

Standing Committee on Copyright and Related Rights

Twenty-eighth Session
Geneva, June 30 to July 4, 2014

DRAFT REPORT

prepared by the Secretariat

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the “Standing Committee”, or the “SCCR”) held its twenty-eighth session in Geneva from June 30 to July 4, 2014.
2. The following Member States of the World Intellectual Property Organization (WIPO) and/or members of the Bern Union for the Protection of Literary and Artistic Works were represented in the meeting: Afghanistan, Angola, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bangladesh, Barbados, Belgium, Benin, Brazil, Cameroon, Canada, Chile, China, Colombia, Comoros, Congo, Czech Republic, Denmark, Ecuador, Egypt, El Salvador, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Japan, Jordan, Kenya, Latvia, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Mexico, Monaco, Morocco, Nigeria, Norway, Oman, Pakistan, Panama, Paraguay, Peru, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Saint Kitts and Nevis, Senegal, Serbia, Slovakia, Slovenia, South Africa, Sri Lanka, Sudan, Sweden, Switzerland, Thailand, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Ukraine, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Yemen and Zimbabwe (84)
3. The European Union (EU) participated in the meeting in a member capacity.
4. The following IGOs took part in the meeting in an observer capacity: African Union (AU), Arab States Broadcasting Union (ASBU), International Labour Organization (ILO), Organization of Islamic Cooperation (OIC), South Centre (SC) and World Trade Organization (WTO) (6).
5. The following non-governmental organizations (NGOs) took part in the meeting in an observer capacity: Agence pour la protection des programmes (APP), *Alianza de Radiodifusores Iberoamericanos para la Propiedad Intelectual* (ARIP), Asia-Pacific Broadcasting Union (ABU), *Asociación Argentina de Intérpretes* (AADI), Association of Commercial Television in Europe (ACT), Association of European Performers' Organizations (AEPO-ARTIS), International Council of Music Authors (CIAM), British Copyright Council (BCC), Central and Eastern European Copyright Alliance (CEECA), Chamber of Commerce and Industry of the Russian Federation (CCIRF), Chartered Institute of Library and Information Professionals (CILIP), Civil Society Coalition (CSC), Computer & Communications Industry Association (CCIA), Co-ordinating Council of Audiovisual Archives Associations (CCAAA), Copyright Research and Information Center (CRIC), Electronic Information for Libraries (eIFL.net), European Broadcasting Union (EBU), European Bureau of Library, Information and Documentation Associations (EBLIDA), European Digital Rights (EDRI), European Visual Artists (EVA), *Fédération européenne des sociétés de gestion collective de producteurs pour la copie privée audiovisuelle* (EUROCOPYA), Ibero-Latin-American Federation of Performers (FILAIE), Independent Film & Television Alliance (IFTA), International Association for the Protection of Intellectual Property (AIPPI), International Association of Broadcasting (IAB), International Authors Forum (IAF), International Council of Museums (ICOM), International Center for Trade and Sustainable Development (ICTSD), International Confederation of Music Publishers (ICMP), International Confederation of Societies of Authors and Composers (CISAC), International Council of Music, International Council on Archives (ICA), International Federation of Actors (FIA), International Federation of Film Producers Associations (FIAPF), International Federation of Journalists (IFJ), International Federation of Library Associations and Institutions (IFLA), International Federation of Musicians (FIM), International Federation of Reproduction Rights Organizations (IFRRO), International Group of Scientific, Technical and Medical Publishers (STM), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), International Society for the Development of Intellectual Property (ADALPI), International Video Federation (IVF), Karisma Foundation, Knowledge Ecology International, Inc. (KEI), Max-Planck Institute for Intellectual Property, Competition and Tax Law (MPI), Motion Picture Association (MPA), North American Broadcasters Association (NABA), Pan-African Composers and Songwriters Alliance

(PACSA), Scottish Council on Archives (SCA), Society of American Archivists (SAA), Software & Information Industry Association (SIIA), Sports Rights Owners Coalition (SROC), The Japan Commercial Broadcasters Association (JBA), TransAtlantic Consumer Dialogue (TACD), Union Network International - Media and Entertainment (UNI-MEI), World Association of Newspapers (WAN) World Blind Union (WBU) and Writers & Directors Worldwide (W&DW) (59).

ITEM 1: OPENING OF THE SESSION

6. The Director General opened the session and welcomed all delegations to the 28th session of the SCCR. He emphasized the social and economic importance of broadcasting in light of events such as the World Cup and pointed out that broadcasting was the last component of the international legal framework for copyright that had not been updated for the digital environment. He recognized the challenge for Member States to agree on the best way to address the needs and issues faced by broadcasting organizations in the digital age and reassured the delegations that progress was achieved in that area at the previous session notwithstanding the lack of formal conclusions. He noted that a successful outcome could be reached on the basis of an international instrument with a reasonably narrow scope that provided for technologically neutral elements that would allow broadcasters to act in a fast moving environment, making them capable of responding to cross-border digital piracy, while still leaving the possibility to individual contracting parties to agree a higher level of protection. The Director General hoped for a positive result in the area of broadcasting organizations in light of the Committee's objective to report to the WIPO Assembly in September 2014 and to make recommendations as to the work for 2015. Further, he emphasized the need to reach consensus on the convening of a diplomatic conference. The Committee had adopted document SCCR/28/REF/SCCR/26/3 with respect to limitations and exceptions for libraries and archives and considered adopting document SCCR/28/REF/SCCR/26/4 PROV in relation to limitations and exceptions for education and research institutions and persons with disabilities other than visual impairment or print disability. The Director General reiterated the importance of those areas and the objective of the Committee to make recommendations to the WIPO Assembly on the topic of limitations and exceptions for libraries and archives according to the decision of the General Assembly.

