity that the Committee was in its current situation with regard to the list. The Group agreed with the comment made by the Delegation of the United Kingdom on the priorities for the session. Many agenda items were yet to be discussed. The TOR for the Independent Review should also be finalized during the session. Time was limited. The Committee had to prioritize its work during the session. The Group would not repeat its position on the list of speakers. Although some delegations stated that the list did not meet the broad criteria agreed by Member States, the reasons had not been fully explained. The Group could not find any justification to hold informal consultations and to widen the list of speakers at that point in time.

295. The Delegation of South Africa stated that it was up to the Chair to decide whether informal consultations should be held on this issue. He had been entrusted to chair the deliberations. Therefore, it was his prerogative to call for informal consultations. The Delegation noted that all delegations that took the floor stated that it was important for the conference to be held.

296. The Chair stated that informal consultations could only be productive if Member States were prepared to engage in them with a view to resolving the problem.

297. The Delegation of Cameroon stated that it had not seen the list. It expected the list to be balanced. If that was not the case, the objective of the conference would not be met. As the issue concerned development across the world, people from different parts of the world must be included in order for them to express their development needs. That should be the basis for selecting speakers. The role IP should play in the development of a country such as Cameroon was different compared to its role in countries such as the United Kingdom or the United States of America. Therefore, there should be someone to define its perspective on development. This should be borne in mind even if the issue was left to the Chair's discretion. The consent of Member States was required on this issue.

298. The Chair invited the Secretariat to describe the criteria used to prepare the original list of speakers.

299. The Secretariat (Mr. Baloch) referred to the criteria mentioned earlier by the Chair and reiterated that it was required to propose a list that was balanced in terms of geography and perspective. However, during the informal sessions held between the 11th and 12th sessions, there were numerous other considerations, including the availability and number of speakers due to the budget that was available. The list could not be overly expanded. Choices were also limited because the speakers were required to be experts on IP as well as development. The idea of presenting case studies and best practices was mentioned in the informal sessions. That was also included in the provisional program for the conference. If required, the program could be recirculated. It included the list of speakers. The Delegation of South Africa had rightly pointed out that the Secretariat should start looking into dates for conference because of the competing demands for conference services in WIPO as numerous meetings were held every year. The process for constructing the program had been painful as it required looking into the availability of all the ingredients and to bring them together. These included the

speakers, the keynote speaker, introductory remarks by the Chair and the Director General and so on. At that time, it was agreed that the Minister for Trade and Industry in South Africa would be the keynote speaker. There was a need to maintain a balance and to take into account other considerations such as time and other issues. Those were some of the considerations that were brought together last year. Unfortunately, the conference could not take place.

300. The Delegation of Uruguay would like to know more about the informal consultations as it was a Regional Coordinator. It would like to know what would be discussed as the CDIP had requested the Secretariat to draw up a list. That had been done taking into account the agreed criteria. The Delegation questioned whether it was necessary to give the Secretariat a new mandate to prepare another list as the criteria were clear. The Secretariat had done its job. The Delegation did not know what would put the Secretariat in a better position to draw up another list.

301. The Chair responded to the query by the Delegation of Uruguay. He recalled the proposal for the Secretariat to broaden the list of speakers and the proposal to hold informal consultations to try and resolve the issue. However, some other delegations were of the view that the list proposed by the Secretariat was acceptable and there was no need for it to be broadened.

302. The Delegation of Canada stated that there was no need to change the list, at least until the problems with it were made known. No problems had been mentioned except that it did not comply with criteria. The Delegation would like to know how and why it did not comply with the agreed criteria.

303. The Delegation of Kenya, speaking on behalf of the African Group, referred to the comment by the Secretariat that the list could be resubmitted. That would be useful as some did not have the list.

304. The Secretariat (Mr. Baloch) could provide Member States with the list and program that were drawn up last June. However, it was not sure if those on the list would still be available and interested to speak at the conference. In that context, the Secretariat had repeatedly requested that it be given the flexibility to invite alternative experts because going back to the Member States for fresh approval in cases where experts were not available could result in another lengthy process. The document would not be circulated as an official document. It would be done informally to avoid any inference that those on the list would be invited to speak at the conference. It should be borne in mind that some may not be available. In the case that 30% to 40% were not available, the Member States may want to decide whether the Secretariat should be given the said flexibility or if it should revert to the Member States on the unavailability of those experts, which may entail another lengthy process.

305. The Delegation of Venezuela supported the statement made by the Delegation of Uruguay. It reiterated that the worst thing that could happen would be for the conference not to take place. However, it should not be held just for the sake of it. Member States should not be involved in micromanagement. The conference could provide a platform to discuss issues and to see things more clearly. The requirement for the speakers to be experts in both development and IP limited the selection. If the criteria requested by Member States for the Secretariat to apply were not appropriate, perhaps the Secretariat could explain why they were not appropriate. If speakers were not available, alternative candidates could be suggested by the Secretariat.

Consideration of the following documents:

CDIP/8/INF/1 – External Review of WIPO Technical Assistance in the Area of Cooperation for Development

CDIP/9/14 – Management Response to the External Review of WIPO Technical Assistance in the Area of Cooperation for Development (Document CDIP/8/INF/1)

CDIP/9/15 – Report of the Ad Hoc Working Group on an External Review of WIPO Technical Assistance in the Area of Cooperation for Development

CDIP/9/16 – Joint Proposal by the Development Agenda Group and the Africa Group on WIPO's Technical Assistance in the Area of Cooperation for Development

CDIP/11/4 – Status of Implementation of Certain Recommendations Extracted from the Report on the External Review of WIPO Technical Assistance in the Field of Cooperation for Development

306. The Chair opened discussions on the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. He recalled that the External Review was undertaken in the context of the DA project on Enhancement of WIPO's Results-Based Management (RBM) Framework to Support the Monitoring and Evaluation of Development Activities. The report on the External Review was presented at the Eighth Session of the CDIP (CDIP/8/INF/1). The Committee established an Ad-Hoc Working Group to identify recommendations in the report that were redundant or no longer relevant. The report of the *Ad-Hoc* Working Group was presented at the Ninth Session of the CDIP (CDIP/9/15). In response to the Committee's request, the Secretariat submitted a management response to the External Review (CDIP/9/14). A joint proposal was also submitted by DAG and the African Group (CDIP/9/16). At its Tenth Session, the Committee requested the Secretariat to prepare a document to identify recommendations that were in the process of implementation and to report on progress achieved in that regard. Document CDIP/11/4 was prepared on the basis of inputs from various WIPO sectors. At its 11th session, the Committee requested the Secretariat to provide a report on the issues mentioned in Paragraph 7 of the Summary by the Chair. At its 12th Session, the Committee took note of the manual on the delivery of WIPO technical assistance (CDIP/12/7) and the presentations on the restructuring of the WIPO website and IP-TAD.

307. The Delegation of Kenya, speaking on behalf of the African Group, referred to its joint proposal with DAG and stated that it had not been formally discussed by the Committee. The Group believed that the Committee's work on the implementation of the recommendations suggested by the evaluators would be enhanced if discussions on the proposal could begin during the session. Delegations had time to consider the proposal since it had been made available to them in the 9th Session of the CDIP.

308. The Delegation of Japan, speaking on behalf of Group B, reiterated its principle position that the recommendations of the external consultants should not be regarded as being automatically endorsed by the Committee. The recommendations worth considering were only those categorized under cluster B in the management response. The Secretariat was doing excellent work on technical assistance. As indicated in document CDIP/11/4, there were significant developments in a good direction. From that perspective, the Group believed that practical and useful work to be decided by the Committee, and further pursuits based on the recommendations of the report, could only include a compilation of best practices in WIPO and non-WIPO technical assistance; internal and international coordination; and cost efficiency measures, as reflected in the proposal distributed by the EU and its Member States at an earlier session. The Group's proposal at the 10th session on the exchange of best practices was

related to the first component of the EU proposal and could be further considered in that context. On the joint proposal by DAG and the African Group, the Group stated that some of the identified recommendations were already in the process of being implemented by the Secretariat. Some others were not feasible, taking into account WIPO's mandate as a specialized agency on IP. Therefore, the Group was not in a position to accept further action by the Committee on those items. The three items included in the EU proposal were very practical and could contribute to enhancing WIPO's technical assistance in an objective manner. The Group was of the view that those were the only issues the Committee should further pursue at this stage.

309. The Delegation of the United States of America associated itself with the comments made by the Delegation of Japan on behalf of Group B. The Delegation recalled that the Committee had quite at length considered the joint proposal by DAG and the African Group. At CDIP/11, the Committee worked at length to identify areas for future work around which there could be consensus. Indeed, one of those was the area of developing a manual on WIPO technical assistance. It was presented by the Secretariat and reviewed by the Committee at the 12th session. The Committee requested for it to be made available as printed material. In his opening remarks, the Director General mentioned that the manual had been printed. The Delegation had not been able to get a copy as the publications office did not have it. It hoped that the Secretariat could identify the publication number in order for interested delegates to obtain a copy.

310. The Secretariat (Mr. Baloch) understood that the manual should be available outside the room. It would enquire and revert to the Delegation of the United States of America on this matter.

311. The Delegation of Greece, speaking on behalf of the EU and its Member States, continued to believe that the recommendations under cluster B in the management response warranted further consideration. The Committee should focus on them. In approaching technical assistance, their overwhelming concern was to maintain a high quality debate. Therefore, they believed that the CDIP would benefit from a review and discussion on best practices within the wider area of IP technical assistance, as proposed in the Deere-Roca report. The debate should focus on the identification of best practices and lessons learned from WIPO and non-WIPO technical assistance and also offer opportunities for joint presentations on technical assistance projects by developing and developed countries irrespective of whether they were carried out in a multilateral or bilateral manner. The EU and its Member States looked forward to such a debate which would ensure greater transparency and accountability in all areas of technical assistance planning and delivery.

312. The Delegation of Kenya, speaking on behalf of the African Group, referred to the request for the Committee to concentrate on best practices and cost efficiency measures proposed by the EU and its Member States. The Group stated that relevance should be taken into account. There was a need to consider whether the provision of technical assistance was relevant to the needs of developing countries. The issue of doing something well should be differentiated from that of meeting the needs of beneficiaries. The Committee should focus on relevance. If something was not useful, its purpose would not be achieved even if it was cost-efficient and done well. This was the main issue when looking at technical assistance and related issues such as the experts selected to carry out activities and so on. Once the basic notion to be addressed was understood, issues such as efficiency could be examined later. If the Committee began by looking at those other issues, it could risk clouding the main issue that should be addressed.

313. The Delegation of Brazil reiterated that the implementation of the DA was a process. As such, it was important to keep moving forward, assessing progress on each step and area involved. The Delegation believed that all delegations could agree that technical assistance

was an essential component of the work done by WIPO. However, to ensure that the technical assistance activities carried out by WIPO met the criteria set out in Recommendation 1 of the DA, the implementation of the points raised in the Deere-Roca report needed to be advanced. The Delegation welcomed the first steps taken in this direction with the implementation of items A(2)(a), G(1), F(1)(a) and (b) in the joint proposal by DAG and the African Group. The approach of going from the simplest to the most elaborate tasks in the implementation of the joint proposal could be effective as long as it did not stop there. It should be borne in mind that the goal of the External Review was to ensure that WIPO's technical assistance was truly development oriented. This should not just be cited in the self-evaluation of the Organization's activities. In their report, experts proposed some elements to understand this concept as well as some criteria to determine what type of assistance could be considered as development oriented. This should be the starting point and guide for the discussions on this item. In this context, the Delegation urged all Member States to reflect on the joint proposal by DAG and the African Group and consider whether other recommendations could be agreed.

314. The Delegation of South Africa recalled that the Committee could not discuss this agenda item in the last session due to time constraints. The African Group and DAG had identified recommendations in their joint proposal, including recommendations A(3), C(2), D(2) and E(2) for implementation by the Secretariat. They had also identified recommendations C(1) and E(3), and the Secretariat was requested to provide an update on its implementation of those recommendations. They would continue to request the Secretariat to undertake the implementation of the recommendations included in their joint proposal. It would not be wise to engage in a discussion on non-WIPO technical assistance because the External Review was on WIPO's technical assistance. It was not on non-WIPO technical assistance. The Delegation urged the Committee to focus on WIPO's technical assistance and to further discuss the joint proposal by the African Group and DAG as it was the only proposal by Member States that was on the table in relation to the further implementation of the recommendations.

315. The Representative of the TWN strongly supported the implementation of all the proposals included in the joint proposal by DAG and the African Group. The External Review provided a rare insight into the workings of WIPO's technical assistance which in the past had largely remained in obscurity. The Representative stressed on the importance of providing appropriate technical assistance to developing countries and LDCs. This was imperative as inappropriate assistance could adversely affect development prospects. It was of utmost importance that WIPO, Member States and the Secretariat invested time to discuss this issue and examine, in particular, what was working and what was not. Transparency and accountability should remain the fundamental principles that underpin WIPO's technical assistance at all times.

316. The Delegation of Cameroon interpreted the silence in the room as consensus. The Committee could proceed based on that premise.

317. The Delegation of Kenya, speaking on behalf of the African Group, stated that if there was agreement, recommendations A(3), C(1) and (2), D2, and E(2) and (3) of the joint proposal could be implemented.

318. The Delegation of the United States of America did not believe there was consensus. The Committee had spent many hours discussing these proposals. There had not been agreement and delegations did not seem to be finding a way forward.

319. The Chair enquired as to what could be the way forward.

320. The Delegation of the United States of America believed that the only areas for consideration were the Cluster B recommendations. This was noted by the Coordinator for Group B. Any further work would need to be done in that area.

321. The Delegation of Japan, speaking on behalf of Group B, confirmed that there was no consensus on the specific items to be pursued under this agenda item. It reiterated that the Cluster B recommendations and the elements of the EU proposal were the only areas to be considered for further work under this agenda item. The Group referred to its comments on the specific recommendations identified by DAG and the African Group in the last session. The comments clearly indicated that there was no consensus around that.

322. The Delegation of South Africa stated that the External Review was commissioned by the Organization and the experts came up with recommendations based on their findings. Therefore, the Delegation requested the Secretariat to clarify whether there would be any harm in implementing those recommendations. For example, on item C(2) in the joint proposal by DAG and the African Group, the Delegation was not convinced that it would be harmful for the Secretariat to prepare guidelines to ensure transparent processes for selecting external experts and so on. It needed to be convinced that such work would be harmful. The Delegation also needed an explanation from the Secretariat as to why it could not implement some of the identified recommendations.

323. The Secretariat (Mr. Baloch) stated that it was a difficult question. The Secretariat could do a lot, if not everything. However, it must be based on agreement amongst Member States. The point of departure on the External Review report was that Member States would discuss, agree and request the Secretariat to implement those recommendations. The Secretariat required a clear decision in order to proceed.

324. The Delegation of Cameroon stated that some objections from Member States were expected and that was normal. However, it would assist if delegations could provide reasons as to why they did not agree with particular aspects of the proposal. In this regard, the Delegation referred to the request made by the Delegation of Canada for delegations to explain why they did not agree with the list of speakers proposed by the Secretariat on the International Conference. A blanket objection without providing reasons added to the circle of disagreement and progress would not be achieved.

325. The Delegation of Kenya, speaking on behalf of the African Group, echoed the comments made by the delegations of South Africa and Cameroon. The Group recalled the discussion on the list of speakers for the International Conference. It referred to the proposals on experts and consultants in section E of its joint proposal with DAG. If the Committee was already facing challenges in dealing with some of those issues and there was a proposal which could resolve some of them, it merited further reflection and discussion. Some of the proposals contained therein were very practical and would help the Committee to resolve some issues.

326. The Chair suspended the discussions at that stage to allow informal consultations to take place.

Terms of Reference for the Independent Review of the Implementation of the DA Recommendations (continued)

327. The Chair resumed discussions on the TOR for the Independent Review. He invited the former Vice-Chair to brief the Committee on the outcome of the informal consultations held the previous day.

328. The former Vice Chair provided a summary of the discussions that took place during the consultations. Tangible progress was achieved. Delegations were very constructive in the discussions. She referred to the proposals mentioned in the Committee the previous day on the sections of the TOR concerning the background, purpose and scope of the Independent

Review. In the consultations, it was preliminarily agreed that if other parts of the draft TOR were accepted, those proposals would also be accepted. The section on the key questions to be addressed in the Independent Review was discussed and the outcome was promising. There were no strong objections. Those key questions were on relevance, impact, effectiveness, efficiency and sustainability. There was an issue concerning relevance. The Vice Chair and the Delegation of Chile made separate proposals on the wording of the sub-paragraph on relevance as certain Member States and Regional Groups had a problem with the term "beneficiary". They wanted the meaning to be precise. Alternatively, the term "beneficiary" could also be replaced with the term "Member States" or "stakeholders". The former Vice-Chair believed the proposal by the Delegation of Chile was more widely endorsed. The text remained open and she hoped an agreement would be reached. Other than that, the key questions were largely endorsed by Member States. Although some had other preferences, they were willing to be flexible on the wording and that was very constructive. The section on methodology was skipped as it was the easiest part of the TOR. Member States largely endorsed the elements of the methodology to be utilized by experts. There was nothing new in the methodology. It included the proposals by Regional Groups. The section was briefly examined. Member States could accept the text, although there may be some minor suggestions such as e-surveys, different modes of interviews and focus group discussions. These were minor issues. On the review team itself, a vital question was raised with respect to the process for selecting experts. The issue was whether Member States should be involved, or if the Secretariat should be empowered to select and engage experts in line with WIPO's established procedures, taking into account the criteria to be determined by Member States in the TOR. A vast majority of Member States were not in favor of micromanaging the process. They did not favor being involved in that stage of the process. Certain Member States such as the Delegation of Australia raised objections with regard to the idea of their involvement in the selection process. It was maintained that Member States should trust WIPO and its established rules, and allow the Secretariat to engage the right experts in line with those rules and the criteria to be established in the TOR. GRULAC did not have a consensus on this matter. The Delegation of Brazil had a dissenting opinion. Some Member States were willing to be involved in the selection process. However, the mode of involvement was not discussed. Many Member States were concerned that if the Secretariat prepared a short list for the endorsement of Member States, it could lead to lengthy discussions on the list. The list of speakers for the International Conference was still not resolved. The following passage; "the selection process shall be conducted in line with WIPO's established procedures and in consultation with Member States" was in brackets. Member States were urged to resolve the issue. She noted that a vast majority of them did not want to be involved in the selection process. However, a number of Member States were willing to be involved. Certain Member States held the view that Member States could not be involved in the selection of experts if those engaged were required to be independent. Therefore, there was no consensus on this issue. The sections on deliverables and budget were not discussed due to the lack of time. There was a need to agree on the outstanding matters described above before agreeing on the rest of the TOR. The former Vice-Chair hoped that more progress would be achieved that day in view of the willingness of Member States to engage in constructive dialogue to finalize the TOR during the session. The text from the informal discussions had been circulated to all group coordinators.

329. The Delegation of Japan, speaking on behalf of Group B, noted that time was limited and many issues had yet to be discussed. The Group would continue to constructively engage with a view to finalize the TOR by 6pm on Friday. In order to be constructive and to demonstrate flexibility, the Group supported the former Vice-Chair's proposal which was presented to Member States at the beginning of the informal session the previous day. The document was entitled, "Informal Session May 20, 2014". The Group believed the document received widespread support from Member States and balanced the interests of all groups. Given that time was limited, the Group was ready to accept the document and end the informal process. It urged other Member States to do likewise. Adding new concepts at this stage would not help to

finalize the TOR during the session. If this was not possible, the Committee should then consider opening only the paragraphs that had not yet been discussed.

330. The Delegation of Kenya, speaking on behalf of the African Group, was ready to continue engaging in a constructive manner to ensure that the TOR was finalized during the session. There were no major disagreements. There were a few issues but it was just a matter of going through the text. They could be resolved through informal consultations.

331. The Delegation of Uruguay, speaking on behalf of GRULAC, was prepared to continue moving forward and consider the alternatives submitted by the former Vice-Chair. The proposal by the Delegation of Chile on the question of relevance was a good compromise. The Group urged delegations to concentrate exclusively on the controversial paragraphs that were of vital importance and not concentrate on minor points that did not affect the substance of the TOR. It would continue to constructively engage and make proposals. The Group hoped that work could be completed by 6pm.

332. The Delegation of Belarus, speaking on behalf of CACEEC, would be flexible on the issue of the TOR. It supported the position of Group B. As time was limited and many issues remained unresolved, the Group could support the Chair's draft proposals on the issues.

333. The Delegation of the Czech Republic, speaking on behalf of CEBS, supported the position of Group B with regard to the first three paragraphs of the proposal that was before the Committee. It was prepared to demonstrate maximum flexibility in further negotiations on priority aspects of the TOR. It would like to avoid renegotiating parts of the text that had already been agreed.

334. The Chair proposed that the Committee consider items on the agenda for that morning and see how much progress could be achieved on them. The Committee could then agree on a timeframe to finalize issues that were left open on the TOR. It was important not to reopen parts of the text on which there was no major disagreement.

Consideration of document CDIP/13/8 - IP and Tourism: Supporting Development Objectives and Protecting Cultural Heritage in Egypt and Other Developing Countries

335. The Chair invited the Committee to consider the project document on IP and Tourism: Supporting Development Objectives and Protecting Cultural Heritage in Egypt and Other Developing Countries and requested the Secretariat to introduce the project document.

336. The Secretariat (Ms. Toso) stated that the project document was based on a proposal by the Arab Republic of Egypt. It was based on several considerations. Tourism was a main source of income for many developing countries. In today's highly competitive globalized world, tourism was increasingly characterized by tailor-made demand for differentiated products and services which displayed added value. Tourism stakeholders could play a key role in providing high-quality products and services to tourists by responding to their most specific interests and needs. In so doing, they could benefit from the strategic use of the IP system. The project proposal largely reflected the views of the Arab Republic of Egypt, the proponent of the project. The Delegation of Egypt was requested to work with the Secretariat to further develop the proposal into a DA project document. The general objective of the project was to analyze, support and promote awareness of the role of the IP system and tools in promoting tourism and protecting cultural heritage in the context of national growth and development objectives. The project had two specific objectives. First, to build the capacities of key tourism stakeholders and national authorities, including IP offices, on how to use IP tools and strategies to add value and diversify tourism-related economic activities, including activities related to the protection of cultural heritage. Second, to raise awareness among the academic community on the intersection between IP and tourism in the framework of local growth and development policies,

with a view to developing teaching materials and promoting the inclusion of specialized curricula in tourism management schools and national IP academies. It was proposed that the project be implemented in four pilot countries, including Egypt. There would be three main phases. The first phase would be dedicated to research and documentation activities to identify existing or potential IP tools that could be used for the promotion of tourism and the protection of cultural heritage. The Secretariat would develop guidelines on the use of IP systems and tools for these purposes, based on expertise in trademarks, designs, copyright, IP norms and principles related to TK, TCEs and other relevant IP fields. The guidelines would include case studies explaining best practices on the successful use of a national IP system for the competitive advantage of the tourism sector and the protection of cultural heritage. The guidelines and documented case studies would form the basis for the development of appropriate teaching materials, which would be proposed for adoption in the curricula of tourism management schools and national IP academies. The next two phases would be implemented at the country level in the pilot countries. They involved capacity-building activities for key tourism stakeholders and national authorities; and broad-based awareness-raising activities, including the development of appropriate teaching materials and curricula for the academic community. In each pilot country, relevant tourism stakeholders would be identified in coordination with lead institutions. Those mentioned in the document were tourism promotion agencies, associations of hotels, restaurants, recreation centers, tour operators, travel agents, museums and other cultural institutions. The selection of the three other pilot countries would be based on certain criteria, including the existence of national/regional development policies where tourism was considered a tool for development, poverty alleviation, employment creation, women and youth empowerment, economic, social and cultural development in general; the existence of a business environment in a location characterized by unique cultural, environmental, traditional or historical conditions that attracted tourism, but had so far remained untapped or were at risk of being misappropriated or neglected; and demonstrated interest at business and policy levels to increase competitiveness and innovative capacities in the context of tourism-related economic activities for national development. Countries interested to be considered as pilot countries for the project were invited to submit a proposal to the Secretariat with an indication of the lead agency or institution responsible for coordinating country-level activities; brief description of the touristic interests in the country, and the prevailing tourism-related business environment (e.g. cultural tourism, health tourism, eco-tourism, etc.); and capacity of the lead agency and other stakeholders to continue with the implementation of the proposed strategies when the project concluded. The project document included a list of expected outputs from the activities to be undertaken, indicators of success and project deliverables. In the implementation of the project, WIPO would establish strategic and operational links with other relevant institutions, in particular the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the United Nations World Tourism Organization (UNWTO), within the framework of their mandates, namely, for safeguarding intangible cultural heritage and the preservation of cultural heritage, and the role of tourism in promoting national development, respectively. The project was particularly relevant to the DA as it sought to demonstrate how developing countries could benefit from IP tools to promote tourism and protect cultural heritage. The project would showcase how the strategic use of IP tools could influence business and market diversification, assist in protecting cultural heritage and content, create value chains and stimulate national development.