7. The Chair explained his view regarding the Committee's work schedule for that session. He clarified that the view resulted from informal consultations with regional groups organized at his request by the Secretariat and chaired by the Committee's Vice Chair. The regional coordinators were joined by representatives of three members of each group on June 23, 2014. The Chair himself held a meeting with the regional coordinators on June 27, 2014. The purpose of the consultations was *inter alia* to address the proposal made by the Chair in document SCCR/27/REF/ CONCLUSIONS at the 27th session of the SCCR for the scheduling of work of the 28th session and the basis of the discussions on limitations and exceptions for libraries and archives and for educational and research institutions and for persons with other disabilities. It was agreed by the regional coordinators that the Committee would continue to work on all the items contained in document SCCR/28/1 PROV. REV, the SCCR agenda for the 28th session, and that discussions would be based on all working documents informing the debates at the 27th session, subject to further proposals advanced by the members. The Chair acknowledged the existing mandate of the Committee approved by the General Assembly in 2012 on the issue of limitations and exceptions for libraries and archives and for educational and research institutions and persons with other disabilities. Regional coordinators and group representatives stressed that a continuation of work did not prejudice the nature of the instrument or instruments to be discussed, whether treaty and/or other forms. They agreed with the Chair that while SCCR/28 would start and finish with the standard procedural agenda items, the first half of the session would be devoted to the protection of broadcasting organizations and the second half would focus on limitations and exceptions.

ITEM 2: ADOPTION OF THE AGENDA OF THE TWENTY-EIGHTH SESSION

8. The Chair referred to document SCCR/28/1 PROV. REV. and asked the Committee to approve the draft agenda for that session.

9. The Committee approved document SCCR/28/1 PROV. REV.

ITEM 3: ACCREDITATION OF NEW NON-GOVERNMENTAL ORGANIZATIONS

10. The Chair invited the Committee to approve the accreditation of a new Non-Governmental Organization (NGO) listed in the Annex to document SCCR/28/2.

11. The Committee approved the accreditation of the Brazilian Library Association.

ITEM 4: ADOPTION OF THE REPORT OF THE TWENTY-SEVENTH SESSION OF THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

12. The Chair invited the Committee to approve the draft report contained in document SCCR/27/9.

13. The Delegation of Iran (Islamic Republic of) expressed concern about the adoption of the report because some delegations had only viewed it earlier that day for the first time and the Committee had not reached conclusions at the previous session.

14. The Secretariat reminded the Committee that in the 27th session of the SCCR, the Chair had adopted conclusions modified to reflect items on which there was not agreement as his conclusions, and that those Chair's Conclusions were uploaded on the web site and represented the record of the completion of the work from that meeting. The Secretariat explained that there had been other instances in the past in which the Committee adopted the draft report for a session when it accurately reflected the fact that the conclusions were the Chair's conclusions. The Secretariat acknowledged that the draft report for SCCR/27 was not available as early as had been hoped, but pointed out that it was made available on-line prior to the meeting and that paper copies were available for the delegates.

15. The Delegation of Kenya aligned itself with the concern expressed by the Delegation of the Islamic Republic of Iran and considered that adopting the report would not be advisable when most Member States had not reviewed it.

16. The Chair invited the delegations to review the draft report in the course of that session in order to approve it by the end of the session.

ITEM 1: OPENING OF THE SESSION (cont.)

17. The Delegation of Uruguay, speaking on behalf of the Latin American and Caribbean Group (GRULAC), expressed the view that a structured working plan was necessary in order to make progress on the texts of each of the three areas identified by the Chair in his opening statement. The Delegation stated that the development of limitations and exceptions for libraries and archives and educational and research institutions, topics on which GRULAC had contributed a significant amount of work, was of the utmost importance for the generation of knowledge and would be the driving force for the economic and social development of countries. GRULAC expressed the view that documents SCCR/26/3 and SCCR/26/4 PROV represented a sound basis to continue the discussions in accordance with the mandate of the General Assembly, taking into account the interests of all the parties concerned. Furthermore, GRULAC supported the proposal submitted during the previous session regarding the holding of regional workshops to discuss the challenges faced by libraries and archives at the

international level and their relationship with copyright limitations and exceptions. The Group reiterated its readiness to discuss a treaty on the protection of broadcasting organizations according to the General Assembly mandate of 2007. The Delegation of Uruguay reminded the Committee that its role as coordinator of GRULAC would terminate following that session.

18. The Delegation of Bangladesh, speaking on behalf of the Asian and Pacific Group, expressed the view that the three main topics of the session were equally important even if they might have enjoyed different levels of discussion in the Committee. With respect to the protection of broadcasting organizations, the group expressed its willingness to finalize the discussions and reaffirmed its commitment to the signal-based approach as part of the 2007 mandate agreed at SCCR/27. Further, it hoped that the proposal advanced by the Delegation of India would be given proper attention by the Committee and that further advancement would be made towards a balanced international instrument of rights and responsibilities for broadcasting organizations. The Delegation emphasized that limitations and exceptions for libraries and archives and educational and research institutions and for persons with disabilities were crucial and integral to a more balanced copyright system benefitting rightsholders and society. It pointed out that libraries and archives and educational and research institutions were the only means through which the countries of the Asian and Pacific Group could promote education due to the lack of resources and the digital divide. It expressed the view that while the advancement of science and digital technology had transformed the means of disseminating information, not all countries were benefiting equally from that development. It was therefore necessary to achieve expeditious solutions on the issues of limitations and exceptions, particularly for the countries of the Asian and Pacific Group, which hosted the largest number of disabled persons in the world. In order to ensure sustainable access to educational and information materials for those in real need, the Committee had to establish a comprehensive framework on limitations and exceptions by developing working texts using the available documents. It expressed the view that a new international instrument embracing the principles of human rights, development, freedom and human security represented a viable option to achieve those objectives in the post-2015 agenda. It noted that the delegations' flexibility and commitment were crucial to the creation of a balanced instrument for the rightsholders and the consumers. Finally, the Delegation welcomed Paraguay as the new coordinator of GRULAC.

19. The Delegation of China endorsed the agenda for SCCR/28 and informed the Committee that the National People's Congress had ratified the Beijing Treaty and that the ratification instrument would be deposited with WIPO the following week. It hoped that all delegations would take the same flexible and pragmatic approach that characterized the Beijing and Marrakesh negotiations so as to achieve substantive progress on all agenda items.

20. The Delegation of Belarus, speaking on behalf of the Group of Central Asian, Caucasus and Eastern European States (CACEES), expressed concern about the procedural and substantive issues which prevented the Committee from adopting conclusions at the previous session. It underlined the importance of working in good faith with respect to all items of the agenda, but it noted that progress was achievable more quickly on some items than others. The Delegation invited the Member States to avoid procedural discussions undermining the work of the Committee and the mutual trust of its members.

21. The Delegation of Czech Republic, speaking on behalf of the Central European and Baltic States Group, stressed the need for substantive discussion and urged the members of the Committee to avoid procedural matters such as allocation of time. It reminded delegations that the group offered a workable solution suggesting that appropriate time was allocated to broadcasting organizations and expressed support for the Chair's proposal with a view to conduct a result-oriented session. The Delegation reiterated that the longstanding priority of the group was the successful conclusion of the work on the protection of broadcasting organizations with the aim to recommend the convening of a diplomatic conference in 2015 to the General Assembly. In order to achieve that aim, it observed that it was necessary to refine the

substance of the current text of the broadcasting treaty at the expert level and agree on a process to be undertaken in future sessions that would bring the Committee to a successful finalization of the long standing negotiations. With respect to limitations and exceptions, the Delegation welcomed the updated version of Kenneth Crews' study of 2008, originally contained in document SCCR/17/2.

22. The Delegation of Japan, speaking on behalf of Group B, highlighted that the Committee's failure to reach agreement on the conclusions of SCCR/27 did not undermine the result of the substantive discussions of that session and should not have an adverse effect on the discussions of SCCR/28. The Delegation reiterated the need to avoid procedural matters and focus on substantive discussions. With regard to time allocation, it supported the work program adopted at the previous session and recognized the Committee's tradition of allocating more time to the discussion of more mature topics in order to ensure their efficient resolution. However, it pointed out that the time allocation proposed by the Chair would only represent an appropriate solution for that session. The Delegation underlined that the outcome of the discussions agreed at the previous session and the respective agenda items would be summarized by the Chair's conclusions and included in the record for ease of reference without substantive changes to the facts in the record and the introduction of new issues. With respect to broadcasting organizations, the Delegation noted that the areas of convergence and divergence and the technical understanding of that topic were more clearly identified since the last session thanks to informal discussions and the use of technical documents addressing issues relating to the categories of platforms and activities to be included and the object and scope of protection to be granted to broadcasting and cablecasting organizations in the traditional sense. Group B underlined the importance of establishing definitions, the scope of application, and the list of rights and protection to be granted for the purpose of making a recommendation to the General Assembly in line with its given mandate. In particular, the Delegation supported the convening of a diplomatic conference for the new treaty on the protection of broadcasting organizations at the earliest possible time. With respect to limitations and exceptions for libraries, archives and educational and research institutions, the group committed itself to develop a deeper understanding of their dynamics in the international copyright system.

23. The Delegation of Kenya, speaking on behalf of the African Group, focused on the topic of limitations and exceptions for libraries and archives and educational and research institutions and emphasized the need for limitations and exceptions to adapt to the revolution brought by the digital environment. It noted that the existing copyright framework only guaranteed protection in the context of traditional formats and disregarded the development of new technology mediums such as Kindles. With respect to the 2012 General Assembly mandate on limitations and exceptions for libraries and archives, the Delegation aligned itself with the hope of moving forward expressed by the Asian and Pacific Group and stressed that disagreement as to the nature of the instrument to be developed by the Committee should not detract the latter from identifying the issues to be dealt with in a clear and objective manner. Finally, the Delegation urged the Committee to focus on the efficient resolution of the existing agenda items in order to avoid wasting time and resources.

24. The Delegation of the European Union and its member states confirmed that the protection of broadcasting organizations remained its high priority. It stated that the technical discussions of the previous session had clarified the position among delegations and it expressed its commitment to find compromise solutions. With respect to the formulation of a treaty giving broadcasting organizations adequate and effective protection, the Delegation stressed the need to build a broad consensus on the problems that needed addressing and the scope of protection. It observed that progress was necessary to allow the Committee to call for a diplomatic conference as soon as possible. With respect to limitations and exceptions, the Delegation confirmed its view that the current international copyright framework already provided sufficient legal space for WIPO Member States to devise, adopt and implement

meaningful limitations and exceptions in an analog and digital context while respecting the necessary balance to ensure that copyright continued to be an incentive and a reward to creativity. It emphasized that there was no need for further rule-making at the international level and that exchange of ideas and best practices was the appropriate way forward on that matter.

25. The Chair confirmed that agenda item 8, Contributions of the SCCR to the implementation of the respective Development Agenda recommendations, formed part of the SCCR/28 agenda in accordance with the request of the Delegation of Brazil at the previous session.

26. The Delegation of Japan agreed with the inclusion of item 8 on the agenda provided that it constituted a one-time agenda item specifically for that session.

27. The Chair thanked the regional delegations for their introductory general statements and the NGOs for their previous and expected contributions on those matters.

28. The Delegation of Uruguay, speaking on behalf of GRULAC, expressed the understanding that document SCCR/27/REF/CONCLUSIONS and its language had not been agreed by all delegations.

29. The Chair confirmed that no characterization was made regarding the nature of that document other than that it constituted his understanding of the discussions of SCCR/27 to be shared with the Committee as a guide for the discussions of SCCR/28.

30. The Delegation of Uruguay, speaking on behalf of GRULAC, observed that the lack of agreement on the content of document SCCR/27/REF/CONCLUSIONS meant that there was no agreement as to the work program for that session.

31. The Chair reiterated that while there was no official approval of document SCCR/27/REF/CONCLUSIONS, there was consensus among the regional groups that its content would guide the distribution of time during that session.