337. The Delegation of Egypt believed the document provided clear and useful information on the project. The Delegation explained why Egypt had thought about the project. IP should be a dynamic subject matter. It should not be static. There was a need to expand IP tools and explore new areas. That was why Member States and other organizations were interested to explore areas such as IP and sport, IP and culture, and others. IP and tourism could also be a good area to explore, especially as little had been done on it. This would also help to attract new clients and stakeholders to participate and benefit from the IP system. As mentioned in the document, the project was aimed at stakeholders in the private sector such as hotels, restaurants, travel agencies and associations as well as government agencies such as IP

offices. It would try to link both in order to attract new clients and stakeholders that could benefit from the IP system. There was also a connection with tourism education facilities that would also help to promote knowledge and awareness of IP tools and systems for those clients. This would assist in the dissemination of knowledge and information. The project could also support global IP systems. There was a shared objective in WIPO to try to expand existing international IP systems such as the Hague system for designs, the Lisbon system for geographical indications and the Madrid system for trademarks. These could benefit from attracting new stakeholders and clients to use the IP systems. The overall objective of the project was to contribute to WIPO's mandate in the area of promoting innovation and creativity. The Delegation believed that a few countries were already tapping into the area of IP and tourism. If adopted, the project would help to spread knowledge in this area. It could benefit developing and developed countries with tourist attractions as well as tourism stakeholders.

338. The Delegation of Ecuador stated that the proposed project was both interesting and important. As the project aimed to involve key national and regional stakeholders in the area of tourism, and to examine ways in which IP strategies and tools could be used to add value to economic activities related to tourism, Ecuador would like to be included in the pilot project. It would make available all necessary documentation in order to participate.

339. The Delegation of Kenya believed the project was well designed and ready for approval. The objectives were clear and focused. The Committee would be able to evaluate the project and share the results thereafter. This area was unique and of interest to Kenya. The role of IP had been neglected in this area. The project could produce very interesting results. The Delegation supported the project. Kenya was interested to participate and would submit its proposal to be included as a pilot country for the project.

340. The Delegation of Japan, speaking on behalf of Group B, highlighted that the document was made available just before the session. It appeared that many relevant issues had been introduced. The content of the project had, to some extent, been substantially changed when compared with the concept paper. Thus, the Group needed more time to examine the project document. As preliminary comment, the Group stated that it was concerned about the inclusion of TK and TCEs in the field of IP. These were being discussed in other fora within the Organization. Member States had not reached a common understanding on the fundamental concept of TK and TCEs.

341. The Delegation of Thailand referred to its general statement in the GA last year. The Delegation recognized and appreciated WIPO's role as a global IP service provider. However, development should remain the Organization's priority as it was part of the UN family and many Member States were still in need in terms of integrating IP into their development activities. The use of IP as a tool for promoting economic, social, and cultural development could be regarded as a powerful choice among other development tools. Development included many areas. The IP system could play a significant role in contributing to a positive impact in areas such as tourism products and services. Therefore, the Delegation supported the proposal by the Delegation of Egypt for a pilot project on IP and tourism to support development objectives and protect cultural heritage in Egypt and other developing countries. These objectives were linked to the DA project on IP and Product Branding for Business Development in Developing Countries and LDCs. If adopted, the Delegation hoped that the project would be effective and useful in supporting the implementation of DA recommendations.

342. The Delegation of Mexico supported the project described in document CDIP/13/8 because it fulfilled the objectives of the DA. Mexico was interested to participate as a pilot country. Tourism was a strategic sector in Mexico and was critical for the economy. Consequently, Mexico's national development plan for 2013-2018 included the use of tourism to create employment. It also aimed at increasing the sector's productivity and protecting Mexico's cultural and natural heritage. The promotion of tourism was an essential tool for reducing

poverty, creating jobs, empowering women and youth, and for economic, social, and cultural development in general. IP could help add value in the area of tourism, which was required in order for the country to achieve direct benefits based on the wellbeing of its communities and its cultural and natural heritage. Mexico had institutions that were capable of coordinating activities at the national level with the Secretariat if it was selected as one of the pilot countries. The Delegation reiterated Mexico's intention to participate in the project and would submit a proposal to the Secretariat in a timely manner.

343. The Delegation of the United States of America recognized the importance of tourism for national economies, including its own economy. It saw promise in using IP tools for promoting tourism. However, the Delegation had a number of concerns with the project proposal. First, it could not support any work in the area of TK and TCEs as they were the subject of ongoing IGC negotiations. It also would not support any work in the area of geographical indications as this subject matter should be left to the SCT. In addition, the Delegation would not support the development of guidelines as each Member State was sovereign and should make its own policy decisions. The Delegation enquired as to whether the project would involve any personnel costs. The project document only identified non personnel costs.

344. The Delegation of Trinidad and Tobago stated that tourism was a major source of income for its country and the Caribbean region. Therefore, the Delegation believed the project would allow those in the region to further enhance the development of their economies in terms of income, foreign exchange, productivity and IP education. The promotion of tourism was a major policy objective for Trinidad and Tobago as the country sought to diversify from its oil and gas sector. The Delegation had submitted the original proposal presented by the Delegation of Egypt in the previous CDIP session to its capital. The proposed project was being carefully considered as there were potential benefits for the country. The Delegation would like the new proposal to be further discussed in the Committee. It would make further comments at future sessions of the CDIP.

345. The Delegation of Rwanda stated that its country wanted to build another image and move forward. It did not want to be recognized by the genocide that took place in the country 20 years ago. Rwanda could be recognized through many other things and tourism was an area that could help the country. Therefore, the Delegation requested the Secretariat to include Rwanda among the countries to be selected for the project.

346. The Delegation of Peru believed that such projects would have an impact on employment and development. They were of utmost importance to the Committee. IP could contribute significantly to development. Tourism was an important part of the gross national product of Peru, particularly as Machu Picchu was located in the country. The Ministry of Tourism and Development was responsible for diversifying and promoting tourism, as well as assisting tourists. There was a budget for these particular projects. Peru would be interested to participate. There were some outstanding issues in the agenda for the session, but they could be resolved in the informal meetings. The proposed project was worthy and there was no need to wait until November to reach a decision. It could be discussed and finalized during the session.

347. The Delegation of Greece, speaking on behalf of the EU and its Member States, continued to believe that the proposal by the Delegation of Egypt on IP and tourism was interesting and could potentially add value to the competitiveness and further development of countries involved in the project. However, they noted that document CDIP/13/8 had been substantially redrafted and was only made available very recently. There had not been enough time for them to adequately consider it. Thus, and in view of the time pressures faced by the Committee, the EU and its Member States believed it would be better to allow the discussion of document CDIP/13/8 to be continued at the next meeting of the Committee. As an initial

comment, they expressed their concerns over some of the elements introduced in the current proposal.

348. The Delegation of Kenya, speaking on behalf of the African Group, believed this was an important area. It had the potential to benefit Member States. Delegations should engage to resolve concerns in order for the project take hold. A number of countries, including Kenya, had expressed interest in the project. It was worthy of consideration. The Delegations hoped Member States would engage in a concerted manner to adopt the project during the session.

349. The Delegation of the Czech Republic, speaking on behalf of CEBS, appreciated the new topic on the tourism industry and the effective utilization of IP in this field. It was promising. There were potential benefits for various Member States. Branding and the use of trademarks, especially certificate trademarks to indicate the quality of tourism services, should be examined. Related experiences and best practices at the country, regional and local level should be shared. From that point of view, the quality and clarity of the proposal were key elements in ensuring the effective implementation of the project in future. Therefore, the Group sought clarification with regard to the project outcomes, the scope of the included countries and the process for selecting countries to participate in the project. The project proposal should focus on a narrower range of IP assets in the tourism industry in order for its implementation to be useful and effective.

350. The Delegation of Tanzania stated that tourism was a growing industry. Tanzania was a tourist destination. Therefore, it attached great importance to this area and was interested to participate in the project.

351. The Delegation of Senegal stated that the tourism sector was important for its country. It was an important source of income and contributed significantly to the gross national product of the country. There had been a fall in the earnings of the tourism industry in Senegal. In the 1970s, Senegal received more than 9 million tourists per year. That figure had now fallen to 450,000. A national policy was being established. Action was being taken to examine how the sector could be revitalized. Therefore, the Delegation was very much in favor of the proposal by the Delegation of Egypt. Senegal was very interested to participate and be included in the project.

352. The Delegation of Zimbabwe recalled that the Delegation of Egypt had presented a proposal at the 12th session of the CDIP. It was requested to work with the Secretariat to develop the document into a project proposal. The Delegation did not know what the Delegation of Greece was referring to when it stated that the document had been substantially redrafted because the initial submission by the Delegation of Egypt was just a document outlining their intentions. Separately, the Delegation informed the Committee that Zimbabwe was nominated as the best tourism destination for 2014 by the European Council on Tourism and Trade. Delegations were invited to visit Zimbabwe and enjoy the hospitality of its people. They could experience its TCEs, enjoy the Victoria Falls and so on. The proposed project would help transform Zimbabwe's tourism industry and take it to the next level, bearing in mind that IP had become an important factor in the economic growth of many countries. Tourism was one of the few sectors that were alienated from IP. The link could benefit Zimbabwe and other countries with tourism industries. Without IP, there would be no distinction in the products offered by each country and region. For example, Zimbabwe shared the Victoria Falls with Zambia. IP could be used to add to the tourism activities in that region of the country. The Delegation urged all Member States to examine the document in a positive manner and make suggestions that could enhance the implementation of the project. The debate in the IGC was different. The Committee was discussing trade issues in the context of tourism. It should be borne in mind that the majority of Member States were supportive of the project.

353. The Delegation of Cameroon supported the project. Cameroon had a lot of potential in tourism. It was known for football and tourism. The Delegation referred to the long list of countries that had expressed an interest in participating in the project. Cameroon was also interested to participate and be included in the project.

354. The Delegation of Costa Rica stated that its country was rich in biodiversity. The tourist sector was one of the main sources of income and development in Costa Rica, a small country in Central America. IP could bring important benefits to this sector. Therefore, the Delegation supported the project proposed by the Delegation of Egypt and hoped it would be implemented.

355. The Delegation of India stated that the project proposed by the Delegation of Egypt deserved to be welcomed by all because there were tourism industries in LDCs, developing countries and developed countries. The project would enhance and extend the scope for utilizing IP in a new area that was almost untapped until now. With regard to the concerns raised by Group B as well as the EU and its Member States on TK and TCEs, the Delegation stated that the discussion in the IGC was different, as highlighted by the Delegation of Zimbabwe. The project document stated that TK and TCEs would only be dealt with in the context of existing IP tools. Hence, there should be no apprehensions. Even if there were, they could be sorted out through discussions and the document could be revised. The Committee should adopt the project as it would help many national economies to create employment and strengthen the tourism industry. It was a very important area of the global economy.

356. The Delegation of Guatemala considered the project to be innovative. It would contribute to the economic development of countries, particularly those that were rich in terms of culture and tourism.

357. The Delegation of South Africa also supported the project. It recalled that in the last session, the Delegation of Egypt had provided a concept paper. Subsequently, it was requested to work with the Secretariat to develop it into a project document. The Delegation believed that the majority of Member States were supportive of the project being approved. The issues on which other delegations had concerns could be ironed out. They were not catastrophic issues that could lead to the Committee not approving the project. The inclusion of TK and TCEs in the project would not jeopardize the ongoing discussions and negotiations in the IGC. Therefore, the Delegation urged those delegations to support the proposal.

358. The Delegation of Chile stated that the project was within the scope of the Committee's work. It would explore a practical issue. The project could benefit Member States as it would analyze, support and promote awareness of the role of the IP system and tools in promoting tourism and protecting cultural heritage. The Delegation supported the proposed coordination with other bodies such as UNESCO and UNWTO that were competent in these areas. The Delegation supported the development of this initiative. When selecting countries to participate in the project, priority should be given to those that had undeveloped tourism potential in order to enhance its contribution to countries that needed a tourism industry.

359. The Chair noted that the document had generated a lot of interest and support from the floor. However, concerns were expressed by some delegations. As a way forward, the Chair proposed that the Delegation of Egypt and the Secretariat could interact with those delegations that had expressed concerns. He sought the view of the Delegation of Egypt on whether that would be worthwhile.

360. The Delegation of Egypt referred to the delegations that had spoken in favor of the project and supported it, namely, Ecuador, Kenya, Thailand, Mexico, Rwanda, Trinidad and Tobago, Peru, CEBS in general terms, Tanzania, Zimbabwe, Cameroon, Costa Rica, India, Guatemala, South Africa and Chile. It was delighted that the proposal met their aspirations. The Delegation referred to the concerns expressed by Group B. The central concern was that some of the

issues touched on TK and TCEs. In this respect, the Delegation reiterated the comment made by the delegations of India and South Africa that these had nothing to do with the IGC process. The project was not related to norm setting or that process. The IGC had its own dynamic process and should not be linked. The Delegation highlighted that cultural heritage was shared by all countries. For example, it believed the Acropolis deserved to be branded worldwide. The IP system could be used as an extra tool for raising awareness on the importance of this important cultural heritage that Greece shared with the rest of the world. The annual Jeûne Genevois celebration in Geneva was another example. Areas in the United States such as the Grand Canyon could also be branded and IP tools could be applied to attract more visitors. Some of the hand crafts in Japan could serve as examples of cultural products that could benefit from the IP system. The Delegation reiterated that the project was not related to norm setting or the IGC process. It was flexible, and believed the proposal by the Chair and the Delegation of Peru could be beneficial. The Delegation and the Secretariat could hold an informal meeting with delegations that had expressed concerns. It could work on a revised document that could be submitted later in the day with the assistance of the Secretariat.

361. The Chair stated that his proposal would be applied given that there were no further observations from the floor. He hoped that it would lead to a revised document for the consideration of the Committee.

362. The Delegation of Egypt stated that it could call for an informal meeting with delegations to work on a revised document which may be submitted to the Committee later in the day.

363. The Delegation of Japan, speaking on behalf of Group B, reiterated that it needed more time to review the project document as it was made available just before the meeting. The Group would examine the document in the interval before the next session. The Committee could return to this issue in the next session and decide on the procedural process.

364. The Delegation of Egypt stated that it could not force delegations to work on a document if they were not ready to do so. The document was posted on May 2. Since then, the Delegation had not received any comments or proposals from delegations on the document. It remained open and ready to consider any comments or ideas from delegations.

365. The Delegation of Algeria supported the statement made by the Delegation of Kenya on behalf of the African Group. The Delegation supported the project. It was a new and interesting approach to examine the use of IP for development through tourism, an extremely important development sector across the world and not only for developing countries. It was unfortunate that the Committee could not adopt the project at this session. However, the Delegation hoped that it would be able to do so as soon as possible. Some delegations may need more time to respond to the proposal. A few informal sessions could help to resolve their concerns and ensure that there would be no further delay in adopting the project at a later date.

366. The Delegation of Cameroon stated that the tourism sector did not require a lot of expensive technology. The project could provide a good example of a success story in the work of the CDIP. Therefore, the Committee should give it a chance. There should be some flexibility. There were bound to be concerns. They could be dealt with through discussions.

367. The Delegation of Indonesia stated that the project should be further discussed. It saw merit in the proposal. The Delegation pointed out that the document was dated May 2, 2014. That was three weeks before the CDIP session. It had made some notes on the proposal. The Delegation supported the idea of an informal meeting to discuss the proposal. Concerns related to the IGC process or the discussions on geographical indications could be taken up during those consultations.

Consideration of document CDIP/13/9 - Phase II of the Project on Capacity Building in the Use of Appropriate Technology – Specific Technical and Scientific Information as a Solution for Identified Development Challenges

368. The Chair opened discussions on Phase II of the Project on Capacity Building in the Use of Appropriate Technology – Specific Technical and Scientific Information as a Solution for Identified Development Challenges. He invited the Secretariat to introduce the document.

369. The Secretariat (Mr. Shenkoru) recalled that an independent evaluation was undertaken from June to September, 2013 after Phase I of the project was completed in April of that year. It assessed the project design framework; project management, including monitoring and reporting tools; project effectiveness; and the likelihood of sustainability of the results achieved. The implementation of Phase I received overwhelming support from the CDIP in its 12th session. Consequently, the Committee approved the extension of the project to Phase II. It requested for the recommendations in the evaluation report to be included in the project document for Phase II. Accordingly, document CDIP/13/9 was prepared, taking into account the recommendations of the evaluator and the comments of Member States on the implementation of Phase I. The project document for Phase II covered several important issues. First, it provided clear and comprehensive criteria for the selection of the participating LDCs to make the project more demand-driven, relevant and sustainable. Second, it introduced a partnership agreement or Memorandum of Understanding (MoU) to clarify the roles and obligations of the participating countries and WIPO. Third, preparation of guidelines on how best to undertake the process for identifying areas of need to ensure consultation, prioritization, ownership and proper documentation. Fourth, preparation of guidelines outlining the selection criteria, composition, TOR, chair, allowances and incentives, coordination and legal status of the National Expert Group. Fifth, it provided guidelines on how best the project should be implemented to enhance capacity building for patent search, preparation of patent reports, landscape and business plans. Sixth, it provided guidelines on what to consider in monitoring, review and evaluation, and how to get the best out of it. Seventh, it provided suggestions on appropriate project duration. Eighth; it identified and recommended organizations that could play a significant role in the implementation of the project. The document also included an implementation timeline, application form to be completed by beneficiary countries and resource requirements. The building of technical capacity in LDCs was also dependent on domestic policies that could encourage the use of scientific and technical information for economic growth and development. There were also other factors such as technological discoveries, natural resources and culture that could boost and encourage the use of technology as a tool for development. The lack of savings and investment made it difficult to build technological bases and institutions in LDCs, and to use them for development. The key understanding for the use of scientific and technical information for development was to remain open to the true complexity of the global processes for innovation and diffusion, and the main pathways through which policies, geography, economics and culture could shape the flow of technologies around the world.

370. The Delegation of the Republic of Korea welcomed the successful completion of Phase I of the project which it initiated in 2010. It hoped the experiences and practices utilized in Bangladesh, Nepal and Zambia on a pilot basis would be expanded to other Member States that wished to adapt them to their own circumstances. The Delegation supported the approval of Phase II, which focused on supporting the three pilot countries to implement their business plans and expanding the project to new participants to maximize the results of Phase I. The Korean IP Office had initiated the development of appropriate technology since 2010 and was willing to share its expertise in this area.

371. The Delegation of the United States of America appreciated the detailed project document prepared by the Secretariat. Document CDIP/13/9 appeared to address the concerns and recommendations of the evaluation of Phase I with respect to project design and the delivery

strategy. The Delegation reiterated that the sustainability and replicability of the project were very important. It would be interested to hear more about the longer term monitoring of the implementation of the projects in Phase I pilot countries. In particular, with respect to the implementation of the business plans, the Delegation would be interested to know how the technical and scientific business planning skills developed in Phase I were utilized by the participants. The monitoring could be incorporated in Phase II and reflected in the project document to ensure its sustainability. The Delegation hoped this additional information on the full implementation of the project would reveal success stories and best practices that could be used by other Member States to replicate the project with minimal support from WIPO.

372. The Delegation of Greece, speaking on behalf of the EU and its Member States, welcomed Phase II of the project and hoped that the lessons learned from the evaluation report on Phase I could be applied as relevant.

373. The Delegation of Bangladesh stated that knowledge and technology had always been used to achieve socio-economic growth and development. Therefore, it was necessary to enhance technical and scientific skills in LDCs in order for them to address their socio-economic challenges. The project would help to strengthen national capacities to improve the management, administration and utilization of skills in LDCs. It would also help to build a sound technology base and facilitate the transfer of knowledge. Phase I of the project was considered by the evaluators and the beneficiary LDCs to be extremely successful. As one of the three pilot countries, the Delegation was of the view that the CDIP should approve Phase II of the project to support the three pilot countries to implement their business plans and to expand the project to other LDCs. It hoped that the needs based approach would continue in Phase II. It also expected national experts to acquire more skills on patent search through the project. As the project had been fairly effective, it should be included in WIPO's regular budget. Adequate resources should be allocated for the implementation of Phase II. The Delegation hoped development partners would also support the proper implementation and expansion of the project to other LDCs in the future. It appreciated the role of WIPO, particularly the contribution of the LDCs Division in implementing the project. It expected the scope and frequency of the project to be broadened.

374. The Delegation of the Republic of Tanzania stated that capacity building was crucial for improving the situation in LDCs. Therefore, the project was very important. The Delegation looked forward to the outcome of Phase II. The Delegation had expected more countries to be included in the pilot project.

375. The Chair stated that Phase II of the project was approved, given that there were no objections from the floor.

Consideration of document CDIP/13/INF/7 - Exploratory Study on the Egyptian Information Technology Sector (IT) and the Role of IP: *Economic assessment and recommendations*

376. The Secretariat (Mr. Wunsch-Vincent) introduced the Exploratory Study on the Egyptian IT Sector and the Role of IP. It was part of a broader CDIP project managed by the Office of the Chief Economist. The study provided insights into the key characteristics of the Egyptian ICT sector; the role of IP in the ICT industry, both in the areas of ICT hardware as well as services and software; the current use of IP in Egypt's ICT sector; and IP-related policies that could contribute to the ICT industry's development, promote domestic innovation, employment and economic growth. The study was based on up to date data collection and statistics; a firm questionnaire and survey; a fact-finding mission and structured interviews; and a workshop with stakeholders.

377. The Representative of the Ministry of Communication and Information Technology (MCIT) of Egypt (Ms. El-Shinnawy) provided an overview of the key characteristics of the Egyptian ICT

sector. It was an important contributor to economic growth and employment in Egypt. It contributed to the development of other sectors, in particular, education, healthcare and tourism. The ICT sector achieved high growth rates of around 17% to 18% before 2011. Positive growth rates were maintained after the revolution in 2011. Its GDP contribution was around 3%. ICT exports continued to increase. Egypt remained an attractive investment destination for foreign ICT firms which focused on delivering and hosting activities in the area of ICT services and related back office operations.

378. The Secretariat (Mr. Wunsch-Vincent) stated that the ICT sector in Egypt specialized in services and business process outsourcing (BPO). The role of IP in the area of hardware was relatively well understood. However, its role in the area of ICT services and BPO was less examined. This area was of great economic importance for many low and middle income countries as their initial focus was usually on ICT services. The Secretariat hoped the study would also be relevant to other countries. In the past two decades, the ICT areas of digital communication, computer technology, semiconductors, and related areas such as medical technologies had experienced the fastest growth in patenting on a global level. This was mostly due to high R&D expenditures, significant venture capital investments and innovation. Other factors included an interest to build a domestic technology base to avoid paying royalties and license fees to other firms; strategies to take out patent thickets to block competitors; and the desire to ward off patent disputes. There was a high degree of protection for software through various forms of IP. However, the role of IP in the area of BPO services was less analyzed although this sector had the most relevance for many developing countries. Several papers studied the rise of the Indian ICT services and software industry. However, IP ownership was not considered a key criterion in India's success in this sector. Nonetheless, some prominent Indian ICT and BPO service providers had significantly scaled up their IP filing activity in the past few years. The study's conclusions on the uptake of IP in the Egyptian ICT sector were probably valid for many other sectors in the country and for other developing countries. The study found that Egyptian ICT firms did not file a significant number of patent applications. In cases where they filed for patent protection, they did so at the national level without protecting their inventions abroad. The majority of local ICT patents were filed by foreign multinationals. Inventors with Egyptian nationality or residence appeared in a number of patent filings abroad. Although Egypt had a utility model system, data was not available on its current uptake in the context of the study. Anecdotal evidence pointed to a low or absent use of the utility model system by ICT firms in Egypt. The Egyptian ICT sector was also not a heavy user of trademarks. The majority of registrations were from foreign multinationals.

379. The Representative of the MCIT (Ms. El-Shinnawy) stated that the Egyptian ICT sector remained promising despite the challenges mentioned by the Secretariat. The local software industry was highly skilled and educated. The Technology and Innovation Entrepreneurship Center (TIEC) had an outstanding program and curriculum. The new ICT strategy was also launched this year. Its main pillars included innovation entrepreneurship and the manufacturing of electronics in Egypt. The government had allocated significant investments in this regard. In addition to policies, these factors would help the government to achieve its targets in this sector. The Representative provided an overview of the policy recommendations contained in the study. First, policymakers could undertake a strategic policy shift towards domestic ICT innovation and entrepreneurship while ensuring improved coordination and evaluation of existing ICT supply-side policies. A culture and reputation for research, innovation and IP could be developed at the domestic level through the TIEC; the incubation program to increase the number of incubators and start-ups in Egypt in the next five years; the targets and key performance indicators that were set for generating revenue from IP in the next five years; and policies to promote ICT innovation. The MCIT had started to coordinate with other ministries such as the Ministry of Higher Education to include IP in university curriculum and to establish innovation programs in schools. Second, practical training on IPRs could be mainstreamed into coherent ICT entrepreneurship programs. This would create awareness and also focus on building the capacities of entrepreneurs, start-ups, SMEs, academics and members of the legal

profession on the role of IP in innovation and how to protect, use and benefit economically from IP. It would complement the ICT policy program. The use of IP in ICT services and software was particularly complex and should be more clearly assessed. Third, existing IP institutions could be put to use for ICT firms and innovation. IP policies should not be discussed in isolation but rather as part of a broader range of policies. ICT policy actors and the formal Egyptian IP institutions could work more closely. Little formal contact seemed to exist between local inventors, technology clusters, technical universities and IP institutions. Work would be undertaken in this regard, particularly as seven new Smart Villages would be created in the next seven years. Reviewing the services and help offered by the traditional IP institutions in the context of the ICT sector would also be desirable. Work had begun on reviewing the IP laws in Egypt. That was within the work of the National IP Coordination Committee, chaired by the Minister of Foreign Affairs. Although the Committee currently seemed more geared towards inter-ministerial coordination on external IP matters, it could play an important role in policy coordination matters at the cross-roads of IP and sectoral innovation policies.