32. The Delegation of Uruguay, speaking on behalf of GRULAC, agreed with the Chair's comments and explained that its previous statement referred to the introductory statements made by the regional groups regarding the distribution of time between items 5 and 6 of the agenda.

ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

33. The Chair explained that document SCCR/27/2 REV. would still form the basis for text-based discussions on the protection of broadcasting organizations, including the Annex to the document which was added after SCCR/26 and contained proposals from the delegations of India, Japan and Brazil and the United States of America. Additionally, the proposal made by certain countries of the Group of Central Asian, Caucasus and Eastern European States (CACEES) at SCCR/27 and contained in document SCCR/27/6 would also be taken into consideration. The discussions could continue on the basis of several non-papers submitted by the Chair, as well as the informal document prepared by the delegation of Japan on the main issues of the broadcasting treaty.

34. The Delegation of Japan reiterated the importance it attached to the protection of broadcasting organizations and observed that previous substantial discussions on the categories of platforms and activities to be included under the object and scope of protection helped to clarify Member States' positions, particularly in relation to Article 6 of document SCCR/27/2 REV. The clarification exercise carried out during SCCR/27 indicated that the Japanese proposal relating to Article 6 and the suggestion of a single right approach were options for possible compromises on scope of application and the issue of rights to be granted.

The Delegation emphasized that creating an appropriate international framework for the protection of broadcasting organizations in the digital era was a complicated task requiring technical and legal understanding.

35. The Delegation of the Czech Republic, speaking on behalf of the CEBS group, reiterated its support for speedy introduction of an up-to-date, balanced and effective protection of broadcasting organizations. It stated that such protection should reflect 21st century technology developments and be adaptable to present and future business models and other activities of broadcasters and cablecasters. It expressed the view that alternative methods of transmission could not be ignored when contemplating a treaty for the protection of broadcasting organizations if the outcome of the Committee's work was to be applicable in the future and that the increase in on-line transmissions had to be reflected in the deliberations. The Delegation emphasized that the scope of rights represented an unresolved element of the negotiations and that it should be tackled at that stage of the debate. Furthermore, it suggested that work be carried out on a single document.

36. The Delegation of Belarus, speaking on behalf of the CACEES group, agreed to work on a single document and expressed its commitment to future negotiations on the topic of broadcasting organizations.

37. The Delegation of the European Union and its member states stressed the importance of developing a treaty capable of adapting to the specific challenges faced by broadcasting organizations while respecting the rights of rightsholders in works and other protected subject matters carried by broadcast signals. It stated that progress in the formulation of a treaty largely depended on the achievement of consensus on the problems that needed addressing and on the scope of rights. The Delegation expressed its commitment to the discussions of that topic and reserved the right to make comments on the working document.

38. The Delegation of China was pleased that all delegations demonstrated flexibility to respond to the Internet development trend when considering the scope of application of the treaty for the protection of broadcasting organizations. It aligned itself with the view expressed by the Delegation of the European Union about the need to further discuss the beneficiaries and the scope of rights under the treaty.

39. The Chair invited the Committee to join an informal session in Room B and seek to establish consensus on the principles regarding the scope of protection and the scope of rights, adapting the same work methodology which proved useful in the negotiations of the Marrakesh Treaty. The Chair informed delegations that technical assistance would be available at the informal session from three broadcaster representatives as requested by delegations at the previous SCCR. Further, he informed the Committee that in order to ensure transparency the negotiations held in Room B would be audible in Room A so that other delegates and NGOs could follow the discussions and contribute via their representatives.

40. The Delegation of the United States of America fully supported the statement made by Group B and added that consensus would be more easily achieved if the discussions focused on a narrow treaty based on the core need of broadcasters for protection from signal piracy. On that basis, the Delegation proposed an approach involving a single right to authorize the simultaneous or near simultaneous transmission of the signal to the public over any medium. It considered that approach to be modern and capable of recognizing the importance of the new technologies that were used for engaging in signal piracy. Further, the suggested approach avoided adding a new layer of protection on the content contained in fixations of the broadcast and limited the right to protection to the signal. Additionally, the system avoided interference with the rights of the rightsholders in the content that was broadcast as well as any impact on consumers engaging in private activities such as home copying. The Delegation was grateful to the Secretariat for preparing the chart on Article 6 presented at the previous session and

stressed the importance of defining the scope of protection in order to achieve meaningful progress in the formulation of a treaty. Further, it referred to the BBC presentation at SCCR/27 and expressed the view that technical knowledge of the evolving nature of the activities of traditional broadcasting organizations was crucial to the negotiations on Article 6. The Delegation noted that it was important to further clarify the positions on the protection of simulcasting and pure webcasting, particularly in light of the decision not to renew the Committee's 2006 proposal to protect pure webcasting. It suggested that half a day could be spent on completing that clarification exercise at the following SCCR session, with the help of an updated version of the 2002 technical background paper prepared by the Secretariat, taking into account how different sizes and types of broadcasters are using new technologies. Within the same half day, the Delegation also considered it useful to have technical presentations from broadcasters of other types and sizes than the BBC and from other regions, with an opportunity for interaction. With respect to Article 9 of document SCCR/27/2 REV., on the scope of rights, the Delegation remained of the view that a narrower scope of rights would make it easier for the Committee to recommend the convening a diplomatic conference.

41. The Delegation of Kenya sought a clarification about the composition of the group of broadcasters that would assist with the consultations.

42. The Chair clarified that he had requested the assistance of broadcasters from Latin America, Europe, North America and Asia and asked the Secretariat to provide their details to the Committee. He explained that three of them would participate in the informal meeting in Room B with the aim of providing immediate answers to technical questions arising in the course of the negotiations.

43. The Delegation of the Russian Federation observed that the aim of a single text was to allow the Committee to establish a mechanism for the protection of the signal used by broadcasting organizations. According to the General Assembly mandate the rights of these organizations could include traditional broadcasting bodies but should also take account of new technologies providing for unauthorized uses of signals. The Delegation welcomed the assistance of technical experts and hoped that they could guide the Committee's negotiations. It also suggested that members take into account previous decisions of the Committee as well as existing national legislative frameworks on the protection of broadcasting organizations.

44. The Delegation of India highlighted its commitment to negotiate a treaty for the protection of broadcasting organizations and referred to its proposal on that topic made at SCCR/26 and the SCCR/27. It endorsed the proposal made by the Delegation of the United States of America regarding the presentation of an updated paper by the Secretariat combined with the assistance of some broadcasting organizations during the following session for half a day. The Delegation observed that such an approach would resolve several legal and technical issues that remained unanswered from the previous session. Finally, it could show flexibility in supporting methods to address issues of unauthorized transmissions over computer networks provided that the broadcasting organization had rights over the content included in the broadcast.

45. The Chair informed the Committee about the names of the three experts provided by selected broadcasters and thanked them for their assistance.

46. The Delegation of Egypt, speaking on behalf of the African Group, hoped that the negotiations on the protection of broadcasting organizations would mature in the course of that session and that the Committee would reach agreement on the calling of a diplomatic conference. It supported the stance taken by the Secretariat in relation to the invitation of technical experts to the informal negotiations in Room B and asked the Secretariat to draw up a list of technical questions put forward by members in the past so that it could be used as a background paper for the discussions.

47. The Delegation of the United Kingdom expressed support for the participation of technical experts in the informal negotiations and reminded the Committee that it was able to refer specific questions of the members to the British Broadcasting Corporation (BBC). It understood, however, that commercial broadcasters could be better placed to answer a number of questions advanced by the Committee.

48. The Delegation of Japan associated itself with the statement made by Group B and recognized the importance of protecting broadcasting organizations. It stated that substantial progress was achieved in the areas of beneficiaries and scope of protection in the past few years. With respect to beneficiaries, the Delegation expressed the view that no Member State had objections against treating broadcasting and cablecasting organizations in the traditional sense as the beneficiaries in that treaty. In relation to the scope of protection, a wider understanding was developed in relation to the types of transmission that would be included. The Delegation proposed that more time be spent on the negotiations concerning the scope of protection in order to convene a diplomatic conference as soon as possible. It agreed with the participation of technical experts in the informal negotiations but warned the Committee that broadcaster representatives had used the same technical vocabulary with different meanings on previous occasions and that a mere presentation could bring confusion to the discussions. In that respect, the Delegation supported the updating of the 2002 technical papers by the Secretariat and believed that such a document would facilitate the discussions on the scope of protection. The Delegation informed the Committee that the government of Japan had completed all necessary procedures for accession to Beijing Treaty on audiovisual performances and had acceded to that treaty on June 10, 2014.

49. The Delegation of the Bolivarian Republic of Venezuela expressed concern in relation to the participation of technical experts in the informal negotiations. It sought further information as to the identity and expertise of the suggested broadcasters as well as the criteria adopted by the Secretariat to select them and questioned the transparency of the proposal.

50. The Chair reiterated that the proposal of having technical support originated from a request made at the previous SCCR and was contained in the paragraphs that were submitted for the committee's adoption as conclusions. He explained that no conclusions were formally adopted and therefore the request had been included in the Chair's conclusions, which were drafted both in plenary and in an informal group. He clarified that the proposal was aimed at reducing the time spent on technical questions that might emerge during the discussions and at allaying technical doubts about the technological platforms being used for broadcasting and the connections with businesses. The Chair explained that the Secretariat asked broadcasters from different parts of the world to be represented in order to ensure that multiple views were considered. He repeated that technical assistance was available but not compulsory and its adoption had to be agreed to by the delegations in order to avoid obstacles to the Committee's work.

51. The Delegation of the Bolivarian Republic of Venezuela clarified that it supported the proposal to have technical support in principle but expressed the view that the Secretariat should have postponed the proposal to the following session in order to allow delegations to put forward the candidates that they considered most suitable to give technical advice to the Committee.

52. The Chair noted the statement of the Delegation of the Bolivarian Republic of Venezuela and observed that the possibility to use technical experts at that session remained open to the Committee. It informed the delegations that further details on the background of the technical experts would be provided.

53. The Chair thanked the representatives of the private sector who offered to provide technical assistance in the course of the negotiations. In order to ensure efficiency and

transparency, the Chair proposed that they remain in Room A to follow the informal discussions taking place in Room B, together with other delegates and NGO representatives.

54. The Delegation of Canada observed that technical support represented an essential tool in developing a treaty on the protection of broadcasting organizations and agreed with the request made to the Secretariat to update the 2002 technical working papers. It hoped that a variety of private and commercial organizations from different geographical areas would inform the Committee on the challenges of piracy, regardless of whether those consultations took place informally or in plenary.

55. The Delegation of Nigeria welcomed the proposal for further informal discussions to enable members to discuss principles of protection taking into account the guidance of the technical experts as proposed by the Chair. It invited the Committee to consider the General Assembly mandate in the course of its discussions and to ensure that the new treaty met the needs of the current challenges of broadcasting in the digital environment. Further, it asked the Committee to adopt a progressive and result-oriented approach in its informal discussions by reiterating the areas on which consensus had already been achieved and focusing on matters requiring solution. The Delegation agreed with the holding of a diplomatic conference in the shortest time possible.

56. The Delegation of Uruguay explained that the regional coordinators met twice at the request of the Secretariat, on June 12 and 27, 2014, in order to discuss the organization of the work of the SCCR 28. At the first meeting, the Delegation enquired about the organization of technical presentations and was informed that they resulted from paragraph 9 of the Chair's conclusions. By the end of the second meeting, the regional coordinators agreed that in relation to the future work and division of time of the SCCR, technical experts would not be needed and the Secretariat would not be asked to find them. Therefore, their participation in that session was unknown to members of GRULAC and highlighted a lack of transparency in the organization of the SCCR.