380. The Secretariat (Mr. Wunsch-Vincent) stated that the study also identified the need for more work in certain areas where questions remained. It suggested areas for future research should also be relevant to many other Member States. The Secretariat highlighted some of the areas, including the role of IP in appropriating innovation in ICT and BPO services sector; its role in fostering the rise of a strong domestic ICT and BPO services in low- and middle-income economies; the extent to which ICT service and software markets were open to new market entrants and the role of IP in this regard, bearing in mind that proprietary software models, standards and issues of interoperability were important factors in this sector; how to maximize the positive spillovers from the local activities of multinationals, and the role of IP in structuring relationships between the domestic science system, domestic ICT firms and multinationals to maximize those spillovers; what lessons could be drawn from India and other countries with leading ICT service and BPO providers in relation to all of these areas. There was also the question of the mobility of skilled personnel and inventors in the Egyptian ICT sector and how it contributed to innovation.

381. The Representative of the MCIT (Ms. El-Shinnawy) stated that the study helped to clarify how IP institutions and IP players could play a role in the Egyptian ICT sector in the future. Other developing countries, particularly those with ICT sectors, could also benefit from the study and its recommendations. The national authorities intended to turn the recommendations into an action plan that would be launched in the next few months. The study looked at IP from a legal, economic and development perspective. It looked at IP as an important factor that could contribute to the economic growth of the Egyptian ICT sector and the country as a whole.

382. The Delegation of Egypt stated that the policy recommendations were broad and covered various aspects of how the IP system could benefit the software industry and the ICT sector in general. The lessons learned from the Egyptian experience could be adapted to apply in other countries. The policy recommendations were worthy of further elaboration in an action plan that was customized to Egypt's needs and priority areas. It was glad that they had been elaborated and looked forward to their customization in order for them to address the development aspects of creating incentives for entrepreneurship in the domestic market for the software industry and other related industries in the ICT sector. In this regard, it would also be beneficial to look into how domestic brain drain could be stopped. For example, many of its experts in this field worked in the multinationals that were invited to go to Egypt for outsourcing. The country could gain from the innovation of its experts in this field in Egypt and abroad. The country had not found a concrete way to benefit from them beyond employment. The rate of employment in the Egyptian ICT sector had been high since the early part of this century. Entrepreneurs and SMEs in this sector could be encouraged to register and see how they could benefit from an IP protection system for the sake of the domestic market. This could help schools, universities, government institutions and others to rely more on the e-world, rather than on documentation. As mentioned in the presentation, the National IP Coordination Committee was chaired by the

Minister of Foreign Affairs. The MCIT was a member. The study would be presented in the Committee as part of its activities. It would help in coordinating with other interested bodies and stakeholders in the implementation process.

383. The Delegation of the United States of America was pleased that the experts conducted interviews as well as thorough research and analysis of available literature. The Delegation hoped the information contained in the study would assist the government of Egypt to take full advantage of the IP system for further growth of the country's critical ICT sector. It learned a lot more about the plans in that regard through the presentation. To that end, the Delegation noted that the authors concluded that building IP awareness and commercialization may be the best way forward for the Egyptian government to support increased innovation and growth in the ICT sector. A similar conclusion was reached in many of the economic studies that examined various business sectors in developing countries, LDCs and countries in transition. Its own government had reached the same conclusion with respect to the micro, small and medium sized enterprises in the United States of America. As a result, it was working domestically to support those small firms by raising their IP awareness and helping them to develop strategies for IP commercialization. The Delegation of Peru had noted the need for tangible projects with real world impact to come out of WIPO. The Delegation believed that Member States would be best served by efforts to assist governments in building that kind of awareness and innovative capacity at the domestic level, rather than by commissioning many more studies that would possibly reach the same conclusions, and merely analyze and report on gaps. To this end, the Delegation would support future activities at WIPO that had practical benefits and tangible impact such as the creation of additional TISCs, a project about which it had heard nothing but rave reviews.

384. The Delegation of Algeria noted that the study and presentation were too IP oriented. The Delegation believed that the role of IP in the ICT sector should not only be examined from an innovation perspective. It should first be examined in terms of access to knowledge and technology as developing countries were at different levels of development, and lacked firms that had the knowledge and skills to use IP as well as financial resources to file IP applications. The Delegation looked at the issue from a public perspective, rather than a private sector perspective. It gathered from the presentation that the study focused on the latter. The objective appeared to be the development of ICT firms and the promotion of innovation in that sector. However, the Delegation believed that the public perspective and society should not be neglected. The policies and WIPO as a whole should consider the key role played by technology transfer in this area, rather than just focus on IP as an end in itself. The study needed to be balanced and not only focus on innovation and the private sector. The Delegation was interested to hear the views of the presenters in this regard.

385. The representative of the TWN made some comments on the study. First, although the use of IP was quite low, it was clear that Egypt had been very successful in creating a very innovative ICT sector. The study stated that in most innovative Egyptian ICT firms, the level of IP awareness and its economic utility were low. Nonetheless, the Egyptian ICT sector was relatively advanced. It had grown without strong use of IP. Second, the study also referred to the lack of skills, time and financial resources as obstacles in the use of IP. Third, the policy options were based on the assumption that IP would help to grow the industry. However, an assessment of the implications of IP was also needed. It should distinguish patents, utility models and trademarks. The assessment should not lump all forms of IP together as the implications could be different in each category. Some of the research questions involved looking at India, and it was also not very advanced in using IP. The study stated that it was only in recent years that the most prominent Indian ICT and BPO service providers had significantly scaled up their IP filing activities. India had a very advanced ICT sector. It was also mentioned that when IP was mostly owned by multinational entities, it was likely that it could become a barrier for local companies to access knowledge and strengthen the position of the multinational entities. There were different dimensions to the problem. There was a need to address these

issues and to look at the implications of IP when developing the action plan. The study stated that more research needed to be done in order to better understand the issue. In this regard, the Representative reiterated that the implications of IP needed to be assessed. It should not be assumed that IP would benefit growth.

386. The Chair invited the authors to respond to the questions and comments from the floor.

387. The Secretariat (Mr. Wunsch-Vincent) acknowledged that the main research area of the study focused on trying to improve the state of the ICT sector through innovation. In this context, the Delegation of Algeria was correct that the focus was on the private sector and the role of IP in that context. There were two main objectives in the analysis. The first was to avoid stating that IP was the solution to every circumstance. There were a lot of nuances in the study. The question of whether IP was applicable or appropriate in certain circumstances was raised. That was important. It was described in great detail in the study, particularly in relation to the software sector. The balance between proprietary models of software development and open source approaches was discussed as well as their impact on employment and growth. The second objective was to avoid looking only at patents. The study discussed the various forms of IP and suggested that trademarks were more efficient appropriation tools in some circumstances. The Secretariat referred to the comments of the Delegation of the United States of America and stated that the study had a practical objective. The idea was to develop policies based on evidence. The study would serve as an input for the action plan to be developed by Egypt.

388. The Representative of the MCIT (Ms. El-Shinnawy) stated that there were a lot of initiatives in Egypt on access to knowledge. The study did not only focus on the private sector. It also included the public sector. As mentioned in the presentation, coordination with other ministries would help the public, particularly students in schools and universities, to understand IP at an early stage. This was very important. The TIEC would also undertake activities to increase public awareness. A tailored program was developed and launched for this purpose. In future, IP would be a component in the national innovation program. The set objectives were based on real factors and achievements in the ICT sector in the last ten years. As mentioned by the Representative of the TWN, the sector had achieved a lot without a good awareness of IP or even utilizing IP. Thus, it was time for it to be included in a proper framework, and to maximize the benefits that could be derived from it. WIPO's assistance would be required to integrate IP into policies and strategies in the future.

Consideration of document CDIP/13/12 - Information on the Activities of the IP and Global Challenges Program, Particularly on the Development-Related Aspects

389. The Chair recalled that the Assemblies of the Member States of WIPO, in its 52nd Series of Meetings in December 2013, requested the IP and Global Challenges Program (Program 18) to inform Member States at the 13th session of the CDIP on the development-related aspects of its activities. He invited the Secretariat to introduce the document.

390. The Secretariat (Mr. Wichard) provided an introduction to Program 18. It was established in the Program and Budget for 2008/2009. By then, IP was included in the discussions that took place in other international fora on global challenges such as climate change and public health. However, WIPO did not have the institutional capacity to provide inputs in those discussions. Therefore, the Director General proposed and Member States agreed, to establish the Program to look at the intersection between IP and global public policy issues such as climate change and global health. The Program provided fact based information and analysis. However, as mentioned in the Program and Budget for this biennium, emphasis would be placed on the development and success of tangible, results-oriented projects that leverage innovation and IP for development. The core activities of the Program were in this area. The projects included WIPO Re:Search and WIPO GREEN. The former was a consortium that aimed to boost

innovation in the areas of neglected tropical diseases (NTDs), tuberculosis and malaria. The latter provided a platform to facilitate the transfer of green technologies. Both had a development aspect as the effects of these global challenges were mostly felt in developing countries.

391. The Secretariat (Mr. Krattiger) highlighted some of the key activities of the Program. The slides of the presentation were available on request. WIPO Re:Search was its most important activity. The aim was to catalyze and accelerate R&D on new treatments and vaccines for NTDs, malaria and tuberculosis, by providing a platform where IP and know-how were made available to qualified researchers globally. Those who wished to join the consortium must agree to certain principles. They must make their IP assets available under royalty-free licenses for research, development and production anywhere in the world, and resulting product sales must be royalty-free in all LDCs. A document with details of the principles was available outside the room in all UN languages. A Partnership Hub, managed by BIO Ventures for Global Health (BVGH), a US-based non-governmental organization, provided support to interested parties in licensing and research collaboration opportunities, networking possibilities and funding options for R&D. The initiative was launched in 2011 with 30 members. Currently, there were 83 members and 56 research collaborations. The portfolio mainly concerned drugs. There were also some diagnostics. However, there was very little on vaccines. The portfolio pipeline included activities related to basic research, discovery, target validation, optimization and some preclinical work. The Secretariat would soon publish a book on the various partnerships. Five "hosting" arrangements supported by Australia's FIT were initiated in 2013 involving the placement of scientists from Cameroon, Egypt, Ghana, Nigeria and South Africa in research institutes in India, Switzerland and the United States of America. A video on WIPO Re:Search was available on YouTube. The Secretariat referred to the trilateral cooperation among WHO, WIPO and WTO. Three technical symposia were organized in this context and details were included in the document. The trilateral study, "Promoting Access to Medical Technologies and Innovation – Intersections between Public Health, IP and Trade" was the first joint publication by the three organizations. It was available outside the room. The study would also be available in Spanish, French, Russian, Chinese and Arabic. The Secretariat turned to WIPO GREEN. It was an interactive marketplace that promoted innovation and diffusion of green technologies by connecting technology and service providers with those seeking innovative solutions. The aim was to enhance the environment for innovation while enabling speedier diffusion of green technologies to all parts of the world, including developing countries. It included an online database which offered a listing of green technology products, services and IP property assets, and allowed individuals and companies to list green technology needs; and a network that brought together a wide range of players in the green technology innovation value chain, and connected owners of new technologies with individuals or companies looking to commercialize, license or otherwise access or distribute a green technology. The Secretariat could assist organizations, SMEs and universities to advertise their technologies on the platform. WIPO GREEN was launched in November 2013 with around 34 partners. Currently, there were 44 partners from across the world. A number of key organizations joined as partners, including UNEP (host of the UN Framework Convention on Climate Change (UNFCCC) Climate Technology Centre Network) and infoDev (World Bank-Climate Change Program). Some events related to climate change were also organized. There were also several publications and studies. Some were available outside the room.

392. The Secretariat (Mr. Wichard) stated that WIPO Re:Search and WIPO GREEN were developing. The Secretariat would be able to further develop them with support and inputs from Member States. The Organization had been using its mobilizing capacity to catalyze multi stakeholder cooperation between public and private institutions in order to achieve tangible results and contribute to meeting global challenges through the IP system and the use of IP tools. The Secretariat reiterated that publications and studies were available outside the room. Copies of the slides were also available. The elements of the presentation were described in much greater detail in document CDIP/13/12. Member States could get involved by

encouraging their relevant public and private institutions to participate by contributing or benefiting from the research in WIPO Re:Search. They could also encourage those institutions to advertise their technologies or technological needs on WIPO GREEN. Member States that had FITs in WIPO could consider following the Australian example by providing funds to sponsor activities such as hosting arrangements for developing country researchers in laboratories to help boost their research in areas such as NTDs in particular. The Secretariat invited Member States to explore these possibilities. They could contact the Secretariat to discuss possible cooperation or collaboration. In the next global challenges seminar, the authors of the study entitled “Renewable Energy Technology: Evolution and Policy Implications - Evidence from Patent Literature” would be invited to present their work. It was built on a previous study by Chatham House, using patent data and commercial information to identify trends in the development and distribution of renewable energy technologies. The seminar would also provide an opportunity for Member States to interact with the Secretariat. Meanwhile, it would be happy to provide any information that may be required.

393. The Delegation of the United States of America had attended the IP and Global Challenges Division’s information seminars that occurred in the past on the margins of the CDIP meetings. It had learned a lot about the programs through those meetings. However, it was also useful to receive additional information through the document and the presentation that was just made. The US National Institute of Health, the nation’s medical research agency, had been a partner in WIPO Re:Search for a few years now. The Delegation was pleased to learn more from the report about the expansion of the platform and other project activities, in particular, the hosting arrangements initiated in 2013, which truly reflected the global nature of the work on health science. Cameroon, Egypt, Ghana, Nigeria, South Africa, India, Switzerland and the United States of America were all engaged in these initial scientific exchanges. The Delegation hoped that was something that could continue into the future. It noted that WIPO GREEN, the interactive marketplace for green technologies launched last year, seemed to be off to a good start with 40 partners ranging from UNEP to the World Bank and over 800 technology entries in the online marketplace. The Delegation saw a lot of promise in the platform. It was interested to learn about the work being done to create a possible patent landscaping tool called “WIPO Essential” to provide access to patent information related to essential health technologies. The Delegation would like to hear more about the tool as it developed. The Division could host a lunchtime seminar on this topic on the margins of a future CDIP meeting, as appropriate. Lastly, the Delegation noted that the Division's work with WHO and WTO on IP and health issues was very impressive. Ranging from training, symposia, workshops, publications and networking, it was clear that the Division was a key contributor to the discussions and improved understanding of the intersection of IP with global health.

394. The Delegation of Japan appreciated WIPO's ongoing activities on various global issues, particularly WIPO Re:Search and WIPO GREEN, in which Japan's industry was actively involved. Its government had also been providing various means of support in these areas through FIT Japan. Some of those resources were used to support an IP management and training workshop for African scientists, and the production of videos to showcase the work of the scientists “hosted” by members of WIPO Re:Search. The Conference on Climate Change Innovation in Africa: Advancing Knowledge, Technology, Policy and Practice was held in Kenya last June. It was partially funded by FIT Japan. There were also plans to conduct seminars in Africa and the Asia Pacific region in the near future. Finally, the Delegation reiterated that it was important to create a framework that enabled industry to voluntarily contribute to global issues. It would continue to actively cooperate with WIPO in this regard.

395. The Delegation of Brazil recalled that the request for this information session was made by the GA to provide Member States with the necessary information to evaluate the progress of the program and its activities. In this regard, the information session had achieved its objective as the document provided a concise overview of the program’s activities. It would enable Member States to provide necessary guidance to the Secretariat in the 22nd session of the PBC.

The information mechanism should be implemented on a regular basis to enhance the Secretariat's advisory capacity to assist Member States. It was important to always improve the transparency of WIPO, especially on issues that affected all Member States. The Delegation welcomed the presentation and looked forward to the continuation of the exercise. Activities conducted by WIPO should not interfere with the debates taking place in specialized fora on climate change, food security and global health. The UNFCCC was the appropriate forum for discussions on climate change, especially on the modalities of definition and transfer of environmentally sound technologies. WIPO activities on the subject occurred on a voluntary basis and were not binding. The Delegation appreciated the practice of including a disclaimer in the materials developed by the program to make it clear that the views expressed in the publications were those of the authors and did not necessarily represent the opinions of Member States and the Secretariat. The Delegation requested for additional information on the implementation of the electronic platforms. It referred to WIPO Re:Search and noted that 49 research collaborations were in place as of February this year. It would be useful to know how many of those collaborations included developing countries as well as the details of their participation. With regard to WIPO GREEN, the Delegation highlighted that the latest UN report on climate change stated that although strong IP rights may foster the development and transfer of green technologies in developed countries, there was a lack of evidence to support the strengthening of IP in developing countries. In this context, the Delegation was eager to learn more about the work and results achieved in relation to this platform.

396. The Delegation of Greece, speaking on behalf of the EU and its Member States, noted that document CDIP/13/12 highlighted the excellent efforts WIPO was making in the context of WIPO Re:Search and WIPO Green. The European Commission was an official supporter of WIPO Re:Search. The EU and its Member States hoped that these projects could move forward and achieve greater success in tackling NTDs and the diffusion of green technologies. They looked forward to receiving further updates from the IP and Global Challenges Division on these initiatives in the context of the PBC, which they believed was the appropriate forum for this discussion.

397. The Representative of the TWN would like to know how the Division's work was guided by the DA and its recommendations. Reference to specific recommendations would be helpful in this regard.

398. The Delegation of Japan, speaking on behalf of Group B, stated that WIPO Re:Search was a very good initiative. It had been implemented in a successful manner thus far. The Group noted that the current IP system worked well from the perspective of technology transfer. It referred to the successful launching of WIPO GREEN last year. It was glad to learn that the project had gotten off to a good start, and was developed in a good manner. The Group's members had actively participated in the very useful briefing sessions which were conducted by using the margins of the various committees. They actively engaged in the discussion at the PBC, which was the appropriate forum to discuss Program 18. The Group hoped that the briefing sessions organized at the margins of the various committees and the discussion at the appropriate forum, namely, the PBC would continue in a good manner. And at the same time, it recognized the GA decision to request a report by the Program to the CDIP as a sole decision, taking into account the whole picture and situation of the Program and Budget at that moment. The presentation by the Secretariat was informative. This kind of exercise should be continued in the appropriate forum.

399. The Delegation of Mexico stated that IP was a crucial element that could help developed and developing countries to facilitate the implementation of national and international obligations. It would like to learn more about what WIPO was doing in this regard.

400. The Delegation of Chile stated that such discussions were very important. The fact that the presentation on development and global issues had taken place in the CDIP indicated that it was working in different areas and talking to others working on development. This was very important. At the same time, the Delegation highlighted that there were other aspects concerning global challenges that should be examined in other committees and other areas of the Organization. The possibility to discuss these matters in different areas and committees of the Organization should not be excluded.

401. The Chair invited the Secretariat to respond to the questions and comments from the floor.

402. The Secretariat (Mr. Wichard) referred to the question from the Delegation of Brazil on the number of collaborations involving developing countries. The information was being prepared and would be provided when it was ready. The collaborations included the five hosting agreements which benefited research in Africa. Training activities for African researchers were also conducted in Geneva and South Africa. With regard to participation by Brazil, the Secretariat stated that Fortec was a key partner in WIPO GREEN. It also participated in telephone conferences to further develop the platform. There had not been any technology needs. Perhaps the Delegation could assist the Secretariat to reach out in that regard. The Secretariat also referred to WIPO Re:Search and stated that Fiocruz was one of the founding partners. It was represented when the platform was launched in November 2011. It would be helpful if the Delegation could also assist the Secretariat to encourage more engagement in WIPO Re:Search. The Secretariat was pleased that Fortec, a big and important research institution, was a member of WIPO Re:Search. With regard to the question raised by the Representative of the TWN on whether the Division's work was guided by the DA, the Secretariat stated that Recommendations 19, 25, 30, 40 and 42 were mentioned in the document. It believed the Division also contributed to some others, including Recommendations 28 and 31. Therefore, it contributed tangibly to meeting the objectives of the DA. The Secretariat fully agreed with the comment made by the Delegation of Brazil that WIPO should not interfere with the discussions in other specialized fora. WIPO provided neutral advice when requested to do so. It did not interfere. For example, in some of the discussions that took place in the WHO, WIPO was asked to provide factual information on issues such as the patent stages of certain compounds that were relevant to the H1N1 influenza virus. That was the type of information provided by the Organization. It followed the discussions to provide information upon request, and not to participate as a party in the discussions.

Consideration of document CDIP/13/INF/6 - Comparative Analysis of National Approaches on Voluntary Copyright Relinquishment

403. The Chair invited the Committee to consider the Comparative Analysis of National Approaches on Voluntary Copyright Relinquishment. He recalled that at its Ninth Session, the Committee requested the Secretariat to present the TOR for the study in its next session. The said TOR was discussed in the Tenth Session of the Committee and the Secretariat was requested to proceed with the study. He invited the Secretariat to introduce the document.

404. The Secretariat Mr. Lanteri recalled that the preparation of the study was first discussed in May 2012 during the debate on the document entitled "Scenarios and Possible Options Concerning Recommendations 1(c), 1(f) and 2(a) of the Scoping Study on Copyright and Related Rights and the Public Domain" (CDIP/9/INF/2). Recommendation 1(c) read as follows, "The voluntary relinquishment of copyright in works and dedication to the public domain should be recognized as a legitimate exercise of authorship and copyright exclusivity, to the extent permitted by national laws (possibly excluding any abandonment of moral rights) and upon the condition of a formally expressed, informed and free consent of the author. Further research could certainly be carried out on that point." The Committee approved the preparation of the study with the understanding that it needed to be balanced in catering to the interests of users

and right holders. Moreover, the study should not promote any specific regime, but merely showcase the different approaches implemented in various countries. The Committee discussed the TOR at its Tenth 10th session and requested the Secretariat to proceed with the study, taking into account the comments made by Member States. Accordingly, a comparative analysis was carried out by Dr. Andres Guadamuz, Senior Lecturer in IP Law, University of Sussex, United Kingdom. The Secretariat invited the Consultant, a national of Costa Rica, to present the study.

405. The Consultant (Dr. Guadamuz) presented the highlights of the study. He stated that the issue of voluntary copyright relinquishment was either ignored or not clearly dealt with in many laws. In some jurisdictions, it was not permissible for right holders to unilaterally renounce their rights, while others allowed it. This could be traced back to the nature of copyright itself. The economic or utilitarian justification for copyright saw it as akin to traditional property. Therefore, it should be possible for right holders to rent, sell or even give up their copyright. However, if copyright was considered from a moral perspective, analogous to an inalienable right of personality, to give it up would be impossible. Thus, it all depended on the prevalent theory concerning copyright protection in each jurisdiction. The Consultant referred to the terminology used in the report. The words “relinquishment” and “renouncement” may have some negative connotations, particularly for those who were interested in furthering the scope of the public domain. In some circles, the term “dedication” was therefore preferred. The report tried to overcome this by using each of the terms interchangeably. In addition, the term “abandonment” was used in a manner that was slightly different from its usual context. The report covered several countries. One of the concerns was whether countries that provided strong protection for moral rights would be able to allow the relinquishment or renouncement of copyright. In this regard, Kenya was a good example. In Kenya, it was possible for authors to renounce their copyright. Section 45(1) of its Copyright Law stated, “The following works shall belong to the public domain-[...] (b) works in respect of which authors have renounced their rights”. Section 45(2) of the Law further stated, “For the purposes of paragraph (b), renunciation by an author or his successor in title of his rights shall be in writing and made public but any such renunciation shall not be contrary to any previous contractual obligation relating to the work.” This was good practice as it described the formalities for renouncement. Colombia provided a good example of how copyright relinquishment and moral rights could be separated. Its Copyright Law made a clear distinction between the inalienable nature of moral rights and the possibility of transferring or waiving patrimonial rights. Although copyright relinquishment was allowed, Article 30 of the Law stated the following: “Art. 30 (1) The above [moral] rights may not be waived or transferred. When authors transfer and authorize the exercise of their patrimonial rights they grant the enjoyment and disposal referred to in the respective contract, and retain the [moral] rights provided in this Article.”

The treatment of patrimonial rights and moral rights were also separated in other jurisdictions such as Chile. Moral rights could not be waived in most countries. However, copyright relinquishment was allowed in some countries such as Chile, Colombia, India, and Kenya. This was not clear in many of the other jurisdictions that were analyzed. More details could be found in the report. It was understood that copyright was very important for the economy and people in general. Some examples of copyright relinquishment by individuals and institutions could be found. Most of them concerned scientific projects such as the Human Genome Project and the HapMap Project, an international effort to identify and catalogue genetic similarities and differences in human beings for health purposes. The legal uncertainties surrounding renouncement could be bypassed through the use of open licensing schemes such as Creative Commons Zero (CC0). As many were aware, Creative Commons offered licenses ranging from dedicating a work straight to the public domain to narrower licenses with several restrictions. CC0 operated as a straightforward public domain dedication in which the author relinquishes all the patrimonial rights to the fullest extent permitted by law. It allowed for voluntary renouncement of copyright and the waiving of all patrimonial rights. If voluntary relinquishment was not permitted in a jurisdiction, a royalty-free, non-transferable, non sublicenseable, non

exclusive, irrevocable and unconditional license to exercise all rights in the work would be granted. This had the same effect as placing a work in the public domain. There were many CC0 adopters, including the British Library, Harvard Library, Government of the Netherlands, University of Montreal and Europeana. On May 9, the Government of the United States of America released the US Open Data Action Plan. It was licensed under the CC0 1.0 Universal Public Domain Dedication. In concluding, the Consultant emphasized that he did not find a lot of evidence that there were many individuals who wanted to relinquish their copyright. This was mostly done by institutions that had some form of public or legislative obligation to dedicate works to the public domain. This was an interesting area for further research.