57. The Chair noted that there was no agreement in consultations with regional coordinators on technical presentations and stated that there were not going to be any presentations in the course of that session. He expressed the view that lack of consensus was unfortunate in light of the positive impact of the BBC's presentation on previous discussions at SCCR/27 and the support shown by many delegations for the proposal. The Chair clarified that while no technical presentation was scheduled, three technical experts were invited to stay outside Room B and provide direct answers to the technical questions that might arise in the course of the negotiations.

58. The Delegation of South Africa shared the understanding that the treaty for the protection of broadcasting organizations should protect broadcasters in the traditional sense and that the scope of rights should be signal-based without providing additional layers of rights on content. With respect to the scope of application of the treaty, the Delegation hoped in a convergence of opinions that would facilitate the convening of a diplomatic conference at the earliest opportunity.

59. The Chair invited the delegations to move to an informal format in Room B. He informed the Committee that the Secretariat would provide detailed information about the reconvening of the plenary as well as providing a warning on transparency.

60. The Secretariat informed the Committee that the information about the reconvening of the plenary would be available on the notice boards as soon as practicable. With respect to the ground rules for having sound in Room A while the informal discussions were carried out in Room B, the Secretariat asked the delegations and observers to refrain from communicating to the public, whether live or at any future time, the content or nature of the discussions taking

place in the informal session, whether in general terms or by way of quoting specific individuals or delegations and whether via tweet, blog posts, news stories, listserv posts or any other medium. The requirements were aimed at ensuring that the integrity and informality of the informal group was maintained. The text of the ground rules was developed from the language used in the ICG proceedings.

61. The Committee reconvened in the plenary. For the purposes of transparency, the Chair explained that the informal discussions were based on two charts that had been revised and adopted at the previous SCCR. He explained that amendments had been made to the charts and that two revised versions would be available, one on the scope of protection of the treaty and the other concerning rights that could be included in the proposed treaty. The Chair referred to the first chart and explained that it contained a first column relating to traditional broadcasting and cable transmission. He clarified that the reference to pre-broadcast signal that initially appeared under that column was separated out and put under an independent column in light of fruitful discussions concerning the nature of pre-broadcast signal and the potential acts of piracy which could affect it. He noted that the separation was implemented for clarity reasons and did not imply a lack of connection between pre-broadcast signal and the broadcast. It remained open to the Committee to decide whether pre-broadcast signal should be part of the treaty or not. The Chair stated that a qualification was inserted in the title "transmissions over Internet" to reflect that only transmissions carried out by broadcasters and cablecasters in the traditional sense were being considered. He explained that a consensus had been reached on the deletion of the fourth column relating to Internet originated transmissions on the basis that granting protection for webcasting to traditional organizations would provide them with an unfair advantage and raise issues of discrimination towards non-traditional organizations. With respect to the first column under the title "transmissions over Internet" relating to simultaneous and unchanged transmission of broadcast program, the Chair explained that the column would include near simultaneous transmissions and that the reference to "broadcast program" was changed to "broadcast signal" in order to better reflect the General Assembly mandate and avoid any the misunderstanding in relation to copyright protected works. The word "program" was also substituted with the word "signal" in relation to deferred linear transmission of broadcast under the second column and on-demand transmission of broadcast under the third column. The Chair pointed out that the reference to program related material was deleted from the third column because that type of material did not necessarily hold a connection with the broadcast. In relation to the second chart, the Chair reminded the Committee that it included six columns. The first column referred to simultaneous retransmission, the second to near simultaneous retransmission, the third to transmission of broadcast signal to the public and fixation, the fourth to fixation of broadcast signal of other activities, the fifth to protection of prebroadcast signals and the sixth to national treatment on the issue of reciprocity. The chart also contained a note on horizontal issues including legal means defining the specific rights as either copyright and related rights or rights of prohibition. Following informal discussions, the Committee decided to focus on rights and column six was deleted after transferring national treatments on the issue of reciprocity under the heading of horizontal issues. Further, the first and second columns were merged on the basis that simultaneous and near simultaneous retransmissions were closely related on the understanding that the latter merely presented some technical delay and was not part of the business model of on-demand or deferred transmissions. The Chair clarified that the third column became the second column and was referred to as transmission of the broadcast signal to the public from the fixation and over any medium. The reference to the making available of rights was put in brackets to avoid confusion with other rights such as the right on the content. A further clarification that the activity took place in such a way that members of the public could access it from a place and time individually chosen by them was added in red writing to signify that discussions on that issue were not concluded. The Chair stated that the fourth column had become the third one but its content had not been amended. In relation to horizontal issues, the point on legal means remained unchanged but two other issues had been raised. First, the protection of pre-broadcast signal, which appeared in red ink and required technical clarification

and analysis. The Chair informed the meeting that the Committee had received two contributions on that topic: one of them was a set of two definitions regarding transmission/retransmission and pre-broadcast signal and the other was a graphic diagram on the piracy of pre-broadcast programs. He explained that those and further contributions would form part of a compilation to be made available to all members of the Committee. Second, national treatment which was wrongly placed as a right in the chart and relocated as a horizontal aspect.

62. The Delegation of Sri Lanka asked the Chair to upload the two charts on the screen to facilitate the understanding of the amendments carried out in the informal meeting.

63. The Chair reiterated that paper copies of the amended charts were available outside the main room for all delegations.

64. The Delegation of India sought a clarification regarding the text of the third horizontal aspect on national treatment.

65. The Delegation of Sri Lanka noticed a similarity between columns one and two of the second chart as amended. It expressed the view that the object of the treaty was to protect any type of piracy against any type of transmission of signal and proposed that the two columns be further simplified under a single heading reading: "transmission or retransmission of the broadcast signal to the public over any medium whether simultaneous, near simultaneous or deferred including on-demand transmission on a broadcasting signal". The Delegation explained that both rights under columns one and two were aimed at protecting transmission signals whether simultaneous or near simultaneous. It expressed the view that if the word fixation was interpreted as a technological necessity requiring a copy to be made before it was transmitted, then protection under the treaty was appropriate. Alternatively, a clearer definition of transmission could be adopted. The Delegation agreed with the wording of the Delegation of the United States of America's clarification on the ability of members of the public to access signal from a place and time individually chosen by them and suggested that a specific reference to on-demand transmission on a broadcasting signal be made.