406. The Chair closed the discussion on this item given that there were no observations from the floor.

Consideration of document CDIP/13/10 - Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels - Part III

407. The Chair opened discussions on Patent-Related Flexibilities in the Multilateral Legal Framework and their Legislative Implementation at the National and Regional Levels – Part III. He invited the Secretariat to introduce the document.

408. The Secretariat (Mr. Aleman) recalled that at the 11th Session, it was requested by the Committee to prepare a document on two patent-related flexibilities, namely, the scope of the exclusion from patentability of plants, and flexibilities in respect of the patentability, or exclusion from patentability, of software-related inventions. The methodology for the preparation of the document was the same as for previous documents on patent related flexibilities. It addressed the said flexibilities and included two annexes which contained tables that categorized various aspects of the flexibilities and related legal provisions in a number of jurisdictions. The document was divided into two parts. Part I focused on the scope of the exclusion from patentability of plants. It provided, in particular, an illustration of the different ways to implementing obligations under Article 27.3 of the TRIPS Agreement in relation to plants. Animals and plant varieties were not covered in the study. The document highlighted the difference between plants and plant varieties. The distinction was important because in several jurisdictions that was the line that divided the mechanisms of protection available for a given invention. The document focused on the way Article 27.3(b) of the TRIPS Agreement had been implemented in the patent laws of Member States with respect to plants. Different options were identified including, excluding plants from patent protection; excluding plant varieties from patent protection; excluding plants and plant varieties from patent protection; allowing the patentability of plants; and excluding or allowing the patentability of essential biological process for the production of plants. These were illustrated in the document with reference to provisions in national laws. Part II provided an illustration of the issues related to the patentability of software related inventions and the different approaches adopted at national and regional levels. It began with a general introduction to software-related inventions. The TRIPS Agreement did not contain provisions that were specific to the patentability of software-related inventions, whereas Article 10.1 of the Agreement provided for the protection of computer programs under copyright law. The general principle for the patentability of inventions was established in Article 27.1 of the Agreement. Articles 27.2 and 27.3 provided for some possible exclusions from patentability. The national laws of Member States could be classified under three categories, namely, explicitly excluding computer programs from patentability; explicitly allowing for the patentability of computer programs; and lacking specific provisions concerning the patentability of computer programs.

409. The Delegation of Chile reiterated its position on the importance of patent related flexibilities in the multilateral legal framework. The existence of these flexibilities and the freedom of each country to implement them contributed to the balance between IP rights and access to knowledge. The Senate of the Republic of Chile was discussing a draft bill and the

study on flexibilities would be very useful in this regard. It would assist the authorities to better understand the flexibilities available under the TRIPS Agreement and other international instruments.

410. The Delegation of Brazil requested for a few corrections to be made on certain items where its IP system was mentioned. It referred to the Brazilian regulations on processes for the production of plants and animals in paragraph 34 of the document, and noted that the concept of a natural biological process was correctly quoted in the text. However, the corresponding footnote should refer to more specific guidelines on this subject, namely, the Brazilian Guidelines for Examination of Patents in the Biotechnological and Pharmaceutical Area enacted in August 2002. The Delegation then turned to the information presented in the table summarizing the scope of the exclusion from patentability of plants in different countries in Annex 2 of the document. It believed there may have been some confusion in the compilation of data about Brazil because its IP law did not explicitly mention the terms “plant”, “plant variety”, “animal” and “animal breeds”, but included expressions such as “living organisms”, “genome”, “germplasm” and “natural biological process”. In this regard, the law was clear on their exclusion from patentability except for genetically modified micro-organisms. Therefore, the Delegation requested the Secretariat to check all the entries and rectify the table.

411. The Delegation of Argentina stated that the exceptions and limitations to patent-related rights were important because they made it possible to design an IP system that was well balanced. They enabled countries to adapt their IP legislation to national development strategies. Article 27.3(b) of the TRIPS Agreement provided for the possibility to exclude certain subject matters from patentability. Countries should provide for the protection of plant varieties either by patents or by an effective *sui generis* system or by any combination thereof. Resolution 243 was adopted in Argentina in December 2013. It established guidelines for patenting, including on the protection of innovations related to living material and biotechnology. Substances that pre-existed in nature were not considered to be inventions for the purposes of patent law. Living material consisting of plants or propagation material and its parts or components that leads to a full individual were not considered inventions and were therefore not patentable. Plant varieties were not patentable. They were protected by a *sui generis* system under Law 20.247 on Seeds and Plant Breeding and the 1978 Act of the UPOV Convention. The Delegation stated that the protection of plant varieties through patents would create monopolies in an area of vital interest. R&D would be restricted to plant varieties and seeds for the exclusive use of patent holders. The rights of farmers to save seeds for their own use would also be limited. Therefore, Argentina had adopted the 1978 Act of the UPOV Convention. It was important to bear in mind that plants, plant varieties and seeds were basic inputs in the food chain. They affected the price of food and the food security of countries.

412. The Delegation of Japan stated that the document contained some factual errors with respect to its national laws and practices. It had submitted the corrections to the Secretariat in writing. Therefore, it would be appreciated if the Secretariat could provide a revised document in a future session.

413. The Delegation of Greece, speaking on behalf of the EU and its Member States, noted that document CDIP/13/10 was built upon documents CDIP/7/3 and CDIP/5/4. It represented the third part of the Committee's investigation into patent-related flexibilities, an exercise which demonstrated the flexibilities present in the various multilateral legal frameworks and systems. The comprehensive annexes in document CDIP/13/10 may be a useful way to share information on the use of patent-related flexibilities. It may assist countries to make their own policy choices, in particular, in the ongoing implementation of the TRIPS Agreement. However, the flexibilities that were investigated should not be seen as recommendations to WIPO or WTO Member States, but as options to be adopted on the judgment of each Member State where appropriate.

414. The Delegation of Guatemala requested for a correction to be made in the references to its national legislation in the annexes of the document. Decree No. 57-2000 was enacted in November 2000, and not September 2000, as quoted in the document.

415. The Delegation of India made some general remarks on the study. It stated that the document seemed to suggest that the TRIPS Agreement allowed countries to exclude plants from patentability, and that micro-organisms were exempted from this exclusion. It implied that all micro-organisms were patentable. However, a literal interpretation of the TRIPS Agreement suggested that a micro-organism could only be patentable if it constituted an invention that met the requirements of patentability. In other words, it must be new and non-obvious. Therefore, naturally occurring micro-organisms could not fall within the scope of patentability, including under Article 27.3(b) of the TRIPS Agreement. This also applied to naturally occurring genes, plasmids and so on. Something that was old did not become patentable upon the discovery of a new property, as provided in the doctrine of inherency. For inherent anticipation, an inherent feature need not be recognized at the time of the invention. Something that already existed was not patentable. The claiming of a new use, new function or unknown property that was inherently present in the prior art did not necessarily make the claim patentable. For instance, a claimed promoter sequence obtained by sequencing a prior art plasmid that was not previously sequenced, was anticipated by the prior art plasmid which necessarily possessed the same DNA sequence as the claimed oligonucleotides. This cannot be patentable subject matter, just as the discovery of properties of a known material did not make it novel. The study suggested that even though plants were excluded, plant cells or genes may be patentable as in the case of some jurisdictions. However, this approach had increasingly been questioned in recent years. This should also have been reflected in the report.

416. The Delegation of Tanzania stated that these flexibilities should always be maintained because the TRIPS Agreement, in this case Article 27.3(b), did not take them away from national jurisdictions. The Delegation referred to plant varieties and requested for clarification on whether or not they were patentable.

417. The Delegation of Cameroon stated that the study was important for countries such as its own where agricultural research was taking off again. It would be very useful for Cameroon. It would provide guidelines to agricultural research institutes and encourage research into plants.

418. The Delegation of Mexico pointed out two mistakes in the document. The Industrial Property Law of Mexico was enacted on June 27, 1991, and not June 25, 1991. The last amendment was on April 9, 2012, and not April 4, 2012.

419. The Delegation of Venezuela believed that patent-related flexibilities were connected with development and the policy space available to countries with respect to IP. The Delegation raised the possibility of covering flexibilities in other IP areas such as trademarks. There had been exhaustive studies on patent-related flexibilities. However, there could also be flexibilities in other areas that may be important for all countries.

420. The Delegation of the Russian Federation requested for a correction. The document should refer to the Russian Civil Code, and not the Patent Act. The Russian Federation did not have a Patent Act. However, the reference to the specific article was correct.

421. The Delegation of Costa Rica associated itself with the comments made by the Delegation of Venezuela. Documents of this kind helped to shed light on the reasons why certain subject matters could be protected or not protected under various jurisdictions. Therefore, they should cover other areas of IP such as those suggested by the Delegation of Venezuela. It supported that request because the documents would help countries to adapt their laws to the best prevailing international standards.

422. The Delegation of El Salvador reiterated that it saw much value in the document and the work done by the Secretariat in this regard. The information contained in the study was extremely valuable and relevant, as mentioned by the Delegation of Costa Rica and others. The Delegation also supported the statement made by the Delegation of Venezuela. It was encouraging its authorities to contribute more actively to the Secretariat's efforts to enrich and update the document. The Delegation was pleased with the work that had been done over a long period of time.

423. The Delegation of Uruguay stated that the work done on patent-related flexibilities was very valuable. The analysis helped to shed light on various aspects of IP. Although, the documents could be improved by taking into account the comments made by delegations, the work done was good and of value to Member States, in particular, IP offices as they were responsible for implementing IP legislation. The Delegation encouraged the continuation of such work in WIPO. It also joined other delegations in supporting the proposal by the Delegation of Venezuela that the work on flexibilities should not be restricted to patent-related flexibilities. It supported studying flexibilities in other areas of IP in view of the impact on society.

424. The Chair invited the Secretariat to respond to the questions and comments from the floor.

425. The Secretariat (Mr. Aleman) referred to the factual errors in the document and stated that they would be corrected when the document was revised. It then referred to the comment made by the Delegation of Tanzania. The purpose of the document was to analyze the policy space that was available under multilateral treaties such as the TRIPS Agreement, and highlight the different options for their implementation in national and regional legal frameworks without making any recommendations in that regard. With regard to plant varieties, the Secretariat stated that the TRIPS Agreement allowed WTO Member States to exclude plants from patentability. Therefore, they were excluded in many jurisdictions, as indicated in the document. There were also many other jurisdictions that only excluded plant varieties. When these were excluded, certain developments such as genetic modifications or improvements to plants could be subject to patent protection, as in the case of the European Patent Convention. Many jurisdictions that provided for the exclusion of plant varieties, allowed for the patentability of certain developments in plants. This was a flexibility. Likewise, the exclusion of plants as well as plant varieties was also a flexibility. Both were options for WTO Member States. The document also referred to a number of jurisdictions where plants were patentable. The Secretariat referred to the comments made by the Delegation of India. The patentability of substances existing in nature was discussed in great detail in document CDIP/7/3. It discussed the issues related to the patentability of these substances, and the position adopted by countries on the patentability of substances that, although existed in nature, were subjected to a technical process for their isolation, purification or synthesis. As described in the document, in certain jurisdictions, substances existing in nature could be patentable if they were subjected to such a process. This applied to living organisms as well as other kinds of material such as inanimate material that already existed in nature. On micro-organisms, the Secretariat stated that document CDIP/7/3 identified the absence of a definition in Article 27.3 of the TRIPS Agreement as a flexibility. The document illustrated the different approaches adopted by countries in this regard. Those that adopted a broad definition of the term "micro-organism" allowed more developments in the field to be patentable, in comparison with others that adopted narrower definitions of the term.

426. The Chair closed the discussions on the document given that there were no further comments from the floor.

Continuation of discussion on Patent-Related Flexibilities in the Multilateral Legal Framework (documents CDIP/10/11 and CDIP/10/11 Add.)

427. The Chair invited the Committee to continue its discussion on Patent-Related Flexibilities in the Multilateral Framework contained in documents CDIP/10/11 and CDIP/10/11 Add. He recalled that these documents were discussed at the 10th and 11th sessions. Four areas were identified. The Committee requested the Secretariat to do further work on the areas included in document CDIP/13/10, and decided to continue discussion on the remaining areas. He invited the Secretariat to introduce document CDIP/10/11.

428. The Secretariat (Mr. Aleman) recalled that the document was presented at the 10th session of the Committee. It covered four possible areas for future work on patent related flexibilities. At its 11th Session, the Committee requested the Secretariat to do further work on two areas. These were covered in document CDIP/13/10. However, the two other areas were not considered to be a priority when discussions took place. They concerned the flexibility to apply/not apply criminal sanctions in patent enforcement, and measures related to security which might result in a limitation of patent rights (so- called "security exception"). Agreement had not been reached on these areas and they were open for consideration.

429. The Chair noted the silence in the room and enquired as to whether it indicated consent or a continued disagreement on those two flexibilities. He also wanted to know whether it would be advisable to come up with a list of flexibilities in other areas for future work. Those were the two options on the table. Clear guidance from the Committee was required in this regard.

430. The Delegation of Greece, speaking on behalf of the EU and its Member States, was not of the view that silence could be interpreted as consent.

431. The Delegation of India referred to the two remaining areas and suggested that there could be a factual compilation of the approaches in different jurisdictions. It should not lead to any recommendations.

432. The Delegation of Venezuela stated that the proposal by the Delegation of India was interesting. It did not share the view of the Delegation of Greece. Silence indicated consent.

433. The Delegation of Tanzania stated that it would be better to focus on patent-related flexibilities before examining flexibilities in another area of IP.

434. The Delegation of Venezuela stated that flexibilities in other areas such as trademarks should be explored. The scope should be broadened. Examining other areas could assist Member States.

435. The Chair enquired as to whether the proposal by the Delegation of India on the way forward with regard to the two remaining areas was acceptable. The proposal was adopted, given that there were no objections from the floor.

436. The Chair recalled that he had briefed the Committee on the outcome of his informal consultations with the group coordinators on three draft decision paragraphs, namely, the WIPO GA decision on CDIP related matters; International Conference on IP and Development; and the External Review of WIPO Technical Assistance in the Area of Cooperation for Development. He understood that consensus was emerging on the draft paragraph concerning the External Review. However, they had struggled with the content of the other two paragraphs. On the GA decision, the group coordinators shared the view that although the draft paragraph reflected the facts, the Committee must try to find a way forward that was more positive than suggested. On the International Conference on IP and Development, the Chair stated that it was not clear how the Committee would proceed with the finalization of the list of speakers and the setting of new

dates for the event. However, some interesting views were expressed on possible ways to move forward. The Chair understood the Delegation of Uruguay had been consulting with other delegations on a draft text. He requested the Secretariat to read out the draft paragraph on the WIPO GA decision on CDIP related matters.

437. The Secretariat (Mr. Baloch) stated that it had tried to factually describe the situation with the Chair's guidance. The draft paragraph was presented to group coordinators the previous day. It was as follows, "Under Agenda Item 7, the Committee discussed the WIPO GA decision on CDIP related matters (document CDIP/12/5). The Committee could not reach an agreement on this matter."

438. The Delegation of Kenya, speaking on behalf of the African Group, stated that if the paragraph was left as such, it implied that no further steps would to be taken on this matter. It was true that the Committee could not agree on the matter. However, it should focus on what could be done to resolve the problem.

439. The Chair enquired as to whether there were any specific proposals in this regard.

440. The Delegation of Kenya believed the Delegation of Japan had made suggestions on behalf of Group B.

441. The Delegation of Japan, speaking on behalf of Group B, stated that the draft paragraph was factual. The Group was fine with it.

442. The Delegation of Uruguay, speaking on behalf of GRULAC, reiterated that action must be taken in accordance with the mandate given by the GA. The issue could not be dropped. The Committee must fulfill the mandate and report on what had occurred.

443. The Delegation of South Africa suggested that the Committee could reflect on the matter and return to it at a later stage. The Committee must make a recommendation to the GA. Perhaps it could request the Chair of the GA to undertake informal consultations before the next CDIP session.

444. The Delegation of Japan, speaking on behalf of Group B, stated that it did not deny that the Committee should be in line with the mandate given by the GA and report on the current situation. At the same time, the Committee must keep in mind the comment by the Chair of the GA that unresolved issues in the committees should not be brought to the Assembly for discussion. Therefore, if some action was necessary, the issue should continue to be discussed at the Committee level, and not at the GA.

445. The Delegation of Canada stated that the paragraph should reflect the discussion in the plenary. Indeed, it did represent what was said in that regard. Therefore, the Delegation failed to see why any further interpretation should be added. The suggestion by the Delegation of South Africa was not discussed.

446. The Delegation of Germany referred to the suggestion by the Delegation of Japan. The recommendation could be that the CDIP would continue the discussion in its next session.

447. The Delegation of South Africa clarified that it had merely emphasized that the draft paragraph could not be left as such. The Committee had to come up with a recommendation to the GA. Hence, the Committee should reflect on the issue and come back to it at a later stage. It had to give something to the GA. Perhaps it could be stated that the Committee would continue the discussions. That had to be endorsed by the GA as the decision was by the Assembly.

448. The Delegation of India supported the interventions by the delegations of Germany and South Africa that the report should at least state that the subject would be further discussed at the Committee. It understood that the Committee could agree on the principle that the GA should not be overburdened with unresolved matters from each and every committee. The report should reflect the fact that the matter needed to be resolved at the level of the Committee.

449. The Delegation of Cameroon stated that the Committee must forward a recommendation to the GA if the mandate required it to do so. The recommendation could include a request for more time to discuss the matter. The Committee should reflect on that. If it was unable to work on non-technical issues, the GA may get the impression that the Committee was not doing its job. Much had been achieved in the Committee. Forwarding a recommendation to the GA on this matter would be consistent with the achievements of the Committee. The content of the recommendation was important.

450. The Delegation of Uruguay, speaking on behalf of GRULAC, believed the proposal by the Delegation of Germany could be a good idea. The Committee could decide to continue with the discussions in CDIP/14. It would take place after the GA session. Member States should try to find a final solution to this matter. In any case, the proposal by the Delegation of Germany could be a solution. It would give a positive signal that the Committee was dealing with the matter and Member States were committing to a discussion. The Group hoped a final solution could be found. Postponing it to the next session may be the right solution.

451. The Delegation of South Africa stated that the Secretariat could prepare a draft decision, but it had to include a recommendation to the GA. The GA had to decide that the Committee should continue to discuss this matter in order for it to do so. That could not be decided by the Committee. It had to be decided by the GA.

452. The Chair requested the Secretariat to read out a draft decision paragraph based on the discussions in the room.

453. The Secretariat read out the following, "Under Agenda Item 7, the Committee discussed the WIPO GA Decision on CDIP related matters (document CDIP/12/5). The Committee could not reach an agreement on this matter. The Committee requests the GA to extend this mandate for a period of further one year."

454. The Delegation of India sought clarification on the use of the term "mandate". It would like to know whether this referred to a decision to continue with the exercise and if the mandate was only for one year.

455. The Chair believed it would be better to adhere to the language in the GA decision, "requests the CDIP to discuss these two matters during its 12th and 13th Sessions". The phrase, "continue discussing these two matters" could be used instead of the term "mandate". It was subsequently agreed that he would work on a revised draft with the Secretariat. It would be shared with delegations.

456. The Delegation of Venezuela stated that the language proposed by the Chair could be used. The use of the term "mandate" would then be avoided.

457. The Chair turned to the draft decision paragraph on the International Conference. He recalled the importance delegations attached to the Conference. Many aspects of the modalities for the Conference were finalized following a painstaking process. However, two issues remained pending, namely, the list of speakers and dates for the Conference. He

understood the Delegation of Uruguay had consulted with other delegations and worked on a draft decision paragraph.

458. The Delegation of Uruguay stated that its proposal was based on discussions with the Regional Group Coordinators. Some delegations wanted to hold the Conference with the existing list of speakers, while others would like to have the possibility to propose other names. The Secretariat did not know whether those on the list were still available. Therefore, the Group believed it would not be possible to state that the list was final. The proposed dates had passed and it was not certain that all those on the list were still available. The Committee had to first decide on some dates. Once this was done, the Secretariat would find out if the experts were still available. When that was done, an opportunity would be provided for Member States and groups to submit suggestions for the list. These would be taken into account by the Secretariat in preparing the final list, if speakers were no longer available or interested to take part in the Conference. The Delegation had consulted with GRULAC, other Regional Group Coordinators and many delegations. It was given the green light to prepare a draft decision paragraph. The text could be circulated. The proposal was supported by GRULAC. The aim was to find a final solution and reconcile the two positions mentioned above with respect to the list of speakers. It was prepared in that spirit. The Delegation did not know the outcome of the discussions in the Regional Groups. However, GRULAC was committed to the proposal.

459. The Chair invited the Delegation of Uruguay to read out its proposal for the consideration of the Committee.

460. The Delegation of Uruguay read out the following, "On Agenda Item 7, the Committee discussed the matter of the International Conference on IP and Development. The Committee agreed to hold it/a Conference on [date possibly discussed at CDIP/14 or 15, or any other date]. The Secretariat was requested to check the availability of the experts proposed as speakers in the list contained in document WIPO/IPDA/GA/13/INF/1 Prov. Members [and groups, if so agreed] are invited to submit a list of experts before [June 15] to be considered by the Secretariat when finalizing the list of speakers [in the event the need to fill the vacancies arises][with a view to replace the unavailable speakers with new nominees]". The Delegation stated that it could make copies and hand them to the Secretariat.

461. The Delegation of Japan, speaking on behalf of Group B, stated that the principle which had been agreed should be respected. The Chair's summary should only reflect the discussions in the plenary. The Group recalled that in those discussions, some groups wanted the list of speakers to be revised. However, the Group had stated that delegations should respect what was agreed through the informal consultations. The Conference should be conducted with the existing list of speakers. There was nothing more than that in the plenary. The Chair's summary should only reflect that. The content of the discussion should not be renegotiated in the preparation of the Chair's summary. It should reflect what was discussed at the plenary in a precise manner. In this regard, the Committee had discussed the matter of the International Conference on IP and Development. Delegations presented divergent views and the Committee would continue the discussion on this issue in a future session. These facts should be reflected in the Chair's summary. New elements that were not discussed in the plenary should not be discussed in the preparation of the Chair's summary.

462. The Delegation of Venezuela stated that the plenary was still ongoing. It was a fact that some on the list may no longer be able to take part in the Conference. The Committee had to decide on what to do with the list. The Secretariat has already stated that it did not know whether all those on it were still available. The proposal by the Delegation of Uruguay on behalf of GRULAC was a way out. Those on the list who were still available would be invited, or at least, that would be discussed. GRULAC believed there were some who would not be able to take part. The Delegation urged Group B to consider the proposal as there were still seven hours to go before the end of the plenary.

463. The Delegation of Brazil believed the proposal captured the discussions, mostly because it mentioned that the Secretariat had to take the list into consideration. The Delegation reiterated that DAG and the African Group had proposed other names and they were not taken into consideration in the list. Therefore, the proposal was timely. The Delegation referred to the comments by the Delegation of Venezuela and stated that it was reasonable to assume that some of the speakers would not be available. The proposal stated the following, “[in the event the need to fill the vacancies arises]”. It implied that the Secretariat would take into consideration the names proposed based on the assumption that there would be a need for replacement, but not conditioned on the need for replacement.

464. The Delegation of Kenya, speaking on behalf of the African Group, reiterated that it had a problem with the list. That was why the Conference was not held. If there was a problem with the list, it had to be sorted out before moving on to the next step of convening the Conference. The Group and DAG believed the list was not balanced. The proposal by GRULAC attempted to bridge that gap. The only aspect of the paragraph that could be problematic was the phrase, “with a view to replace the available speakers with the new nominees”, because what the Committee had was a tentative list. It had a list in the last session, but there were challenges and a decision could not be reached. The Committee did not have a list for this session. It was in the process of coming up with new dates as well as a new list of speakers. The list in the last session would be used as a basis or guideline for developing a new list. GRULAC’s proposal suggested that in preparing a new list, each Regional Group could submit two names to be considered alongside the other names in that list. The Secretariat had stated that 20% to 30% of them may not be available. The Group reiterated that the Committee had a list in the last session, but it did not have one for this session. There were various proposals on the table for coming up with a new list. The Committee should consider them, see how best to address the challenges in the previous session and conclude the exercise.

465. The Chair read out the relevant section of the summary for the 11th Session, “It was agreed that the Secretariat would draw up a list of speakers for the Conference, and circulate it to Group Coordinators for endorsement”.

466. The Delegation of Japan, speaking on behalf of Group B, recognized that some speakers on the list may not be available for the Conference. However, the same procedure could be applied to fill vacancies. The Secretariat could prepare the list, taking into account possible vacancies. It was not necessary to introduce new procedures which breached the principle that was agreed in the past. The introduction of new procedures such as the submission of suggested speakers differed from the agreed principle. The Secretariat could be trusted to fill vacancies that may emerge. The agreed principle that was applied in the preparation of the list of speakers struck a delicate balance between transparency and the avoidance of micromanagement. Therefore, it should also be applied in the preparation of the list for the coming Conference.

467. The Delegation of Egypt, speaking on behalf of DAG, stated that the proposal by the Delegation of Uruguay appeared to be a good compromise. The version that was circulated the previous day did not include a reference to the two bracketed parts at the end, “[in the event the need to fulfill the vacancies arises]” and “[with a view to replace the unavailable speakers with the new nominees]”. The Delegation believed that it should not be conditional. As mentioned by the Delegation of Kenya, it was not certain that all those on the list would be available. The Committee was starting to discuss new dates, which meant that it was also in the process of selecting a new list. Hence, it should not be conditioned on fulfilling vacancies or to replace unavailable speakers. Therefore, the Delegation would prefer to put a full stop after the word “speakers”. However, it was willing to accept the proposal by the Delegation of Uruguay.

468. The Delegation of the United States of America requested for a procedural clarification. It would like to know whether the Committee was discussing the Chair's summary or if it was going back to Agenda Item 7 in discussing the substance of the International Conference on IP and Development. If the Committee was discussing the Chair's summary under Agenda Item 9, the Delegation would echo the concerns expressed by its Regional Group Coordinator that the Committee was looking back, not forward, with the Chair's summary. It must reflect what had been discussed. No agreement was reached in the discussions because some delegations did not agree to the list of speakers proposed by the Secretariat, and some delegations also proposed to give flexibility to the Secretariat to find alternative speakers if the original speakers were not available. That was the extent of the discussion the previous day. If on the other hand, the Committee was discussing this item again, perhaps it needed to be stated for the record that it was reopening the discussion.

469. The Chair clarified that the Committee was discussing the item in the plenary. The submission of a draft decision paragraph on this issue was just intended to help the Committee agree on the way forward.

470. The Delegation of the United Kingdom referred to the prioritization of issues in this session. The Committee could decide to devote fifteen minutes at most to this item. If nothing emerged, The Committee must move on to other items as many still had to be discussed. With regard to the issue under discussion, the Delegation stated that it had full confidence in the work of the Secretariat and wanted to give the green light for the Conference. It wanted to go ahead with the Conference as soon as possible. It agreed with the Delegation of Venezuela that there were probably speakers on the list that would no longer be available. However, the Committee must allow the Secretariat to do what it knew how to do best. It had a lot of experience in organizing events, inviting speakers and so on. Therefore, the fastest way to move forward would be to allow the Secretariat to use their internal rosters and usual procedures to contact the experts, complete the list if some were unavailable, and organize the Conference once and for all. The Delegation hoped agreement would be reached in this session. If not, the Committee had to be realistic and stop the discussion after a certain time.

471. The Delegation of Uruguay, speaking on behalf of GRULAC, made some observations. All delegations wanted a final solution. It may be worthwhile to spend a little more time on this issue. It did not matter whether the Committee was discussing the Chair's summary or the issue as long as a solution was found. The Delegation of Kenya talked about dates. The Group saw this as a chicken and egg situation. A list could not be discussed without definitive dates. When a conference or seminar was organized, the list would not be closed until the very last day. Something could occur at the last minute. Therefore, the list could not be written in stone. The Group responded to a comment by the Delegation of Japan on behalf of Group B and stated that the procedure was being respected. It was not being changed. Member States that would like to suggest names would be given an opportunity to do so. However, the procedure was being maintained. That was why reference was made to the initial document.

472. The Delegation of the Czech Republic, speaking on behalf of CEBS, stated that it had been able to agree to the list of speakers carefully chosen by the Secretariat for the themes of the Conference based on previously agreed processes. It must be kept in mind that there were several themes and speakers were chosen for each theme. Thus, it was not a simple list. At the same time, the Group recognized the efforts by the Delegation of Uruguay to find a compromise and move forward. The Group would also like to move forward in order for the Conference to take place. There would be proper problem solving discussions by those involved in the IP and development area. Therefore, the Group was ready to consider the proposal by the Delegation of Uruguay with previous agreements and procedures kept in mind. New speakers could be considered by the Secretariat only in cases of vacancies or unavailability, as mentioned in the proposed text. The Group had not heard objections to any of the speakers by those who were not able to endorse the list. The only thing mentioned was

balance. Delegations saw balance differently. If there was a problem with a specific speaker, the Group would like to hear about it and consider if it was merit based. Otherwise, it did not see a problem to move forward on this issue.

473. The Delegation of South Africa believed the Committee was running away from the main problem. The list prepared by the Secretariat for endorsement by Member States was not endorsed. Therefore, the Delegation did not understand why the Committee was going back to it. The proposal by the Delegation of Uruguay tried to solve the problem concerning the fact that the list was not acceptable to all delegations. Hence, it was suggested that Member States should submit names for consideration by the Secretariat in the finalization of the list. The availability of those on the list was another issue. The problem encountered last year would not go away even if all those on the list were hypothetically available. The list would still not be accepted. Therefore, a solution to this particular problem should be found. Apart from the last sentence which was in brackets, the proposal by the Delegation of Uruguay at least captured the fact that the Committee would be able to solve the problem. It was also a fact that not all of those on the list would be available. For example, the current Minister of Trade and Industry in South Africa was included in the list as a keynote speaker. A new cabinet would be formed the following week and he could be moved. The list must be changed as it was submitted by the Secretariat in February last year. The proposal by the Delegation of Uruguay provided a way out.

474. The Delegation of Cameroon stated that the matter needed to be closed. If the list was defective in terms of geographical balance, the current situation gave the Secretariat an opportunity to rectify it. The proposal by the Delegation of Uruguay softened the ground. It was true that some on the list would no longer be available. Hence, there was the possibility of replacements. The Secretariat should bear in mind the complaints of some other groups because speakers were chosen based on the issues to be discussed. If the objective of the Conference was to discuss development, it would not be met if other views and perspectives were not reflected. Therefore, if the African Group and other groups were raising concerns, they should not be ignored. The proposal by the Delegation of Uruguay provided an opportunity to address them. The mandate would not be taken away from the Secretariat. The procedures were being respected. The issue was simply to get all the regions and groups on board.

475. The Delegation of Belarus, speaking on behalf of the CACEEC, understood that the main problem with the list of speakers was balance. It appreciated the proposal by the Delegation of Uruguay. There could be no end to the discussions as further lists could be prepared and rejected. Therefore, the problem should be made clear. What was considered to be a balance should be stated. The Group only had one representative from a case study on Kyrgyzstan. However, it did not see any problems with the list prepared by the Secretariat. The Group encouraged all delegations to be flexible as that was the simplest way out of the problem.

476. The Delegation of Egypt, speaking on behalf of DAG, reiterated that it wanted to add to the list and not to delete from it. The Group had not stated that it did not want those on the list to remain. It merely wanted to add more names to the list. The proposal by the Delegation of Uruguay provided some leeway, especially as the Secretariat had stated that some on the list may no longer be available. Hence, there was room for discussion. However, the Committee must first decide on the dates in order to have a timeframe for the process concerning the list, the submission of names and the final decision in this regard.

477. The Chair resumed the discussions. He turned to the draft decision paragraph on the WIPO GA decision on CDIP related matters and stated that the original proposal had been improved. The draft had been circulated. He invited the Secretariat to read out the paragraph.

478. The Secretariat (Mr. Baloch) read out the following, "Under Agenda Item 7, the Committee discussed the WIPO GA Decision on CDIP related matters (document CDIP/12/5). The

Committee could not reach an agreement on these matters. Accordingly, the Committee requests the General Assembly to allow it to continue the discussion during its fourteenth and fifteenth sessions and to report back and make recommendations on the two matters to the General Assembly in 2015". The Secretariat clarified that following an intervention by the Delegation of India, the latter part of the second sentence was exactly the same as in the decision by the GA.

479. The Chair stated that the paragraph was adopted, given that there were no observations from the floor. He moved on to the draft decision paragraph on the International Conference on IP and Development. He understood that the proposal by the Delegation of Uruguay had been circulated and enquired as to whether the Committee could agree to it.

480. The Delegation of Japan, speaking on behalf of Group B, stated that its position had not changed. The Committee had discussed the issue and could not reach an agreement. It would deal with the issue in the next session.

481. The Delegation of Uruguay, speaking on behalf of GRULAC, believed it was time to withdraw its proposal. It was disappointed because there was a group that did not want to move forward. That group had not considered the proposal or looked into alternatives. It got into procedural issues and did not want any movement at all. However, many other delegations had expressed agreement. It was only a few that did not make any effort to consider the proposals. This was regrettable as the Group believed a solution could have been found that day.

482. The Delegation of Japan, speaking on behalf of Group B, reiterated that the conference was important. On the selection of speakers, the Group stated that the task given to the Secretariat extended to finding replacements based on the same criteria when vacancies emerged. It was committed to constructively engage in order for the conference to go ahead. The decision paragraph should reflect reality. The Group did not have a language proposal and left it to the Secretariat to prepare a draft that reflected reality.

483. The Delegation of the United Kingdom made a suggestion which it believed reflected the situation. This was as follows, "All Delegations agreed to hold a conference and the Secretariat can take necessary steps to organize it accordingly". The Delegation noted that there were no objections to the holding of the conference.

484. The Delegation of Kenya, speaking on behalf of the African Group, stated that it would not make any difference if the issue was moved to the next session unless there were some fresh ideas. Postponing the issue because an agreement could not be reached was not a solution. It would not help if a way to deal with the issue was not prescribed. The Committee would be going back and forth with the list and procedures, and there could be no end to the postponements. If the Committee was not ready to resolve the issue, then it might as well say that it was not interested and close the issue.

485. The Delegation of Egypt, speaking on behalf of DAG, believed the discussions were going backwards. It was not necessary to state that Member States agreed to hold a conference when that had already been agreed. The Committee would not be implementing the previous decision if it was stated that the Secretariat would organize it accordingly. It would be replacing that decision with something new that had not been discussed. There was no agreement that the Committee would take back what was agreed more than a year ago. The Conference was supposed to take place this year. The proposal by the Delegation of Uruguay was a good way out. In this context, the Group reiterated that the proposed paragraph should end after the phrase, "finalizing the list of speakers". The conditionality concerning vacancies and the unavailability of speakers should be removed.

486. The Delegation of the United States of America stated that the GRULAC proposal was conditioned on the fact that an original list of speakers was acceptable to all Member States. The Delegation of South Africa and possibly other delegations as well, had stated that the original list was not acceptable. Therefore, it did not make sense to discuss the GRULAC proposal if the precondition incorporated in it was not acceptable to Member States.

487. The Delegation of Switzerland stated that the elements of the proposal by the Delegation of the United Kingdom were not new. The Delegation reiterated that the Committee should follow the process that was decided in order for the Conference to be held. That was its position since the discussions began. The Committee requested the Secretariat to present a list of speakers and organize the Conference. This process must be continued. The proposal by the Delegation of the United Kingdom was a practical way to move forward as quickly as possible to hold the Conference. If delegations had a problem with the phrase, "All Delegations agreed to hold a conference", as this had been agreed before, it could be stated that delegations reaffirmed their commitment to hold the conference. If that was the problem, there were many ways to overcome it. The Delegation referred to the point made by the Delegation of the United States of America and stated that it was the central point. If the problem was the current list of speakers, the Committee would need to go back a long way to find replacements for the list as well as the dates. If delegations really wanted a conference, the proposal by the Delegation of the United Kingdom was the simplest and most rational way to move forward.

488. The Delegation of Egypt, speaking on behalf of DAG, stated that delegations were speaking from two different standpoints. There was no common ground. There seemed to be an intentional misunderstanding of previous interventions. It was assumed that some delegations had problems with an original list which was conditioned to a regional list. The language of the proposal by the Delegation of Uruguay did not state that it was conditioned to a regional list. It stated that delegations could suggest names to the Secretariat.

489. The Delegation of South Africa referred to its earlier intervention and reiterated that the Committee should focus on the problem that got it into the current situation. The Committee mandated the Secretariat to draft a list to be endorsed by Member States. It came up with a list. Both the African Group and DAG wanted to suggest names to add to it. Those names were not accepted by other delegations. That was factual. As a result, there was no agreement. The proposal by the Delegation of Uruguay provided an opportunity for Member States to suggest additional names for a list that the Secretariat would prepare. It had to revise the previous list because most of the people on it would not be available. In the revision of the list, Member States would be given an opportunity to add to it. The Conference could then be held. It appeared that some delegations did not want to resolve the problem. Postponing the discussion to November would not necessarily lead to an agreement. It could then be subject to further postponements until 2020. The proposal by the Delegation of Uruguay provided a way forward. However, some delegations did not want to move forward. The Delegations no longer insisted on endorsing the list the Secretariat would come with. It just wanted an opportunity to add names which the Secretariat would consider when finalizing the list. It was clear that some delegations were bent on blocking the process from moving forward.

490. The Delegation of Uruguay, speaking on behalf of GRULAC, stated that the only thing requested was for interested delegations to be given an opportunity to submit names. The procedure was not being changed. Its proposal provided the possibility for one or two names to be submitted. The Secretariat would make a decision in accordance with the procedures described in the document that established the mandate. It was as straight forward as that. If delegations wanted to move forward and hold the conference, there should be some flexibility. Those who wanted to put forward names should be allowed to do so. All Member States were invited to do so. Therefore, the Group did not understand what the problem was, and why it was so difficult to demonstrate some flexibility.

491. The Delegation of Greece, speaking on behalf of the EU and its Member States, supported the Secretariat's competence on the issue. They did not have a speaker on the list. However, they believed progress must be made in the Organization. For the sake of compromise, they could proceed with a decision on the International Conference. They did not understand why the differences were so big.

492. The Delegation of Cameroon joined the appeal by the Delegation of Uruguay. The Delegation stated that the possibility to suggest names did not amount to a rejection of the list. By suggesting names, Member States assisted the Secretariat in its task to search for new candidates in case replacements had to be made. The proposal was intended to facilitate the Secretariat's task. The Delegation reiterated that the proposal by the Delegation of Uruguay was a good compromise. It stated that the suggestions had to be considered by the Secretariat. They would be considered by the Secretariat based on the criteria which included geographical representation and knowhow. Ultimately, the decision would be taken by the Secretariat. It would be possible for all delegations to make proposals. It urged delegations to make an effort and avoid recriminations.

493. The Delegation of Kenya, speaking on behalf of the African Group, stated that delegations needed to work constructively in order to resolve the issue and move forward. It understood that all Member States wanted the conference to be held. When there was a problem, solutions were sought to resolve it in a manner which did not add to or prolong the issue. In this regard, if delegations were going to stick to their old positions, they would be there until late.

494. The Delegation of Zimbabwe noted that two aspects kept emerging throughout the deliberations. There were delegations that did not want the Secretariat to be micromanaged in the process for selecting speakers. There was also the issue of the approval of the list of speakers. The Delegation also noted that no one had objected to the list. Some delegations would like to add names. However, those who stated that they did not want to micromanage the Secretariat were against it. The Delegation would like a clear answer to be provided by the Secretariat on whether it would be acceptable or possible for delegations to make further additions to the list that was circulated. This question was not for Member States to decide as they would be micromanaging the Secretariat. As mentioned by the Delegation of Cameroon, the additions would help to facilitate the Secretariat's work. It may not know all the experts in the area and Member States were volunteering to provide additional names. They were not objecting to the existing list. They merely wanted to add a few names.

495. The Secretariat (Mr. Baloch) recalled the discussions in the informal meetings that were held in the period between CDIP/11 and CDIP/12. Delegations felt there was a need to limit the themes. A lot of time was spent on trying to collectively define the themes. The number of speakers had to be clearly identified in terms of how many were required on each theme as well as from the budgetary standpoint. As indicated in the provisional program that was distributed the previous day, there were a definite number of speakers under each theme. There were also speakers for the case studies requested by Member States. However, the decision was entirely in the hands of the Member States. The DACD had gone to the Controller's Office to secure a budget and the unspent money was returned. The Division would need to verify with the Controller's Office if an adequate budget was available.

496. The Delegation of the United States of America was not sure if delegations were looking at the same text of the proposal by GRULAC. It appeared as if they were looking at different texts. The Delegation had a text which included the following, "The Secretariat was requested to check the availability of the experts proposed as speakers in the list contained in document WIPO/IPDA/GA/13/INF/1 Prov". That was mentioned in the second paragraph of the proposal. The said list was prepared by the Secretariat according to criteria given by the Committee. The Delegation did not have any major problems with the proposal by the Delegation of Uruguay. The second paragraph was part of it. If all Member States could agree on requesting the

Secretariat to check the availability of those on the original list, the submission of names for substitutes could then be discussed. The Delegation was open to the discussion assuming that the original list was acceptable to all delegations and the Secretariat would start checking the availability of those on it. If delegations were reading the same proposal, it did incorporate an endorsement of the original list. The Secretariat would not check the availability of speakers on that list if delegations did not agree on it. The Delegation noted that most of the speakers would only speak for 15 minutes. If additions were made to the original list, there would be budgetary implications and each speaker would be restricted to making a five to ten minute presentation. The Delegation believed it would not be possible to say anything substantive or of value in ten minutes. The speaker would only be able to give an introduction. Therefore, more speakers could not be added within the same timeframe of the conference and by keeping the same topics. Fifteen minutes was the bare minimum. The Delegation wanted the Conference to have value.

497. The Delegation of Germany aligned itself with the statements made by the delegations of Japan, Greece, the United States of America and the United Kingdom. It recalled that the Committee was not at the beginning of a negotiating process. There had been extensive negotiations and there was a result in terms of the procedure. Those that wanted the Conference to take place strictly followed the procedure. It was decided that the Secretariat would draw up a list and present it to Member States for endorsement, which meant saying yes or no. The term “endorse” was used intentionally. When the procedure was decided, the regional groups could not expect all their preferences to be met. For example, as mentioned by the Delegation of Greece, the Secretariat did not pick a speaker from the EU. However, that was not a reason for the EU and its Member States to object to the list. Rather, it was the opposite. Overall, the list was acceptable to them. They endorsed it. Delegations should stick to the agreed procedure. Those that wanted to modify the list, in contradiction to what was agreed, should put forward clear reasons for wanting to do so.

498. The Delegation of the Czech Republic, speaking on behalf of CEBS, believed that an invitation to endorse did not mean an invitation to complement the list. There was a clear distinction. The Group recalled that when the language was negotiated, the word “endorse” was among those that gathered consensus after some discussion. The Group referred to the comment by the Delegation of the United States of America that most of the speakers only had 15 minute slots. It would be a two-day conference with specific themes. Therefore, complementing the list would either mean replacing some of the names or extending the duration of the conference. That would be a completely different area for discussion. It was also mentioned that most of the speakers were not available. However, this could not be known as the speakers had not been asked. There was an existing list. If someone was not available, the Secretariat should be able to consider other speakers to replace them, including those suggested by Member States. The proposal by GRULAC was along those lines. However, some delegations that urged others to consider the proposal could not accept this conditionality. Therefore, even if the proposal were to be considered, the Committee would not be able to agree on it. Hence, the Group could understand why GRULAC had withdrawn its proposal. The Group was not sure what the Committee was discussing. The best option would be to endorse the list and move forward with the Conference. If some Delegations were not in a position to endorse the list, the Committee could at least request the Secretariat to check the availability of those on the list in order to have more clarity on whether or not new names were needed. This could be reflected in the decision paragraph.

499. The Delegation of the United Kingdom recognized the importance of the conference. It supported the holding of the conference. The Delegation posed two rhetorical questions to the Member States. First, how many successful conferences had the Secretariat organized in the past without the involvement of Member States? Second, why was the conference delayed and in danger of not taking place at all? The Delegation referred to the proposal by GRULAC and made a suggestion. The sentence, “If enough speakers are available, Member States agree for

the conference to take place”, could be added at the end of the second paragraph. The last paragraph would be deleted.

500. The Delegation of Cameroon believed there was a problem concerning addition and substitution. It had listened to the Secretariat and the concerns raised by the Delegation of the United States of America. The request was not about increasing the number of speakers for the conference. The issue was that delegations were expected to endorse a list submitted by the Secretariat. However, on examining the list, some delegations found the criterion of geographical balance was not properly respected. It was almost evident that some speakers would not be available. Therefore, when they were substituted, it should be borne in mind that some areas had not been properly represented. That would not add anything to the costs.

501. The Delegation of Kenya, speaking on behalf of the African Group, clarified that when it referred to balance, the issue concerned a balance in perspectives, and not geographical balance *per se*. It wanted to have a conference whereby both perspectives were represented. That could be achieved in different ways. It could be achieved through what was mentioned. It could also be achieved if speakers from the same area had very different perspectives. Therefore, the issue was not really about geographical balance. It was about a balance of perspectives. The Group recalled that the Chair had initially proposed that informal consultations be held. Member States were not in favor of the proposal. However, the Group believed informal consultations would be appropriate because delegates did not want to object to anyone on the list in the plenary and the discussions would lead nowhere. Delegations were being diplomatic. Nobody wanted to criticize anyone on the list. The Group had observations but it did not want to state them in the plenary. There were requests for delegations to point out where they had challenges. The plenary would not be the appropriate forum to state who they had problems with on the list. The challenges should be dealt with in a manner whereby the integrity of the persons selected or left out would be maintained.

502. The Delegation of the United States of America completely agreed with the Delegation of Kenya. People would not be discussed in the plenary. However, it recalled that there were informal consultations on this particular topic six months ago, and not a single name was brought up as unacceptable.

503. The Delegation of Tanzania stated that the issue was not about adding names to the list of speakers for the Conference. It was not possible to add names as speakers when they had not been selected. The Delegation understood that the request concerned giving additional options to the Secretariat to exercise at its own discretion when selecting names to be included in the final list of speakers. The Delegation emphasized that the selection would be made by the Secretariat.

504. The Delegation of Georgia referred to the proposal by GRULAC and suggested a compromise. The phrase, “if needed, seek suggestions from the Member States in order to replace the unavailable speakers”, could be added in the second paragraph at the end of the sentence, “The Secretariat was requested to check the availability of the experts proposed as speakers in the list contained in document WIPO/IPDA/GA/13/INF/1 Prov”.

505. The Delegation of Brazil believed the proposal by the Delegation of Uruguay was considered as middle ground by most delegations. The Delegation of Uruguay had coordinated with other delegations to ensure that the proposal was balanced, reasonable and departed from the basic principle that there had been a *de facto* disagreement. The arguments on why there had been disagreement should not be revisited. The proposal from the Delegation of Uruguay tried to bridge the differences. That was the reason why the item was being reopened. Time was of the essence. There was no point in restating the same arguments.

506. The Chair noted that the discussion was still going around in circles, despite efforts to bridge gaps. He invited the Secretariat to read out the draft decision paragraph on this item.

507. The Secretariat (Mr. Baloch) read out the draft paragraph. It was as follows, "The Committee discussed the matter of the International Conference on IP and Development. A proposal by the Delegation of Uruguay received attention of the Committee. It was decided to continue discussion on this issue at the next session".

508. The Delegation of Uruguay, speaking on behalf of GRULAC, stated that its proposal was withdrawn. Therefore, it would be better not to record it.

509. The Chair stated that the reference would be removed. He requested the Secretariat to read out the revised paragraph.

510. The Secretariat read out the following, "The Committee discussed the matter of the International Conference on IP and Development. It was decided to continue discussion on this issue at the next session".

511. The Chair enquired as to whether there were any objections to the paragraph.

512. The Delegation of India enquired as to whether it had been decided that intersessional consultations would not be carried out by the Secretariat or the Chair on this issue. Referring the issue to the next session may not help to resolve it and the issue would continue to be postponed. The Delegation attached importance to the Conference. That was the reason why it had been constructively silent.

513. The Delegation of Cameroon believed postponing the matter gave the impression that the disagreement was deep. It made an appeal. Delegations were expected to endorse a list. The Delegation believed that even if they had not expressly done so, most delegations tacitly endorsed the list. The Delegation believed that since no one openly objected to the list, it was endorsed. If the endorsement had to be expressed, it could be done. Delegations could have the courage to endorse the list. The Secretariat would go ahead with the task and the list would be maintained. The request was merely for the Secretariat to take note of the said factor when there was a need for replacement. It did not amount to a rejection of the list. The Delegation was afraid that if the matter was pushed to a future session, positions would be hardened. Delegations could be given a chance to rethink their positions, adopt the list and give the Secretariat the mandate to organize the conference with this list. However, if there was a need for replacement, the Secretariat was requested to take note of this factor. It was as simple as that.

514. The Delegation of India stated that the Secretariat would obviously need to find a replacement if an expert was not available. The Secretariat would not revise the whole program for that reason. It urged delegations to be flexible and allow the Secretariat to give due consideration to the other names that were proposed when there was a need for replacement.

515. The Chair was reluctant to resume discussions on this issue as there were other items that needed to be agreed. He noted that there were no reactions to the appeal by the Delegation of Cameroon.

AGENDA ITEM 9: SUMMARY BY THE CHAIR

516. The Chair invited the Committee to consider the entire draft Summary by the Chair. He requested delegations not to introduce additional elements that were not critically important. He invited the Secretariat to read out paragraph 1.