66. The Delegation of Yemen referred to column three of the second chart as amended and expressed the opinion that the use of the wording 'against payment' was contradictory and should be replaced.

67. The Chair referred back to the question previously made by the Delegation of India and asked the Committee to comment on whether any of the elements discussed under the scope of protection could either be defined as mandatory or excluded under the treaty and what impact would those definitions have on the national treatment of protection. The Chair observed that the reason for including national treatment as a horizontal issue was to allow for further discussions on that topic at a later stage when the content of the two charts had been clarified and agreed upon.

68. The Chair invited the NGOs to send any technical question or comment to the Secretariat to be shared in an informal session.

69. The Chair convened an informal session.

70. The Chair rejoined the plenary and briefed the Committee on the informal discussions that had taken place in Room B. He referred to the last two columns of the first chart which underlined three options applicable to each platform of the scope of protection: the mandatory option, the opt-in option and the exclusion option. It was suggested that the exclusion option be deleted but this was contradictory with the exclusion of webcasting previously agreed by the Committee and therefore no amendment was made to the chart in that respect. The Chair

informed the Committee that discussions had taken in relation to new matrixes on the use of terms and definitions that would be distributed to regional coordinators to facilitate further reflections on that issue.

71. The Representative of the International Association of Broadcasting (IAB) stated that it was pleased with the progress achieved by the Committee in both formal and informal negotiations at that session, particularly in relation to the production of two charts which the Delegation considered clear and well-constructed. It stressed the need to update the Rome Convention for a country like Brazil, where events like the World Cup and the Olympics had attracted substantial piracy and stated that the discussions were sufficiently defined to hold a diplomatic conference.

72. The Representative of the TransAtlantic Consumer Dialogue (TACD) expressed the view that consumers did not wish to see new layers of complications, barriers and costs added to their access to information, news and knowledge. It stated that the strong push towards a binding broadcasting treaty was in contrast with the rigid opposition on the part of some Member States to discuss new global norms to facilitate the scientific role played by libraries and archives. The Representative warned the Committee about the negative impact on the free flow of information and culture which would result from creating a binding instrument protecting broadcasting signals without first making very clear exceptions and limitations to those norms. A treaty would result in a multiplicity of overlapping rights on content between non-creators and creators and the protection of post fixation rights could inhibit the on-line use of information. Therefore, the scope of rights had to be narrowly defined and independent experts should have previously evaluated the social impact of newly created rights.

73. The Representative of the Japan Commercial Broadcasters' Association (JBA) reiterated its support for the proposal advanced by the Delegation of Japan in Article 6 bis of the Annex of Document SCCR/27/2 Rev. It stressed that post fixation rights were vital to protect broadcasters from on-line piracy and that a compromise had to be found to resolve the delegations' divergence of opinion on that issue. In that respect, the proposal advanced by the Delegation of Japan at SCCR 27 to make certain rights optional could represent a valid solution.

74. The Representative of Knowledge Ecology International, Inc. (KEI) expressed the view that the supporters of a treaty for the protection of broadcasting organizations did not meet the burden of providing enough evidence for their need to have more exclusive rights to fight piracy. It stated that some broadcasters were asking for a new layer of post fixation rights in content they did not create, license or own. On that basis, any treaty had to be narrowly drafted and limited to the award of a single right corresponding to the core need of broadcasting organizations for protection from signal piracy. Such right should be one to authorize the simultaneous or near simultaneous transmission of a signal to the public. The Committee should not consider transmissions over the Internet at that stage because adding a new layer of rights over content on the Internet would be inconsistent with its mandate to limit protection to the broadcaster's signal and with the existing legislation of most countries and it would have a negative impact on consumers and creative communities. Mandatory copyright exceptions for quotation news of the day were highly relevant to broadcasting and it opposed the extension of broadcaster's rights to cable television and other services which required subscriber fees and which were protected under other legal regimes such as theft or services laws. The focus of the treaty had been on over the air broadcasts that were free to the public.

75. The Representative of the Computer & Communications Industry Association (CCIA) stated that fixed signals were a fiction and that upon reception, and whatever the receiver was, there was only the program which was already protected by copyright and included deferred or near simultaneous transmissions as well as making available or on-demand applications. It was unnecessary to create further rights in signals to prevent piracy because the existing model in the Brussels Convention Relating to the Distribution of Programme-Carrying Signals

Transmitted by Satellite (the 'Brussels Satellite Convention') was eminently suited to that task. The treaty proponents had not provided evidence that the existing approach did not give them sufficient opportunity for action at law to protect their interests. If the treaty was to contain an obligation that contracting parties had to take adequate and protective measure to prevent theft or intentional misappropriation of signals which were the object of protection of that treaty, including any such act in relation to signals prior to transmission, parties had to ensure that implementation measures were effective. The Representative underlined that a minor addition could clarify that the treaty intended civil or criminal measure being enacted. A further reason to avoid rights was that they had to be accompanied by extensive and mandatory limitations and exceptions since the treaty envisaged covering many public broadcasting applications. WIPO was under a duty to provide information on the real impacts of the obligations it intended to create, and aligned itself with the call of other delegations for the updating of studies, particularly those comparing rights with non-rights based systems such as the Study on the Social and Economic Effects of the proposed Treaty on the Protection of Broadcasting Organizations, document SCCR/21/2. It welcomed the Committee's decision to seek technical advice and asked that all technical questions and answers be uploaded on the WIPO web site.