517. The Secretariat (Mr. Baloch) read out the following, “The thirteenth session of the CDIP was held from May 19 to 23, 2014. The session was attended by 90 Member States and 28 Observers.” The Secretariat pointed out that the numbers may change as a final count would be done after the meeting.

518. The Chair stated that paragraph 1 was adopted given that there were no observations from the floor.

519. The Secretariat (Mr. Baloch) read out paragraphs 2 to 4 as follows:

“Paragraph 2: the Committee re-elected Ambassador Mohamed Siad Doualeh, Permanent Representative of Djibouti, as Chair.

Paragraph 3: the Committee adopted the Draft Agenda as proposed in document CDIP/13/1 Prov.3.

Paragraph 4: under Agenda Item 4, the Committee adopted the draft report of the twelfth session of the CDIP contained in document CDIP/12/12 Prov.”

520. The Chair stated that paragraphs 2 to 4 were adopted given that there were no observations from the floor.

521. The Secretariat (Mr. Baloch) read out paragraph 5 as follows, “Under Agenda Item 5, the Committee listened to general statements from delegations. While reiterating their support for the implementation of the DA recommendations, delegations expressed their commitment to engage in a constructive dialogue with the view to reaching agreement on the important issues before the Session, such as the finalization of the TOR for the Independent Review of the Implementation of the DA Recommendations”.

522. The Chair stated that paragraph 5 was adopted given that there were no observations from the floor.

523. The Secretariat (Mr. Baloch) read out paragraph 6 as follows, “Under Agenda Item 6, the Committee considered the Director General’s Report on Implementation of the DA Recommendations, contained in document CDIP/13/2. The Committee welcomed the comprehensive overview of the DA implementation during 2013, provided in the report, and appreciated the progress achieved. The Deputy Director General, Mr. Onyeama, replied to observations made by delegations and renewed the Secretariat’s commitment to support the WIPO Member States in the implementation of the DA recommendations.”

524. The Chair stated that paragraph 6 was adopted given that there were no observations from the floor.

525. The Secretariat (Mr. Baloch) read out paragraph 7 as follows:

“Under the same Agenda Item, the Committee considered the following project evaluation reports:

- (i) Evaluation Report on the Project on IP and Product Branding for Business Development in Developing Countries and LDCs, contained in document CDIP/13/3;

(ii) Evaluation Report on the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and LDCs, contained in document CDIP/13/4;

(iii) Evaluation Report on the Project on IP and the Informal Economy, contained in document CDIP/13/5;

(iv) Evaluation Report on the Project on IP and Brain Drain, contained in document CDIP/13/6; and

(v) Self-evaluation report on the Project on Patents and the Public Domain, contained in document CDIP/13/7.

Following the presentation of the evaluation reports, an exchange of views took place. It was decided that the Secretariat will take appropriate actions on the recommendations contained in the reports, taking into account the comments made by the Member States. The Committee agreed on the recommendation to extend the duration of the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and LDCs for one year, allowing the completion of the outstanding activities within the remaining project budget.”

526. The Delegation of the United States of America referred to the second sentence of the last paragraph, and stated that it was not factually correct. The Committee never decided to take onboard all the recommendations. There were a number of them. The Committee never decided on that. Therefore, the Delegation would like the second sentence to be deleted.

527. The Delegation of India did not recall any opposition to implement the recommendations as appropriate. Therefore, if something was appropriate, it would be implemented. That had to be reflected in the paragraph.

528. The Secretariat (Mr. Baloch) responded to the observation by the Delegation of the United States of America. It pointed out that the said sentence included the phrase, “taking into account the comments made by the Member States”. All the details would be included in the report for the session. As a matter of practice, the Secretariat went through the report after each session and examined the comments on each of the recommendations to see which would be implemented. However, it was up to Member States to decide.

529. The Delegation of the United States of America stated that recommendations were not automatically adopted by Member States. They needed to agree on them after the reports were presented. The Delegation did not remember agreeing to the adoption of all the recommendations. Some recommendations called for additional studies, some called for the extension of projects, and some called for addressing issues that would require significant human and budgetary resources. It could not be assumed that recommendations were automatically adopted just because none of the delegations stated that they did not agree to the adoption of the recommendations. There had to be a positive statement.

530. The Delegation of Egypt believed the only clear decision concerning the extension of projects was in relation to the Project on Enhancing South-South Cooperation on IP and Development Among Developing Countries and LDCs, and that was within the remaining project budget. The Group believed all the recommendations were practical and would be implemented in light of the comments made by Member States. Therefore, if there were no explicit objections to those recommendations, it meant that Member States were giving the Secretariat clearance to continue its work in that regard.

531. The Delegation of the United States of America stated that the South-South project was referenced in a separate sentence. The Delegation was not requesting for that sentence to be

removed as it reflected what transpired earlier in the session. The Delegation requested for the second sentence of the last paragraph to be removed as it did not reflect what had transpired. The Delegation never agreed to take appropriate actions on all the recommendations contained in the evaluation reports.

532. The Chair stated that if the said sentence were to be deleted, a way forward would need to be found. He suggested that the Secretariat could come up with a list of recommendations for the next session. He sought the view of the Secretariat on the way forward.

533. The Secretariat (Mr. Baloch) stated that one way could be to re-examine the evaluation reports. Alternatively, the recommendations contained in those evaluation reports could be compiled in a document for the next session. Delegations could make observations with regard to their implementation or otherwise.

534. The Chair enquired as to how that would be reflected in the decision paragraph.

535. The Secretariat (Mr. Baloch) stated that the paragraph could include the following, "The Committee decided to review the recommendations of the evaluation reports at its next session". That was one way. The matter was in the hands of the Committee.

536. The Delegation of India would like to know what was practiced in the past with respect to the recommendations in evaluation reports. It enquired as to whether similar language had been included in the Chair's summary in relation to the recommendations, or if they were individually examined by the Committee. The Delegation also recalled that there were a lot of pending items in relation to the recommendations of the External Review of WIPO Technical Assistance. The Delegation did not favor examining the recommendations of each report individually as the Committee did not have time to do so. This was not the first time evaluation reports were presented to the Committee.

537. The Delegation of the United States of America recalled that in the discussions on the evaluation reports, none the delegations had requested the Secretariat to follow up on all the recommendations. Some recommendations called for future work. Therefore, they had implications in terms of budgetary and human resources. Some recommendations did not require expanding or extending projects or studies. The Secretariat could follow up on those at its discretion if they were on improving the project or something along those lines. However, a number of recommendations called for additional studies. Those would need to be explicitly presented and approved by the Committee.

538. The Chair enquired as to how that could be reflected in the decision paragraph.

539. The Delegation of the United States of America stated that the decision should reflect what had taken place during the discussions on the evaluation reports and state that comments were made by Member States. The rest of the sentence could be kept intact. The extension of the South-South cooperation project within the existing budget was the only recommendation that was explicitly agreed upon.

540. The Delegation of Egypt stated that it did not like all the reports and did not want a blanket implementation of the recommendations contained therein. However, something had to be done with the reports. They were not prepared just to be read out in the room and left on a shelf. The evaluation reports helped the Committee to decide on future actions. As mentioned by the Delegation of India, it was not the first time the Committee had examined evaluation reports. If the decision paragraph did not state what would be done with the recommendations, the Secretariat could request Member States to submit written comments on them and the Committee could decide on the recommendations in the next session. The Committee had to devise a way through which it could examine reports, discuss the recommendations contained

therein and take a decision on them. This was necessary in order for the discussions to be geared towards taking action on the recommendations. If they were left aside, money would have been spent on an exercise that had no real value for the future.

541. The Delegation of Kenya, speaking on behalf of the African Group, stated that if money and human resources were invested to undertake an exercise, it was deemed to be important and necessary action should be taken. If the Committee was serious about the implementation of DA recommendations, and the projects were geared towards achieving that goal, it had to look into the outcomes, otherwise it would appear that the Committee had no intention to implement or do anything about the items on its agenda. The Group recalled that on several occasions it was mentioned that delegations did not agree to move forward. Member States needed to reflect on what they really wanted as outcomes in terms of the Committee's work.

542. The Delegation of India referred to the intervention by the Delegation of the United States of America and believed it had concerns on recommendations which required additional budgetary resources and those that called for new studies to be carried out. The Delegation suggested that these could be excluded by adding a sentence to state that they would be considered by the Committee in a future session. That could be a way forward. However, the Delegation understood there was a precedent. It was not the first time evaluation reports were presented to the Committee. These reports had been presented in the last few years. The Delegation also understood there were no problems concerning some of the recommendations. If those could be undertaken by the Secretariat within the existing resources, that sentence should not be removed from the decision paragraph.

543. The Delegation of Cameroon believed the concerns expressed by the Delegation of the United States of America had to do with the way the paragraph was formulated. The sentence, "It was decided that the Secretariat will take appropriate actions on the recommendations contained in the reports, taking into account the comments made by the Member States", gave a broad mandate to the Secretariat and assumed that it would know where there was agreement or disagreement. The Delegation believed that sentence could be kept. However, if the project on South-South cooperation was singled out, it was also necessary to highlight other areas where there was agreement as well as those where there was disagreement.

544. The Delegation of the United States of America believed the issue was really a matter of housekeeping for the Committee. As noted by several delegations, the Committee had an extensive agenda. The Delegation believed that in order to maintain forward action in the Committee, there was a need to discuss each project as it came up on the agenda, reach conclusions and then move on. If delegations had to continually go back to the process of deciding everything in the Chair's summary, they would always be there until very late on Friday night or early on Saturday morning. Therefore, the Delegation believed the summary should accurately reflect what happened. However, in the spirit of compromise, the Delegation suggested that something could be included along the lines of the following, "The Secretariat will take appropriate actions on recommendations that have no budgetary implications".

545. The Delegation of Algeria agreed in principle with the Delegation of the United States of America because it was stated in each of the five evaluation reports that the Committee was invited to take note of the information contained in the annex. That did not include taking binding decisions. The Delegation believed it was necessary to state on record that delegations should not only be invited to take note of such documents as the Secretariat would take action without delegations knowing beforehand what would be done. Therefore, the Delegation suggested that the opening sentence of the draft paragraph could be amended to read as follows, "Under the same Agenda Item, the Committee considered and took note of the following project evaluation reports". That was exactly what happened. The sentence, "It was decided that the Secretariat will take appropriate actions on the recommendations contained in the reports, taking into account the comments made by the Member States", would be deleted,

and the Committee could invite the Secretariat to compile the recommendations for consideration in a future session. The other aspects of the paragraph would remain as they were accurate.

546. The Delegation of Egypt believed the position expressed by the Delegation of Algeria was middle ground. It allowed for transparency and further discussion on the content of the recommendations. Therefore, the Delegation supported the proposal.

547. The Delegation of India understood that delegations had taken note of the evaluation reports and were not required to take any decisions in this session. However, it would like to know whether delegations were required to take decisions after these were compiled by the Secretariat and presented in a separate document, or if they were merely be required to take note of them.

548. The Secretariat (Mr. Baloch) believed it was question of semantics and the practice in the UN system. It had standard action paragraphs. To take note did not merely mean looking at a document. There were four standard action paragraphs for WIPO reports. In the case of evaluation reports, it was always stated that the Committee was invited to take note of the information because it was not certain that action would be taken. If the Secretariat was requested to compile the recommendations from the evaluation reports into a separate document for further action, the standard action paragraph would be for delegations to take action.

549. The Chair invited the Committee to consider paragraph 13 on the TOR for the Independent Review as the former Vice-Chair was about to leave. He invited her to take the floor.

550. The former Vice-Chair stated that excellent progress was achieved in the informal consultations. Delegations agreed on a number of paragraphs and parts of the TOR. Unfortunately, it could not be finalized due to disagreement over one word related to the practical experience of the team of experts to be contracted by WIPO. However, she believed there was a high probability that the TOR would be agreed before the next CDIP session. The other parts of the TOR were largely agreed by the Member States. There was a disagreement between Group B and the African Group on one word. Other Member States were fine with it. One group wanted the word "practical" to be deleted, while the other group would like it to be maintained. Although there was a possibility that the TOR would be agreed by the next CDIP session, the Independent Review would be postponed because the process would take one year to complete.

551. The Chair enquired as to whether the former Vice-Chair was suggesting that informal consultations be continued in the intersession.

552. The former Vice-Chair stated that one informal consultation meeting could take place before the next CDIP session to resolve the last outstanding issue. There was a possibility that the TOR could then be approved in the next CDIP session. There was tremendous progress and it should not be lost. However, she did not know whether informal consultations would be acceptable to Member States.

553. The Chair enquired as to whether the Committee could agree to the proposal by the Vice Chair to hold one informal consultation meeting to finalize the TOR. It was agreed, given that there were no objections from the floor. The Chair stated that the Secretariat would revise the draft decision paragraph accordingly. He invited the Committee to consider paragraph 8.

554. The Secretariat (Mr. Baloch) read out paragraph 8 as follows, "Also under Agenda Item 6, the Committee discussed the document on Patent-Related Flexibilities in the Multilateral Legal

Framework and their Legislative Implementation at the National and Regional Levels - Part III (CDIP/13/10). A number of delegations expressed interest and appreciation for the work of the Secretariat in this field. Certain delegations offered factual corrections to the annexes. Delegations also commented on the substantive aspects of the document. Interest was also expressed to extend this work to other areas of IP.”

555. The Chair stated that paragraph 8 was adopted given that there were no observations from the floor.

556. The Secretariat (Mr. Baloch) read out paragraph 9. It was as follows:

“Under the Agenda Item 7, the Committee considered the following project proposals:

- (i) Project on IP and Tourism: Supporting Development Objectives and Protecting Cultural Heritage in Egypt and Other Developing Countries, contained in document CDIP/13/8. An exchange of views took place, during which a number of delegations expressed support for the project. The Committee decided to discuss the project at its next session; and,
- (ii) Phase II of the Project on Capacity Building in the Use of Appropriate Technology – Specific Technical and Scientific Information as a Solution for Identified Development Challenges, contained in document CDIP/13/9. The Committee approved the project proposal.”

557. The Delegation of Egypt referred to the Project on IP and Tourism, and would like the second sentence to be replaced with the following, “An exchange of views took place, during which a number of delegations expressed support for the project as well as interest in being considered as one of the pilot countries to be covered by the project. Member States should send their comments or points of clarification to the Secretariat by the deadline of June 15 on the project document”. During the discussions, it was stated that there had been inadequate time to examine the document in detail. Therefore, the Delegation proposed that in the intersession, delegations could submit points of clarifications and comments to the Secretariat in order for it to be ready to provide responses and make minor modifications to the project document, if required, without changing its orientation and scope. This would enable the Committee to have a fruitful discussion and decision in the next session.

558. The Delegation of the United States of America requested for the sentence, “Other delegations expressed concerns”, to be added after the sentence, “An exchange of views took place, during which a number of delegations expressed support for the project”. The Delegation referred to the suggestions by the Delegation of Egypt and stated that history should not be rewritten. The June 15 deadline for Member States to submit comments was not mentioned in the discussions. The submission of comments by Member States was also not mentioned. The Committee decided to discuss the project at the next CDIP session. The Delegation highlighted that the purpose of the Chair's summary was to reflect the record, and this was not an accurate reflection of what had transpired in the room. The Committee seemed to be doing that over and over again, first with paragraph 7 and then with this paragraph.

559. The Delegation of Greece, speaking on behalf of the EU and its Member States, stated that they could accept the phrase, “as well as interest in being considered as one of the pilot countries as well as interested in being considered as one of the pilot countries” or something to that effect. However, they would also like the following sentence to be added, “Other delegations asked for further clarification”.

560. The Delegation of Egypt clarified that it was proposing an interim discussion, not a decision by the Committee to force Member States to do so. The suggestion was just to give them a chance to raise their concerns in written form to the Secretariat. That would enable the Secretariat to be ready with a document for adoption in the next session.

561. The Delegation of the United States of America requested the Chair to clarify whether the Committee was reopening the agenda item or if it was discussing the Chair's summary. The Delegation would like to know why the agenda item was being reopened and the Committee was discussing what should be done in the intersession when that was not mentioned in the discussion.

562. The Chair recalled that in the discussions, the proponent of the project suggested further consultations to provide clarifications to the concerns expressed by various delegations. However, the response from other delegations was negative. The proponent of the project then stated it could not force Member States to engage in discussions when they were not willing to do so. The Chair gathered that there was consensus to include a reference to the interest expressed by many other delegations. That was factual and could not be denied. It was also a fact that some delegations expressed concerns and requested for clarifications. He believed these aspects should be reflected in the decision paragraph. The project deserved attention given that it was supported by many delegations in the Committee.

563. The Delegation of Kenya, speaking on behalf of the African Group, supported the comments made by the Delegation of Egypt. A way forward was needed to avoid the risk of postponing the decision on whether or not the proposal should go forward in the next session. There should be a pragmatic way to deal with issues and not to postpone every issue to the next session. The current approach would result in double work for the next session. It would need to deal with the agenda for this session as well as what would be discussed in that session. This was a costly and time consuming exercise. It was not a cost effective way to manage the Committee's time and resources. A pragmatic way to deal with issues should be found, otherwise nothing would be achieved. Everything would continue to be postponed. The Group supported the proposal by the Delegation of Egypt because it was a practical way to deal with the issue and to conclude it in the next session instead of postponing it again to the following session.

564. The Delegation of Japan, speaking on behalf of Group B, endorsed the comment made by the Delegation of the United States of America. The principle should be respected. The Committee was currently engaged in the preparation of the Chair's summary, which should only reflect what took place in the plenary. New elements should not be included at this point. Therefore, from a systemic perspective, the issue concerning interim work should not be discussed.

565. The Delegation of the United States of America was fine with the language proposed by the Chair because it was factual. It reflected what went on in the plenary with respect to this project.

566. The Delegation of Egypt requested further clarification from delegations that opposed the submission of comments and points of clarification to the Secretariat before the next session. The Delegation would like to know if they objected to the project. It had significant support during the discussions. Without an interim process, it would not be certain that a decision would be taken on the project in the next session and it could be postponed for a year. The Delegation wanted to ensure that the process was moving forward instead of being delayed.

567. The Delegation of the United States of America reiterated that the Committee was not discussing the merits of the project unless the agenda item was reopened. It was discussing the Chair's summary. The Delegation believed it was not appropriate to discuss the project at

that point. The Delegation had expressed a number of concerns. It was sure that the Secretariat had taken note of them. That should help to refine the project before the next session. The Committee was discussing what happened in the past, not what would happen in the future. It was sure the Secretariat could find ways to request Member States to provide comments in the interim. It had been done before and the project could be revised to the satisfaction of all delegations. However, the Committee was not discussing it at this point.

568. The Delegation of Greece, speaking on behalf of the EU and its Member States, strongly supported the Committee concluding its work within the given timeframe. They also supported the statement made by the Delegation of Japan on behalf of Group B that the Committee was only discussing the Chair's summary. It was not reopening the project. They wanted the summary to reflect what actually happened during the plenary. Intersessional consultations had not been discussed. Therefore, they strongly supported the Chair's suggestion.

569. The Delegation of the Czech Republic, speaking on behalf of CEBS, referred to its statement on this agenda item and stated that its position on the proposal was made clear. The Group had requested for clarifications on several areas of the proposal. Following its request, the Group was looking forward to receiving a revised proposal which would be discussed in the next session. In this regard, the Group suggested that the last sentence in the paragraph be amended to read as follows, "The Committee decided to discuss the revised proposal of the project at its next session". It would then be clear that the proposal would be revised to reflect the specific concerns or requests for clarification by several delegations, including CEBS.

570. The Delegation of Cameroon agreed that there was popular support for the project. A significant number of Member States had also expressed their desire to be pilot countries for the project. If the Delegation of Egypt was requesting for this to be highlighted, it would make the paragraph more coherent. However, the Delegation also acknowledged that some other delegations had requested for clarifications. This should also be mentioned in the paragraph. The Committee could then move on to the next paragraph.

571. The Delegation of Egypt stated that if there was objection to including an interim step, it would like the last sentence to be amended as follows, "The Committee decided to discuss the project at its next session with a view to its approval".

572. The Delegation of the United States of America stated that the Committee would definitely consider the proposal. However, it would not be accurate to state that it would be with a view to its approval.

573. The Chair invited the Secretariat to read out paragraph 7, as revised.

574. The Secretariat (Mr. Baloch) stated that only the last paragraph of paragraph 7 was revised. It was as follows, "Following the presentation of the evaluation reports, an exchange of views took place. It was decided that the Secretariat will compile a list of recommendations contained in the evaluation reports and submit it to the next session of the Committee for consideration".

575. The Delegation of the United States of America requested the Chair to continue with other paragraphs. It would reflect on the proposed language because it still did not reflect what happened in the plenary. However, if the Delegation had enough time to reflect, it may be able to either come up with alternative language or endorse this as an exception.

576. The Chair stated that the revised draft paragraph would be circulated. He then invited the Committee to consider paragraph 10.

577. The Secretariat (Mr. Baloch) read out paragraph 10 as follows, “The Committee discussed the document on Future Work on Patent-Related Flexibilities in the Multilateral Legal Framework (CDIP/10/11). The Committee agreed that a document on two new patent-related flexibilities be prepared for discussion at a future session of the CDIP, namely, the flexibility to apply or not, criminal sanctions in patent enforcement (TRIPS Art. 61) and measures related to security which might result in a limitation of patent rights (so-called “security exception”) (TRIPS Art. 73)”. The Secretariat informed the Committee that the Delegation of India had proposed some amendments to the text after it was circulated. The Delegation proposed the insertion of a comma after the phrase, “the flexibility to apply or not”. It also proposed that the phrase, “based upon factual compilation with no recommendations whatsoever”, be included in the second sentence after the word “document”.

578. The Chair stated that the second amendment proposed by the Delegation of India was an accurate reflection of the discussion on this agenda item. Paragraph 10 was adopted with the amendments proposed by the Delegation of India, given that there were no objections from the floor.

579. The Secretariat (Mr. Baloch) read out paragraph 11 as follows, “The Committee took note of the Information on the Activities of the IP and Global Challenges Program, particularly on the development-related aspects, contained in document CDIP/13/12”.

580. The Chair stated that paragraph 11 was adopted given that there were no observations from the floor.

581. The Secretariat (Mr. Baloch) read out paragraph 12 as follows, “The Committee discussed the WIPO GA Decision on CDIP related matters (document CDIP/12/5). The Committee could not reach an agreement on these matters. Accordingly, the Committee requests the GA to allow it to continue the discussion during its fourteenth and fifteenth sessions and to report back and make recommendations on the two matters to the GA in 2015”.

582. The Chair stated that paragraph 12 was adopted given that there were no observations from the floor. He turned to paragraph 13.

583. The Secretariat (Mr. Baloch) informed the Committee that the latter part of paragraph 13 was not included in the document that was distributed. The Secretariat read out the paragraph. It was as follows, “The Committee discussed the TOR for the Independent Review of the Implementation of the Development Agenda Recommendations. Following a brief presentation by the Facilitator and former Vice-Chair of the Committee, the Committee decided to hold one intersessional meeting to allow an agreement on the outstanding issues. The Committee will discuss this matter at its next session.”

584. The Delegation of the Czech Republic, speaking on behalf of CEBS, assumed that the term “intersessional meeting” referred to an informal meeting to be held before the next CDIP session. The Group would like to know if the assumption was correct.

585. The Delegation of the United Kingdom supported the comment made by the Delegation of the Czech Republic on behalf of CEBS. It referred to the language used in the Chair’s summary for the previous session and suggested the following, “request the Chair of the CDIP to hold one informal consultation prior to CDIP/14”.

586. The Chair stated that the Secretariat would revise the draft paragraph based on those comments.

587. The Secretariat (Mr. Baloch) read out paragraph 14 as follows, “The Committee discussed the matter of the International Conference on IP and Development. It was decided to continue discussion on this issue at the next session.”

588. The Delegation of Egypt stated that the paragraph should be factual. Therefore, it should also mention that a compromise proposal was submitted and the Committee failed to reach consensus on it.

589. The Chair informed the Delegation of Egypt that the compromise proposal was omitted from the paragraph because it was withdrawn by the proponent.

590. The Delegation of Algeria stated that the paragraph could be balanced by highlighting that an agreement was not reached. There was also no agreement on the WIPO GA decision and the TOR for the Independent Review. It was up to the delegations to decide whether or not the disagreements needed to be reflected with respect to all the three issues.

591. The Chair enquired as to whether the Delegation of Algeria was suggesting that the disagreement in this area should also be reflected in the paragraph.

592. The Delegation of Algeria stated that the disagreement on this issue should also be reflected.

593. The Chair suggested the following, “The Committee could not reach an agreement and decided to continue the discussion.”

594. The Delegation of Cameroon believed the formulation could be improved as it gave the impression that the Committee did not agree on the idea of holding the conference. The disagreement was not on that. The formulation should reflect the broad agreement in this regard.

595. The Chair stated that the outstanding issue concerned the list of speakers. The paragraph could reflect the fact that there was no agreement on it. He reiterated that tremendous progress was made on the other modalities for the conference. The draft would be revised accordingly.

596. The Secretariat read out paragraph 15 as follows, “The Committee discussed the External Review of WIPO Technical Assistance in the Area of Cooperation for Development (documents CDIP/8/INF/1, CDIP/9/14, CDIP/9/15, CDIP/9/16 and CDIP/11/4). The Committee listened to divergent views on further implementation of the recommendations contained in the review, recognizing that the DA implementation was a work in progress. The Committee decided to consider the issue at its future session.”

597. The Delegation of Kenya, speaking on behalf of the African Group, suggested the deletion of the sentence, “The Committee listened to divergent views on further implementation of the recommendations contained in the review, recognizing that the DA implementation was a work in progress”.

598. The Delegation of Japan, speaking on behalf of Group B, believed the first part of that sentence was redundant. Therefore, it could go along with the proposal by the Delegation of Kenya.

599. The Delegation of the United States of America supported the intervention by the Delegation of Japan on behalf of Group B with regard to the phrase, “recognizing that the DA implementation was a work in progress”. However, with regard to the full proposal by the Delegation of Kenya, the Delegation reiterated that it sought to express what actually happened

in the Committee. Therefore, the sentence, "The Committee expressed divergent views", should be maintained.

600. The Delegation of Kenya, speaking on behalf of the African Group, was not sure whether views diverged on further implementation because there were proposals and they had not been discussed in detail. It could not be stated that there were divergent views on further implementation because the Committee had not even agreed on how to implement the recommendations. Therefore, the idea was to discuss the issue and then agree on work to implement the recommendations. It could be stated that the Committee discussed the issue and agreed to consider it at the next session.

601. The Delegation of Cameroon noted that divergent views were expressed on almost every issue discussed in the Committee. Therefore, it could be redundant for this to be reflected in the paragraph. The Delegation suggested that it be removed otherwise divergent views may need to be mentioned in relation to almost all the issues. An agreement was not reached and the matter was moved to the next session. That was the real issue.

602. The Delegation of the United States of America referred to the proposal by the Delegation of Algeria with regard to other areas to have an appropriate balance, and suggested the following, "The Committee could not reach an agreement and decided to consider this issue at its future session".

The Chair stated that the Secretariat would revise the draft decision paragraph based on the comments made by delegations. He moved on to paragraph 16.

603. The Secretariat (Mr. Baloch) read out paragraph 16. It was as follows:

"Also under Agenda Item 7, the Committee discussed and took note of the following documents:

- (i) Country Study on Innovation, Intellectual Property and the Informal Economy: Traditional Herbal Medicine in Ghana, contained in document CDIP/13/INF/2;
- (ii) Country Study on Innovation, Intellectual Property and the Informal Economy: The Informal Metalworking Sector in Kenya, contained in document CDIP/13/INF/3;
- (iii) Country Study on Innovation, Intellectual Property and the Informal Economy: Informal Manufacturers of Home and Personal Care Products in South Africa, contained in document CDIP/13/INF/4;
- (iv) Comparative Analysis of National Approaches on Voluntary Copyright Relinquishment, contained in document CDIP/13/INF/6; and,
- (v) Exploratory Study on the Egyptian Information Technology Sector (IT) and the Role of Intellectual Property: *Economic assessment and recommendations*, contained in document CDIP/13/INF/7.

604. The Chair stated that paragraph 16 was adopted given that there were no observations from the floor. He turned to paragraph 17. He believed it should not pose any problems as it was factual. Paragraph 17 was adopted given that there were no observations from the floor. He invited the Secretariat to read out the draft conclusion paragraphs that were revised in accordance with the comments from the floor.

605. The Secretariat (Mr. Baloch) read out paragraph 13 on the TOR for the Independent Review as follows, "The Committee discussed the TOR for the Independent Review of the Implementation of the DA Recommendations. Following a brief presentation by the Facilitator

and former Vice-Chair of the Committee, Mrs. Ekaterine Egutia, the Committee decided to hold one informal meeting before the next session of the CDIP to allow an agreement on the outstanding issues. The Committee will discuss this matter at its next session”.

606. The Delegation of the United Kingdom requested the Secretariat to circulate the latest version of the TOR to Member States.

607. The Delegation of Japan, speaking on behalf of Group B, proposed the use of the term “informal consultation” to reflect the decision that was taken at the last session.

608. The Chair stated that paragraph 13 was adopted with the suggestion by Group B, given that there were no objections from the floor.

609. The Secretariat (Mr. Baloch) read out paragraph 14, as revised. It was as follows, “The Committee discussed the matter of the International Conference on IP and Development. The Committee did not reach agreement on this matter. It was decided to continue discussion on this issue at the next session.”

610. The Delegation of Egypt referred to the comments by the Delegation of Cameroon and stated that the paragraph should reflect the area where there was disagreement. If not, it would appear that the Committee could not agree to hold the conference.

611. The Chair recalled what had been agreed and suggested that the second sentence be amended to read as follows, “The Committee did not reach agreement on the list of speakers for the Conference”. The Chair stated that paragraph 14 was adopted with his proposed amendment, given that there were no further observations from the floor. He turned to paragraph 15.

612. The Secretariat stated that the first sentence of paragraph 15 remained the same. The second sentence was revised as follows, “The Committee could not reach an agreement and decided to consider the issue at its future session”.

613. The Delegation of Algeria suggested the use of the term “next session” instead of “future session”. The former was used in other paragraphs.

614. The Chair stated that paragraph 15 was adopted with the amendment proposed by the Delegation of Algeria, given that there were no further observations from the floor. He turned to paragraph 7.

615. The Delegation of Switzerland suggested going back to the initial text proposed by the Secretariat. It would allow some work to be initiated based on the comments made by Member States. This method was used in the past and would allow the Committee to move forward. It was a pragmatic way to initiate some work within the budget that was allocated for these activities. The original text would facilitate the work of the Committee in the future.

616. The Chair enquired as to whether there were any objections to the proposal by the Delegation of Switzerland. He highlighted that the original text proposed for paragraph 7 included the following sentences, “Following the presentation of the evaluation reports, an exchange of views took place. It was decided that the Secretariat will take appropriate actions on the recommendations contained in the reports, taking into account the comments made by the Member States”. The original text for paragraph 7 was adopted given that there were no objections from the floor.

617. The Delegation of Egypt stated that in light of the discussions on this paragraph, the Secretariat could be requested to refer future decisions to the Committee in a more action oriented manner. The Committee could take decisions on recommendations on that basis.

AGENDA ITEM 8 – FUTURE WORK

618. The Chair invited the Secretariat to read out the list of issues/documents for the next session.

619. The Secretariat read out a list of issues/documents for the next session, highlighting that the first four issues were taken from this session. The list was as follows:

- (i) The TOR for the Independent Review of the Implementation of the DA Recommendations. The Secretariat would organize an informal session in due course. Thereafter, the Committee would discuss and finalize the TOR;
- (ii) The WIPO GA Decision on CDIP related matters. The Secretariat hoped the discussions would continue after the Assembly considered the Committee's report;
- (iii) The International Conference on IP and Development;
- (iv) The External Review of WIPO Technical Assistance in the Area of Cooperation for Development;
- (v) Annual progress report on projects under implementation and the 19 DA Recommendations for immediate implementation;
- (vi) Evaluation reports on completed projects such as the Project on IP and Socio-Economic Development;
- (vii) WIPO's contribution to the MDGs. In the previous session, the Committee discussed a document on WIPO's contribution to the MDGs and requested for it to be revised for the next session;
- (viii) Studies undertaken in the context of the Project on IP and Socio-Economic Development. Some of the studies, including those mentioned in paragraph 17 of the Chair's summary, were brought forward to the next session. There may also be a few more;
- (ix) Project on IP and Socio-Economic Development – Phase II. It was hoped that the Committee would be able to examine the studies and provide an indication to prepare Phase II of the project for consideration in the next session. Although the Committee could not consider the studies in this session, the Secretariat would prepare a Phase II project and present it together with the evaluation report for consideration in the next session. This was because a lot of interest was expressed by numerous Member States and the preparation of a Phase II would maintain continuity. However, it would be up to the Member States to decide on whether or not there would be a Phase II; and,
- (x) Studies and other outputs from other DA projects. The Secretariat would consult with the project managers on other studies and outputs to be presented in the next session.

Closing Statements

620. The Chair believed a lot was accomplished during the session. However, there was some reticence. More efforts were required to resolve the important items on the agenda for this session. A lot of work had been done. It would be an injustice to the efforts made if matters were left as they were. In his opening statement, the Director General had urged the Committee to try and break the cycle of disagreement. Although the Committee had not been able to do so, progress had been achieved.

621. The Secretariat (Mr. Onyeama) reiterated that the Organization stood ready and would continue to support all the efforts by Member States. There were very positive results. There were some divergences, but the Secretariat was fully supportive of the efforts by Member States.

622. The Delegation of Kenya, speaking on behalf of the African Group, was aware that progress had been achieved. However, more could have been accomplished. The Group hoped that there would be a more cooperative spirit in the next session in order to finalize issues, address the backlog and deal with new issues. Development-related work was challenging and this was demonstrated by the Committee. Although there were many obstacles in trying to move forward, IP could be viewed as an engine of development. These were teething problems and there could be a time when it would be natural to have a balance in terms of enforcement and other public interest issues. It was just a matter of reorientation in terms of perspective. The Group believed that in time, the interests of the right holders and public imperatives would be rightly balanced.

623. The Delegation of Japan, speaking on behalf of Group B, stated that seven years had passed since the DA was adopted by the GA. Some believed that would usher in a new era for WIPO, that somehow development considerations would guide all aspects of the Organization. The Group had always, even before the adoption of the DA, viewed development-related work as a necessary component of a vibrant and evolving International IP system, and IP was an important tool for development. However, it did not subscribe to the notion that WIPO must look at absolutely everything through a development lens. The Group believed it was time to start thinking carefully about what the DA had done for the Organization, both good and bad. In this regard, it was a pity that agreement could not be reached on the TOR which could be a step in the right direction, in spite of the significant progress and the flexibility demonstrated by the Group with a view to finalizing it at this session. The Group reiterated that the objective of the Organization was crystal clear, as prescribed in Article 3 of the WIPO Convention. The Organization was created to promote the protection of IP throughout the world through cooperation among states. As a logical consequence, the DA adopted by the GA fell under this umbrella and it was obvious that it shall be implemented in a way that was consistent with the objective of the Organization. This was shall, and not should. In other words, the DA shall not change the nature of the Organization and shall not redirect the Organization. It had to contribute to the objective of the Organization by ensuring that development considerations formed an integral part of its work. The DA should support the goals of the WIPO Convention. It was never intended to replace it. The Group had great concerns about the fact that discussions around the DA, not necessarily its actual implementation, all too often completely contravened the aforementioned objective of the Organization and blocked positive movement on a number of issues, including on substantive development issues. An incident in the previous week was an example. The development and implementation of standards by the CWS was one of the essential activities for IP information dissemination, which was an integral part of WIPO's work to achieve the objective of the Organization, and benefitted small and younger offices in particular. The Committee should not undermine and hinder the essential activities of WIPO by forgetting the objective of the Organization. The implementation of the GA decision should be consistent with the objective of the Organization. The Group believed the DA recommendations had been successfully implemented in that manner thus far. It believed

that the DA had already achieved its aim to ensure that development considerations formed an integral part of WIPO's work. In this regard, the Group noted the contribution by the Director General, the Secretariat and the Committee. Last but not least, the Group drew attention to the income structure of the Organization and emphasized that it was completely different from other UN organizations. Member States had the responsibility to explain to those who provided revenue through filing in the international registration systems, how the money was used and how it could directly or indirectly benefit them. The Organization and Member States were accountable for the explanation. In concluding, the Group reiterated its commitment to engage in development-related activities in a manner consistent with the objective of this Organization as a specialized agency on IP.

624. The Delegation of the Czech Republic, speaking on behalf of CEBS, reaffirmed that it deemed the Committee to be the most appropriate forum for Member States to share their expertise in the field of IP and development. It was convinced that work related to the DA recommendations should be concentrated in the Committee. That was the most effective way to deal with development issues within the Organization. The work of the Committee could be enhanced through more frequent inputs by experts from national IP Offices, presentations on best practices and the experiences of other beneficiary organizations in the implementation of projects in the area of IP and development. The Group would like the CDIP to re-focus its work on more substantive deliberations with a view to achieving results. It welcomed all the project proposals which were based on clear demands by Member States in their original initiatives. The country-driven process was beneficial as the different needs of developing countries, LDCs and countries in transition could be appropriately reflected. The review process should continue and be strengthened in order to make the evaluations clear, transparent, evidence-based and reasoned. The quality, efficiency and sustainability of the DA projects could be improved. The Group included numerous countries in transition. With that in mind, it was ready to participate in the work of CDIP in an intensive and substantive manner that would lead to concrete results for the users of IPR systems.

625. The Delegation of Greece, speaking on behalf of the EU and its Member States, stated that their commitment to the promotion of sustainable development across the world was evident. Their annual official development assistance (ODA) was 42 billion Euros or over 40% of global ODA. Developing countries, including members of the African, Caribbean, and Asia-Pacific groups of states enjoyed a fruitful partnership with the EU and its Member States in this regard. In the context of WIPO, their support for technical assistance and capacity building was a further example of their commitment to development. The discussions during the session reminded them of the variety and scope of the Organization's development activities in line with the 45 DA recommendations. Within this broader framework, the EU and its Member States remained committed to promoting technical assistance and capacity building as a way of strengthening global acceptance of internationally agreed IP norms. They followed with great interest, the presentations of the external evaluation reports on a number of completed projects and hoped that all relevant lessons learned would be utilized in the design and realization of future projects. They were disappointed that a final agreement was not reached on the TOR for the Independent Review. However, progress was achieved during the week and agreement on the outstanding issues was possible. The EU and its Member States would continue to be constructively engaged in the search for a solution which could be acceptable to all. The WIPO Convention clearly defined the Organization's mandate. WIPO's mission as a guarantor and promoter of IP rights gave it a unique role in facilitating the creation of prosperity and contributed to worldwide economic development. The adoption of the DA recommendations in 2007 provided focus and a useful framework for WIPO's work on development-related issues. However, it did not alter the Organization's core mandate. At this juncture, Member States needed to reflect on the future role of the Committee to ensure that it continued to make a relevant contribution to WIPO's mission. They looked forward to contributing to it.

626. The Delegation of the United States of America noted that during the week, a number of delegations spoke of the need to further integrate the DA into all aspects of WIPO's work. Several even questioned WIPO's overall focus on IP protection. The Delegation noted that as stated in the WIPO Convention, the Organization was created to "promote the protection of IP throughout the world through cooperation among states". Member States subsequently agreed upon the DA recommendations so that they could work collaboratively to support development through the use, protection and enforcement of IP. However, what it had seen lately was that the DA was being used to block progress in a number of WIPO bodies. In fact, in the previous week, the CWS ended without result at a significant cost to the Organization and its Member States. Progress at the CWS was blocked because of the insistence of some delegations that this very technical committee report on its DA implementation. Furthermore, on three occasions, the GA had been unable to convene a diplomatic conference for the Design Law Treaty because some delegations were demanding an article on technical assistance as a precondition. It was unfortunate that over the last several years, the positive effects and efforts of the Organization, many of which directly benefitted developing countries and LDCs, had been impeded by mischaracterization of the DA. WIPO's role, as spelled out in the WIPO Convention, was to promote the protection of IP. This objective had not been changed by the DA. Instead, the DA was intended to ensure that development considerations formed an integral part of WIPO's work, not to obstruct such work. The Delegation had long asserted that DA implementation should not negatively impact the substantive work of WIPO committees. It may be time to collectively rethink the function of the DA if it continued to be an obstacle to WIPO's substantive work on its primary objectives.

627. The Delegation of China stated that good results were achieved. However, there was still a lot of work to be done. The Delegation hoped Member States could work together with more flexibility to bridge the various gaps and differences in order for the objectives to be achieved. It would continue to engage in a constructive manner in the discussions with a view to achieving more positive results in the next session.

628. The Delegation of Uruguay, speaking on behalf of GRULAC, regretted the fact that the Committee had been unable to reach agreement on substantive issues. The cycle of disagreement had been going on for at least a month in the Organization. Projects were not even examined during the session due to the amount of time spent on negotiations which unfortunately did not lead anywhere. As usual, the Group had tried its best to build bridges but it was not enough to achieve consensus. Some extreme positions were repeatedly presented. After listening to the statements from some groups and delegations, it was more concerned than ever about how they viewed the Organization. They seemed to forget that WIPO was a UN agency and was involved in the discussions on the post-2015 UN DA. They appeared to view WIPO as a company. There was a need to discuss development. However, some seemed to be allergic to the word "development" and that was worrying. Member States did not need to be told what WIPO was about. The Group emphasized that the Organization was also part of the UN and development was central to the adoption of the 45 DA recommendations. Member States were not given a gift and these were not crumbs. Development was an integral part of the Organization's work. That was its view of the Organization and it would not change. The Group would continue to be flexible in order to find solutions to problems faced by the Committee. It would not be affected by the intransigence. It would continue to participate in the discussions with a positive attitude. Substantive progress was required and problems must be addressed. The Group did not need to be told about the WIPO Convention. It knew what WIPO was about. There were concrete elements that must not and cannot be denied. The Group assured the Chair of its commitment to the work of the Committee.

629. The Delegation of Egypt stated that the DA had changed the course of how the Organization functioned, from an exclusive club of a technical nature to more enmeshment into the overall UN system as a UN specialized organization under the umbrella of development, and geared toward development with the pillars of development, human rights, peace and

security as the cornerstones of its work. Development was a right in its own and this was how the Organization should be looking into how it functioned in the future in achieving the overall goals of the UN system. The DA was an overall policy reorientation of the Organization. It reiterated that the DA should not be reduced, and cannot be reduced, to the mere provision of technical assistance, an activity that was undertaken by WIPO before the inception of the DA and its mainstreaming into the Organization's work. Despite the unique nature highlighted by some delegations on the funding sources of the Organization, it must and had to remain a member-driven organization, serving public interest rather than the interest of a few. Member States were only accountable to their populations and not to any other constituency. The Delegation noted that it was emphasized on several occasions that the function and mandate of WIPO was the promotion of IP protection. However, the element of cooperation was overlooked. In recent months, there had been a high degree of intransigence in WIPO processes, as mentioned by the Delegation of Uruguay. It put into question the relevance of the Organization and its future work in relation to the IP system itself because as long as the interests of all its Member States were not met through cooperation, progress would not be made and this called for a review of the functioning of WIPO. The Delegation called on Member States that were blocking processes and had a very limited view of what WIPO should be doing to review their own positions and redirect their paths towards those of the majority of the Organization's constituencies which were Member States. In concluding, the Delegation reiterated that WIPO was a UN specialized agency under an umbrella that was geared towards development. This was how the Organization should be viewed in its functioning and work.

630. The Delegation of Brazil regretted that the Committee could not address all the agenda items as two important issues needed to be discussed. At the same time, it appreciated the fact that the time spent on those was not wasted. Once again, there were open discussions on important topics pertaining to the Committee. The Delegation reiterated that the implementation of the DA was a work in progress. It would take time for the recommendations to be fully mainstreamed into WIPO's work. However, the process had to keep moving, otherwise there was a risk that the disagreements would contaminate all the work done in the Organization. The Delegation was trying to view the results of the session in an optimistic way. In this context, it welcomed the fact that a proposal to bridge positions on the procedures for realizing the International Conference on IP and Development seemed to earn significant support. It hoped that the Committee could pick up on that when discussing this matter again. It also believed the discussions on the details of the TOR for the Independent Review of the Implementation of the DA Recommendations were helpful as good progress was made during the text based negotiations, and the discussions enabled delegations to gain a better understanding of each other's positions. In this context, the Delegation emphasized that the Independent Review should be comprehensive in terms of the scope for evaluating the implementation of the DA recommendations, without being limited to or giving priority to any of the aspects of the DA. In this regard, the Delegation referred to the summary presented by the former Vice-Chair and stated that the view it just mentioned seemed to be shared by many groups in the room at the end of the session, and not just one. In concluding, the Delegation joined other delegations in expressing its disappointment over the fact that many agenda items had not been definitively concluded. It hoped that solutions would be found in the future. An absolute lack of progress in the matters of the Committee was not in the best interest of any member.

631. The Delegation of Indonesia believed the DA was not a blocking tool as mentioned by one delegation. WIPO was a specialized UN agency. Therefore, there was a legal obligation to comply with the UN Charter. In this regard, the Delegation drew attention to Article 55(a) of the Charter, "With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote higher standards of living, full employment, and conditions of economic and social progress and development. The Delegation highlighted that development was explicitly mentioned in that article. It also referred to Article 56 of the Charter, "All Members pledge themselves to take joint

and separate action in co-operation with the Organization for the achievement of the purposes set forth in Article 55". The Delegation turned to Article 3 of the WIPO Convention and highlighted the element concerning cooperation among states. The Delegation believed all WIPO Member States had a legal obligation to comply with the UN Charter as the Organization was a specialized UN agency. Development cannot only be defined as technical assistance. All the DA recommendations should be complied with and implemented. It was willing to cooperate with all WIPO Member States in implementing the objective of the Organization, the WIPO Convention and the UN Charter.

632. The Delegation of South Africa found some of the interventions to be very disturbing. It regretted the fact that agreement was not reached on a number of issues. The Delegation was prepared to work with other Member States to improve the work environment and agree on issues. However, some delegations held the view that the Organization could go back to the pre-2007 era. This was something it would continue to fight against. The Delegation understood the WIPO Convention. However, the Organization was not a company and Member States were not part of its Board of Directors. The only people they were answerable to were their populations, regardless of where WIPO's finances came from. The Delegation only answered to the public of South Africa. It completely refuted suggestions that it needed to answer to anyone else. The Delegation reiterated that Member States needed to go back to the drawing board to pinpoint where issues had gone wrong and try to resolve them. WIPO was part of the UN community, a community of member countries who were viewed by the UN Charter as being equal. Therefore, there was no way they could be threatened by the fact that some delegations wanted them to go back to the pre-2007 era. The DA would not go away. It reiterated that development was not a project. It was a continuous process. It did not have a timeframe. The Delegation stated that it would continue to be part of the solutions that could be sought in order to move the Organization forward. However, it would resist any attempts to reduce the DA into something lower than the overall objectives of the Organization. The Delegation urged all Member States to focus on resolving the issues that led to the lack of progress in WIPO and not refer to things such as answering to those who provided funding for the Organization. The Delegation found some of those remarks to be extremely disheartening and a direct attack on the overall development objectives that the Organization needed to push for as part of the UN. This was something that some delegates would raise at the highest level with their ambassadors in order for a solution to be found at the highest level on how the Organization would move forward. The Delegation reiterated that WIPO could never go back to the pre-2007 era. The DA was here to stay and the Organization had to implement its recommendations. It was a continuous process. The Delegation urged all Member States to work together in realizing the objectives of the DA and its recommendations.

633. The Delegation of Chile reiterated its commitment to the DA. It was important to examine concrete proposals that could enable countries to implement agreements in line with their level of development. IP systems should be developed and implemented in a balanced manner. The DA was valuable for the work of the Organization. However, the processes were paralyzed. The DA was adopted in order to achieve progress. Therefore, the Delegation hoped agreement would be reached on more issues in the next session through a pragmatic approach that would allow the Committee to achieve the results that were expected and hoped for.

634. The Delegation of Belarus, speaking on behalf of CACEEC, assured the Committee of its flexibility on all unresolved issues in order to achieve the goals of the "world IP family". It encouraged all groups and Member States to follow this approach.

635. The Delegation of Cameroon stated that international organizations adapted themselves to a changing context. All countries were conscious about the role IP could play as an important vector of development. Platforms and structures were being put in place. If WIPO did not adapt to this environment, it may cease to be relevant. It was not all about IP protection because some states had been using *sui generis* forms of protection and they were forging

ahead. Therefore, the challenge was for WIPO to adapt to these realities. This was part of the rationale for the DA. The obstacles were expected and it was useful to identify them. The Delegation believed substantial progress was made, notwithstanding those shortcomings. It did not have the impression that there were problems between some states. Delegations were merely looking at development from the different angles of the world. Development should have a global impact. The Committee provided a useful platform and WIPO could become the leading driver of global development because of IP.

636. The Delegation of the Republic of Korea believed that the objective of delegations was to create a better future for all, including the next generation. With flexibility in the negotiations and discussions, there could be a better future for the next generation and global society. Flexibility required seeing Member States as neighbors and thinking more about their situation. By doing so, better results could be achieved. The Delegation hoped there would be fruitful discussions and better outcomes in the next session.

637. The Chair noted the statements that were made. The concerns were still there and there was an invitation to collectively reflect on where the Committee stood and where it should go with the DA. The questions and issues raised were very serious and they concerned the objectives of the DA. He was convinced that the results of the collective reflection would allow Member States to reaffirm their political will to continue and deepen discussions in order to achieve the objectives. Multilateral negotiations were challenging. However, they were important and needed to be continued. Since chairing the Committee, he had never been so concerned and hopeful at the same time because the best decisions were made when a situation was close to a crisis.

638. In their closing statements, the Chair, Member States and the Secretariat thanked everyone for their participation and work during the session.

[Annex follows]

**LISTE DES PARTICIPANTS/
LIST OF PARTICIPANTS**

I. ÉTATS/STATES

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

AFRIQUE DU SUD/SOUTH AFRICA

Pragashnie ADURTHY (Mrs.), First Secretary, Humanitarian Affairs, Permanent Mission, Geneva

Mandixole MATROOS, First Secretary, Political Affairs, Permanent Mission, Geneva

ALGÉRIE/ALGERIA

Abdelkader ARAOUA, attaché (Affaires étrangères), Direction générale des relations économiques et de la coopération internationale, Ministère des affaires étrangères, Alger

ALLEMAGNE/GERMANY

Harald SCHOEN, Desk Officer, Combatting of Product Piracy, Ministry of Justice and Consumer Protection, Berlin

Pamela WILLE (Ms.), Counsellor, Economic Department, Permanent Mission, Geneva

ANDORRE/ANDORRA

Montserrat GESSÉ MAS (Mme), premier secrétaire, Mission permanente, Genève

ANGOLA

Alberto GUIMARAES, Second Secretary, Permanent Mission, Geneva

ARABIE SAOUDITE/SAUDI ARABIA

Sami Ali ALSODAIS, Deputy Director-General for Technical Affairs, General Directorate of Industrial Property, King Abdulaziz City for Science and Technology (KACST), Riyadh

ARGENTINE/ARGENTINA

María Inés RODRÍGUEZ (Sra.), Consejero, Misión Permanente, Ginebra

AUSTRALIE/AUSTRALIA

Robyn FOSTER (Ms.), General Manager, Policy and Governance Group, IP Australia, Canberra

James BAXTER, Deputy Permanent Representative, Permanent Mission to the World Trade Organization (WTO), Geneva

AUTRICHE/AUSTRIA

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

BAHAMAS

Bernadette May BUTLER (Ms.), Minister Counsellor, Permanent Mission, Geneva

BANGLADESH

Mohamed Nazrul ISLAM, Minister Counsellor, Permanent Mission, Geneva

BÉLARUS/BELARUS

Ivan SIMANOUSKI, Head, International Cooperation Division, National Center of Intellectual Property (NCIP), Minsk

BELGIQUE/BELGIUM

Mathias KENDE, deuxième secrétaire, Mission permanente, Genève

BOSNIE-HERZÉGOVINE/BOSNIA AND HERZEGOVINA

Lidija VIGNJEVIĆ (Mrs.), Director, Institute for Intellectual Property of Bosnia and Herzegovina, Mostar

BRÉSIL/BRAZIL

Milene DANTAS (Ms.), Deputy Coordinator, Coordination of IP Global Issues, National Institute of Industrial Property (INPI), Rio de Janeiro

Flavia ELIAS TRIGUEIRO (Mrs.), Head, Division of Pharmaceutical Patents I, Directory of Patents, National Institute of Industrial Property (INPI), Rio de Janeiro

BULGARIE/BULGARIA

Boryana ARGIROVA (Mrs.), Third Secretary, United Nations and Cooperation for Development Directorate, Ministry of Foreign Affairs, Sofia

BURKINA FASO

Moussa TRAORE, directeur général, Centre national de la propriété industrielle, Ministère de l'industrie, du commerce et de l'artisanat, Ouagadougou

Habraham SOMDA, chef, Département du transfert de technologie, Centre national de la propriété industrielle, Ministère de l'industrie, du commerce et de l'artisanat, Ouagadougou

CAMEROUN/CAMEROON

Likiby BOUBAKAR, secrétaire permanent, Comité national de développement des technologies (CNDT), Ministère de la recherche scientifique et de l'innovation, Yaoundé

Agbor-Ambang ANTEM AKO, sous-directeur, Sous-direction de la propriété industrielle, Ministère des mines, de l'industrie et du développement technologique, Yaoundé

Pascal NGUIHE KANTE, chef, Division de valorisation et de la vulgarisation des résultats de la recherche, Ministère de la recherche scientifique et de l'innovation, Yaoundé

Jean Baptiste KOUNA, chef, Secrétariat technique, Commission des normes et de la propriété intellectuelle, Comité national de développement des technologies (CNDT), Ministère de la recherche scientifique et de l'innovation, Yaoundé

CANADA

Saïda AOUIDIDI (Ms.), Analyst, Policy, Planning, International Affairs and Research Office, Canadian Intellectual Property Office (CIPO), Gatineau

Sophie GALARNEAU (Ms.), Second Secretary, Permanent Mission to the World Trade Organization (WTO), Geneva

CHILI/CHILE

Andrés GUGGIANA, Asesor Legal, Departamento de Propiedad Intelectual, Dirección de Relaciones Económicas Internacionales, Ministerio de Relaciones Exteriores, Santiago

Marcela PAIVA (Sra.), Consejera, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

CHINE/CHINA

WU Kai, Director General, International Cooperation Department, State Intellectual Property Office (SIPO), Beijing

QIU Junchang (Ms.), Project Administrator, International Cooperation Department, State Intellectual Property Office (SIPO), Beijing

COLOMBIE/COLOMBIA

Juan José QUINTANA ARANGUREN, Embajador, Representante Permanente, Misión Permanente, Ginebra

Gabriel DUQUE, Embajador, Representante Permanente Adjunto, Misión Permanente ante la Organización Mundial del Comercio (OMC), Geneva

Juan Camilo SARETZKI, Consejero, Misión Permanente, Ginebra

María Catalina GAVIRIA BRAVO (Sra.), Consejera Comercial, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

COSTA RICA

Luis Amado JIMÉNEZ SANCHO, Subdirector General, Registro Nacional de Costa Rica, San José

CÔTE D'IVOIRE

Kablan Jean Baptiste Gnonko DIGBEU, chef de service, Office ivoirien de la propriété intellectuelle (OIP), Abidjan

Kumou MANKONGA, premier secrétaire, Mission permanente, Genève

DJIBOUTI

Mohamed Siad DOUALEH, ambassadeur, représentant permanent, Mission permanente, Genève

ÉGYPTE/EGYPT

Walid Mahmoud ABDELNASSER, Ambassador, Permanent Representative, Permanent Mission, Geneva

Adel OWEDA, Acting Director, Egyptian Patent Office, Ministry of Scientific Research, Academy of Scientific Research and Technology (ASRT), Cairo

Mokhtar WARIDA, Counsellor, Permanent Mission, Geneva

Heba MOSTAFA (Ms.), First Secretary, Innovation and Technology Unit, Ministry of Foreign Affairs, Cairo

EL SALVADOR

Martha Evelyn MENJIVAR CÓRTEZ (Sra.), Consejera, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

ÉQUATEUR/ECUADOR

Juan Carlos CASTRILLÓN JARAMILLO, Ministro, Misión Permanente, Ginebra

ESPAGNE/SPAIN

Lucía GUTIÉRREZ GARCÍA (Sra.), Jefa, Área de la Subdirección General de Propiedad Intelectual, Ministerio de Educación, Cultura y Deporte, Madrid

Eduardo SABROSO LORENTE, Consejero Técnico, Departamento de Coordinación Jurídica y Relaciones Internacionales, Ministerio de Industria, Energía y Turismo Oficina Española de Patentes y Marcas, Madrid

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA

Peter MULREAN, Chargé d'Affaires, Permanent Representative, Permanent Mission, Geneva

Karin L. FERRITER (Ms.), Intellectual Property Attaché, Permanent Mission to the World Trade Organization (WTO), Geneva

Melissa KEHOE (Ms.), Counsellor (Economic and Science Affairs), Permanent Mission, Geneva

Carisa LACROSSE (Ms.), Senior Foreign Affairs Officer, Office of Intellectual Property Enforcement, Bureau of Economic, Energy and Business Affairs, U.S. State Department, Washington D.C.

Marina LAMM (Ms.), Attorney Advisor, Office of Policy and External Affairs, United States Patent and Trademark Office (USPTO), Department of Commerce, Alexandria

Jennifer NESS (Ms.), Attorney Advisor, Office of Policy and External Affairs, United States Patent and Trademark Office (USPTO), Department of Commerce, Alexandria

Kristine SCHLEGELMILCH (Ms.), IP Attaché, Permanent Mission, Geneva

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION

Maria MELNICHUK (Ms.), Specialist, International Cooperation Department, Federal Service for Intellectual Property (Rospatent), Moscow

Arsen BOGATYREV, Attaché, Permanent Mission, Geneva

FRANCE

Nestor MARTINEZ-AGUADO, rédacteur, Propriété intellectuelle et lutte anti-contrefaçon, Direction générale de la mondialisation, du développement et des partenariats, Ministère des affaires étrangères, Paris

GÉORGIE/GEORGIA

Ekaterine EGUTIA (Mrs.), Deputy Chairman, National Intellectual Property Center (SAKPATENTI), Tbilisi

GHANA

Alexander BEN-ACQUAAH, Minister Counsellor, Permanent Mission, Geneva

GRÈCE/GREECE

Alexandros ALEXANDRIS, Ambassador, Permanent Representative, Permanent Mission, Geneva

Paraskevi NAKIOU (Ms.), Attaché, Permanent Mission, Geneva

Aikaterini EKATO (Ms.), Intern, Permanent Mission, Geneva

GUATEMALA

Flor de María GARCÍA DÍAZ (Sra.), Consejera, Misión Permanente ante la Organización Mundial de Comercio (OMC), la Organización Mundial de la Propiedad Intelectual (OMPI) y la Conferencia de las Naciones Unidas sobre Comercio y Desarrollo (UNCTAD), Ginebra

GUINÉE/GUINEA

Aminata KOUROUMA-MIKALA (Mrs.), Counsellor, Permanent Mission, Geneva

HONGRIE/HUNGARY

Virág HALGAND DANI (Ms.), Deputy Permanent Representative, Permanent Mission to the World Trade Organization (WTO), Geneva

INDE/INDIA

Sanjay Kumar LAL, Under Secretary, Department of Industrial Policy and Innovation, New Delhi

Amitava CHAKRABORTI, Deputy Controller, Patents and Design, Patent Office, Calcutta

Alpana DUBEY (Mrs.), First Secretary, Permanent Mission, Geneva

INDONÉSIE/INDONESIA

Triyono WIBOWO, Ambassador, Permanent Representative, Permanent Mission, Geneva

Edi YUSUP, Ambassador, Permanent Representative, Permanent Mission, Geneva

Ahmad Mujahid RAMLI, Director General, Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights, Jakarta

Razilu RAZILU, Executive Secretary, Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights, Jakarta

Karjono KARJONO, Director, Information Technology, Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights, Jakarta

Nina Saraswati DJAJAPRAWIRA (Ms.), Minister Counsellor, Permanent Mission, Geneva

Sabirin MOCHTAR, Deputy Director, Prevention and Enforcement, Ministry of Communication and Informatics, Jakarta

Agus WIBOWO, Deputy Director, Law and Cooperation, Directorate General of Industrial Manufacturing Base, Ministry of Industry, Jakarta

Andriensjah ANDRIEANSJAH, Head, Foreign Affairs Division, Directorate of Cooperation and Promotion, Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights, Jakarta

Indra APRIADI, Head, Section for Prevention, Ministry of Communication and Informatics, Jakarta

Andos Manggala LUMBANTOBING, Head, Section for Intellectual Property Rights Affairs, Directorate for Trade, Industry, Investment and Intellectual Property Rights, Foreign Affairs, Jakarta

Suranho SURAHNO, Head, Finance Division, Secretariat, Directorate General of Intellectual Property Rights, Ministry of Law and Human Rights, Jakarta

Erik MANGAJAYA, Third Secretary, Permanent Mission, Geneva

Setio HARTONO, Secretary, Directorate General of Industrial Manufacturing Base, Ministry of Industry, Jakarta

Muhammad TAUFIQ, Assistant to the Deputy Director, Standardization and Technology, Directorate General of Industrial Manufacturing Base, Ministry of Industry, Jakarta

IRAN (RÉPUBLIQUE ISLAMIQUE D')/IRAN (ISLAMIC REPUBLIC OF)

Nabiollah AZAMI, First Secretary, Permanent Mission, Geneva

IRAQ

Hiyam NEAMAT MAHMOOD (Mrs.), Director General, Industrial Property Department, Central Organization for Standardization and Quality Control (COSQC), Ministry of Planning, Baghdad

Wisam SAEED AASI, Head, Industrial Property Department, Industrial Property Department, Central Organization for Standardization and Quality Control (COSQC), Ministry of Planning, Baghdad

IRLANDE/IRELAND

Cathal LYNCH, Attaché, Permanent Mission, Geneva

ITALIE/ITALY

Tiberio SCHMIDLIN, First Secretary, Permanent Mission, Geneva

JAPON/JAPAN

Hirokazu NAKANO, Director, Multilateral Policy Office, International Policy Division, Policy Planning and Coordination Department, Japan Patent Office (JPO), Tokyo

Kazuhide FUJITA, Deputy Director, Multilateral Policy Office, International Policy Division, Policy Planning and Coordination Department, Japan Patent Office (JPO), Tokyo

Yoshinari OYAMA, Deputy Director, Legislative Affairs Office, Japan Patent Office (JPO), Tokyo

Kunihiko FUSHIMI, First Secretary, Permanent Mission, Geneva

JORDANIE/JORDAN

Zain AL AWAMLEH (Mrs.), Acting Director, Industrial Property Protection, Ministry of Industry, Trade and Supply, Amman

KAZAKHSTAN

Nurlan AKAYEV, Deputy Chairman, Branch of the State Enterprise, National Institute of Intellectual Property, Ministry of Justice, Almaty

KENYA

Edward Kiplangat SIGEI, Chief Legal Counsel, Kenya Copyright Board, Office of the Attorney General and Department of Justice, Nairobi

Timothy KALUMA, Minister Counsellor, Permanent Mission, Geneva

LETTONIE/LATVIA

Liene GRIKE (Mrs.), Expert, Permanent Mission, Geneva

LUXEMBOURG

Christine DALEIDEN DISTEFANO (Mrs.), Minister Counsellor, Permanent Mission, Geneva

MADAGASCAR

Haja Nirina RASOANAIVO, conseiller, Mission permanente, Genève

MALAISIE/MALAYSIA

Noor Mohamad Hazman HAMID, Assistant Director, Intellectual Property Corporation of Malaysia (MyIPO), Kuala Lumpur

Nurhana IKMAL (Mrs.), First Secretary, Permanent Mission, Geneva

MALTE/MALTA

Laura DESIRA (Ms.), Economics Officer, Commerce Department, Valletta

MAROC/MOROCCO

Salah Edine TAOUIS, conseiller, Mission permanente, Genève

MEXIQUE/MEXICO

Sara MANZANO MERINO (Sra.), Asistente, Misión Permanente, Ginebra

MONACO

Gilles REALINI, deuxième secrétaire, Mission permanente, Genève

MOZAMBIQUE

Miguel Raúl TUNGADZA, First Secretary, Permanent Mission, Geneva

MYANMAR

Win Zeyar TUN, Counsellor, Permanent Mission, Geneva

OMAN

Ahmed AL-SAIDI, Director, Intellectual Property Department, Directorate General of Organizations and Commercial Relations, Ministry of Commerce and Industry, Muscat

Fatima AL-GHAZALI (Ms.), Minister (Commercial Affairs), Permanent Mission, Geneva

PAKISTAN

Aamir HASAN, Director General, Intellectual Property Organization of Pakistan (IPO-Pakistan), Islamabad

Irfan BOKHARI, Second Secretary, Permanent Mission, Geneva

PANAMA

Zoraida RODRÍGUEZ MONTENEGRO (Sra.), Representante Permanente Adjunta, Misión Permanente de Panamá ante la Organización Mundial del Comercio (OMC), Ginebra

PARAGUAY

Roberto RECALDE, Segundo Secretario, Misión Permanente, Ginebra

PAYS-BAS/NETHERLANDS

Margreet GROENENBOOM (Ms.), Policy Advisor, Innovation Department, Intellectual Property Section, Ministry of Economic Affairs, The Hague

PÉROU/PERU

Hebert TASSANO VELAOCHAGA, Presidente, Consejo Directivo, Instituto Nacional de Defensa de la Competencia y de la Protección de la Propiedad Intelectual (INDECOPI), Lima

POLOGNE/POLAND

Elzbieta BALCEROWSKA (Ms.), Chief Expert, Promotion and Innovation Support Department, Patent Office, Warsaw

Wojciech PIATKOWSKI, First Counsellor, Permanent Mission, Geneva

PORTUGAL

Filipe RAMALHEIRA, First Secretary, Permanent Mission, Geneva

RÉPUBLIQUE DE CORÉE/REPUBLIC OF KOREA

KANG Huiman, Deputy Director, Korean Intellectual Property Office (KIPO), Daejeon

KIM Shi-Hyeong, Intellectual Property Attaché, Permanent Mission, Geneva

RÉPUBLIQUE DOMINICAINE/DOMINICAN REPUBLIC

Lesly FRANCO CUZCO (Sra.), Asesora Técnica, Oficina Nacional de la Propiedad Industrial (ONAPI), Ministerio de Industria y Comercio, Santo Domingo

Ysset ROMAN (Sra.), Ministro Consejero, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

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

KIM Myong Nam, Director, Department of International Registration, Trademark, Industrial Design and Geographical Indication Office (TIDGIO), Pyongyang

KIM Myong Hyok, Second Secretary, Permanent Mission, Geneva

JANG Yong Ho, Adviser, Senior Examiner, Department of International Registration, Trademark, Industrial Design and Geographical Indication Office (TIDGIO), Pyongyang

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

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

Jan WALTER, Second Secretary, Permanent Mission, Geneva

RÉPUBLIQUE-UNIE DE TANZANIE/UNITED REPUBLIC OF TANZANIA

Hakiel Ombeni MGONJA, Assistant Registrar, Intellectual Property Division, Business Registrations and Licensing Agency (BRELA), Dar es Salaam

Toba HOROMBO (Mrs.), Attaché, Permanent Mission, Geneva

ROUMANIE/ROMANIA

Daniela BUTCA (Mrs.), Expert, International Cooperation Bureau, Bucharest

Ioana CHIREA (Ms.), Expert, International Cooperation Bureau, Bucharest

ROYAUME-UNI/UNITED KINGDOM

Francis ROODT, Senior Policy Adviser, UK Intellectual Property Office (UK IPO), Newport

RWANDA

Myriam GATSIMBANYI (Ms.), Professional in Charge of Intellectual Property Policy, Ministry of Trade and Industry, Kigali

SAINT-SIÈGE/HOLY SEE

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

Carlo Maria MARENGHI, attaché, Mission permanente d'observation, Genève

SÉNÉGAL/SENEGAL

Birane NIANG, secrétaire général, Ministère de la culture et du patrimoine, Dakar

Ndèye Fatou LO (Mme), premier conseiller, Mission permanente, Genève

SRI LANKA

Asitha Kumar SENEVIRATNE, Additional Secretary (Policy Development), Ministry of Industry and Commerce, Colombo

Dilini GUNASEKERA (Ms.), Third Secretary, Permanent Mission, Geneva

SUISSE/SWITZERLAND

Alexandra GRAZIOLI (Mme), conseillère propriété intellectuelle, Mission permanente, Genève

Ursula SIEGFRIED (Mme), conseillère juridique, Division droit et affaires internationales, Institut fédéral de la propriété intellectuelle, Berne

THAÏLANDE/THAILAND

Navarat TANKAMALAS, Trade Officer, Department of Intellectual Property, Bangkok

Chuthaporn NGOKKUEN (Ms.), Second Secretary, Department of International Economic Affairs, Ministry of Foreign Affairs, Bangkok

TOGO

Essohanam PETCHEZI, First Secretary, Permanent Mission, Geneva

TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO

Justin SOBION, First Secretary, Permanent Mission, Geneva

TUNISIE/TUNISIA

Abderrazak KILANI, ambassadeur, représentant permanent, Mission permanente, Genève

Youssef BENBRAHIM, directeur général, Organisme tunisien des droits d'auteur et droits voisins, Tunis

Jalel SNOUSSI, directeur, Coopération multilatérale, Ministère des affaires étrangères, Tunis

Raja YOUSFI MNASRI (Mme), conseiller, Mission permanente, Genève

TURQUIE/TURKEY

Ismail GÜMÜS, Patent Examiner, International Affairs Department, Turkish Patent Institute (TPI), Ankara

URUGUAY

María del Rosario MOREIRA MÉNDEZ (Sra.), Encargada Relaciones Internacionales, Dirección Nacional de la Propiedad Industrial, Ministerio de Industria, Energía y Minería, Montevideo

Juan BARBOZA, Segundo Secretario, Misión Permanente ante la Organización Mundial del Comercio (OMC), Ginebra

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

Oswaldo REQUES OLIVEROS, Primer Secretario, Misión Permanente, Ginebra

VIET NAM

NGUYEN Duc Dung, Director, International Cooperation Division, National Office of Intellectual Property (NOIP), Hanoi

MAI Van Son, Counsellor, Permanent Mission, Geneva

YÉMEN/YEMEN

Hussein AL-ASHWAL, Third Secretary, Permanent Mission, Geneva

ZIMBABWE

Garikai KASHITIKU, Principal Administrative Officer, Ministry of Foreign Affairs, Harare

Blessing SHAVA (Ms.), Law Officer, Policy and Legal Research, Ministry of Justice, Legal and Parliamentary Affairs, Harare

Winnet MUPASO (Mrs.), Intellectual Property Senior Examiner, Intellectual Property Office, Ministry of Justice, Legal and Parliamentary Affairs, Harare

Rhoda Tafadzwa NGARANDE (Ms.), Counsellor, Permanent Mission, Geneva

II. OBSERVATEURS/OBSERVERS

SOUDAN DU SUD/SOUTH SUDAN

Gloria Gune LOMODONG (Ms.), First Secretary, Permanent Mission, Geneva

III. ORGANISATIONS INTERNATIONALES INTERGOUVERNEMENTALES/
INTERNATIONAL INTERGOVERNMENTAL ORGANIZATIONS

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

Christopher KIIGE, Director, Industrial Property, Harare

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

Khabibullo FAYAZOV, Vice-President, Moscow

L'UNION AFRICAINE (UA)/AFRICAN UNION (AU)

Georges Rémi NAMEKONG, Senior Economist, Geneva

UNION EUROPÉENNE/EUROPEAN UNION

Oliver HALL-ALLEN, First Counsellor, Permanent Delegation to the United Nations, Geneva

ORGANISATION INTERNATIONALE DE LA FRANCOPHONIE (OIF)

Aïda BOUGUENAYA (Mlle), assistante de coopération aux affaires économiques, Genève

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

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

WU Xiaoping (Ms.), Counsellor, Intellectual Property Division, Geneva

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

Slimane CHIKH, ambassadeur, observateur permanent, Délégation permanente, Genève

Halim GRABUS, premier secrétaire, Délégation permanente, Genève

SECRÉTARIAT D'INTÉGRATION ÉCONOMIQUE CENTRAMERICAINE (SIECA)/CENTRAL AMERICAN ECONOMIC INTEGRATION SECRETARIAT (SIECA)

Javier GUTIERREZ RAMIREZ, Asesor, Temas Comerciales, Despacho de la Secretaria General, Guatemala

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

Association internationale pour le développement de la propriété intellectuelle (ADALPI)/International Society for the Development of Intellectual Property (ADALPI)

Brigitte LINDNER (Ms.), Chair, Geneva

Barbara BAKER (Ms.), General Secretary, Geneva

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

Pedro ROFFE, Senior Associate, Geneva

Jeremy DE BEER, Expert Advisor, Geneva

Dick KAWOOYA, Expert Advisor, Geneva

Ahmed ABDEL LATIF, Senior Program Manager, Geneva

Alejandro MATSUNO REMIGIO, Program Assistant, Geneva

Civil Society Coalition (CSC)

Céline GRILLON (Ms.), International Advocacy Coordinator, Paris

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

Jennifer BRANT (Mrs.), Consultant, Geneva

Conseil national pour la promotion de la musique traditionnelle du Congo (CNPMTC)
Jacques MATUETUE, président, Kinshasa
Odette KASONGO KANZA (Mme), secrétaire générale, Kinshasa
Colette MAMBU KEINA (Mme), expert, Gestion collective des droits d'auteurs, Kinshasa

Fédération internationale des associations de producteurs de films (FIAPF)/International Federation of Film Producers Associations (FIAPF)
Bertrand MOULLIER, Senior Expert, Paris
Sandro FIORIN, Adviser, Paris
Simone LAHORGUE (Mrs.), Adviser, Paris
Silvia RABELLO (Mrs.), Adviser, Paris

Knowledge Ecology International, Inc. (KEI)
James LOVE, Director, Washington, D.C.

Organisation pour un réseau international des indications géographiques (ORIGIN)/Organization for an International Geographical Indications Network (ORIGIN)
Victor AMBLARD, Intern, Geneva

V. BUREAU/OFFICERS

Président/Chair: Mohamed Siad DOUALEH (Djibouti)

Secrétaire/Secretary: Irfan BALOCH (OMPI/WIPO)

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

Francis GURRY, directeur général/Director General

Geoffrey ONYEAMA, vice-directeur général/Deputy Director General

Irfan BALOCH, secrétaire du Comité du développement et de la propriété intellectuelle (CDIP) et directeur, Division de la coordination du Plan d'action pour le développement/Secretary to the Committee on Development and Intellectual Property (CDIP) and Director, Development Agenda Coordination Division

Georges GHANDOUR, administrateur principal de programme, Division de la coordination du Plan d'action pour le développement/Senior Program Officer, Development Agenda Coordination Division

Ammar IBRAHIM, administrateur adjoint chargé de l'appui au programme, Division de la coordination du Plan d'action pour le développement/Associate Program Support Officer, Development Agenda Coordination Division

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