76. The Representative of Third World Network (TWN) reminded the Committee that any discussion on the new broadcasting treaty had to be in line with the 2007 General Assembly mandate and that consensus as to the its objectives, specific scope and object of protection was a necessary prerequisite before the convening of a diplomatic conference. It expressed the view that lack of consensus was determined by the extension of the draft treaty to areas such as post fixation rights that went beyond the original aim of the treaty to protect signal piracy and was against the 2007 decision of the General Assembly. Therefore, there was an urgent need to carry out updated impact assessments of the various elements of the proposed treaty on users, performers and authors as well as on public domain, access to knowledge and freedom of expression. The addition of a further layer of protection on copyright content could have negative implications on the free flow of information over the Internet. The treaty would change the bargaining position of the broadcasters vis-à-vis the content creators and extend economic rights to works that were freely accessible to the public. Further, there was a need to understand the social, cultural and economic implications of the proposed treaty and how the balance between the private and public interests could be adequately reflected. Particularly, it was necessary to ensure that the new treaty did not grant stronger or more extensive rights or duplicate rights of those already existing in the content of the broadcast. Finally, any norm setting had to be in line with Development Agenda recommendation 15 and had to take account of the different levels of development of Member States and the balance between costs and benefits.

77. The Representative of the Centre for Internet and Society (CIS) aligned itself with the statements made by KEI and observed that there had been no conclusive demonstration supporting the need for a broadcasting treaty or explaining why international instruments including the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Rome Convention were insufficient to address broadcasters' concerns. It supported the proposal advanced by the Delegation of India and CCI to update the study on the unauthorized use of signals presented at SCCR 20 and include an impact assessment of all stakeholders. With respect to the scope of protection, the proposed treaty had to be based on a signal-based approach as opposed to a rights-based approach. IP-based transmissions could not be covered by the treaty if the additional layer of rights was aimed at protecting the investment of broadcasters. Fixation and post fixation rights were inconsistent with a single-based approach and should not form part of the scope of protection. It would be illogical to prescribe a term of protection as indicated by one of the alternatives under Article 11 of SCCR/2/REV for a signal that lasted milliseconds.

78. The Representative of the Copyright and Information Center (CRIC) explained that broadcaster' rights were neighboring rights by virtue of Article 1 of the Rome Convention.

Therefore, whether or not they could empower broadcasters to punish misuse of broadcast signal, users would still be unable to use that signal without the authorization of the copyright holder. The function of broadcasters' rights was to contribute to the fight of stakeholders against piracy in those instances where broadcast signal was not already protected by copyright. In relation to the issue of access to information, the Representative observed that users could freely access broadcast and make a fixation of the signal for private use as permitted under the limitation of each domestic law according to the three-step test or Article 15.1(a) of the Rome Convention and that protection of that access from piracy should be the main objective of the broadcasting treaty.

79. The Representative of Karisma Foundation stated that the need for a treaty on broadcasting organizations was still not understood and wondered what would be the worst case scenario in the case there was no treaty. If the answer would be to avoid the non-authorized use of broadcasting signals, it remembered that the international legal framework already provided the necessary means to control and sanction such uses. Such mechanisms could be easily implemented in the digital environment without the need of creating an exclusive right for broadcasting organizations. From the user's perspective, such treaty would mean another level of complexity in the system of authorizations, affecting the right of freedom of expression, access to culture and access to information. At the same time, such treaty would create an obstacle against innovation, diffusion of knowledge, the use of new digital means and development of new communication means. The representative underlined that the treaty proposals had the potential to strongly affect human rights and such is not the type of international action that users need, especially in a world where digital technologies allows to create and distribute more easily knowledge and culture.

80. The Representative of European Digital Rights (EDR) expressed the view that European Union broadcasters already benefited from a number of rights and that the implementation of further layers of protection would complicate the development of innovative services and be counterproductive in the fight against piracy. With respect to piracy in the context of sporting events, it suggested that granting copyrights to athletes would be the most appropriate solution. Finally, it stressed the importance of keeping the broadcasting treaty as narrow and short as possible.

81. The Representative of the Independent Film and Television Alliance (IFTA) explained that the film and television industry relied on a strong copyright framework to operate their businesses and protect the investment in their production and pointed out that IFTA members routinely licensed television broadcasters the exclusive rights to exploit their copyrighted programs in a defined territory and on defined distribution platforms. The Representative clarified that since the only rights that were conveyed to the broadcasters in the copyrighted program were those specifically agreed in the license agreement, it was vital that no ambiguity was introduced by the language of the proposed broadcasting treaty and that a clear line was drawn between content and the broadcast signal. It urged the Committee to limit the scope of protection to the signal and avoid any interference with the rights of the copyright owner. It called the Member States to ensure that the proposed treaty was compliant with the existing international copyright framework aimed at balancing content creation with public interest.

82. The Representative of the National Association of Broadcasters (NAB) challenged the statement made by IFTA on the basis that no evidence was advanced of the overlaying rights problem in Europe. It observed that the United States of America had developed a system of retransmission consent over the past twenty years that had never caused problems of overlapping rights. The Representative highlighted that there was substantial evidence supporting the need for treaty protection. It referred to the 1997 WIPO conference in Manila, the two studies conducted by Screen Digest in 2010, newspaper articles and a project commissioned by Google and PRS providing ample proof of the harm generated by piracy. With respect to CCIA's intervention on the Satellite Convention, NAB pointed out that the

Convention strictly applied to signals transmitted by satellite and provided no substantive rights in the signal. Further, the Convention lacked protection and implementation measures.

ITEM 6: LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

83. The Delegation of Bangladesh, speaking on behalf of the Asian Group, underlined that most countries within its group lacked sufficient resources to disseminate and preserve information or to impart education to the public and fund basic research. In light of the expanding digital divide, the Delegation stressed that countries should be entitled to limitations and exceptions in order to meet basic demands on fundamental issues in the interest of the public. It stressed that the purpose of an international agreement on limitations and exceptions was to protect some basic human rights to information and reiterated its proposal to have facilitators capturing the salient points of the Committee's discussions in order to subsequently translate them into working text.

84. The Delegation of Czech Republic, speaking on behalf of CEBS, requested that its statement be introduced in the minutes under agenda items 6 and 7. It expressed the view that the existing international legal framework sufficiently enabled Member States to craft limitations and exceptions for the benefit of libraries and archives, research institutions and persons with other disabilities at the national level. It recognized the importance of sharing views on that topic and offered to actively participate in the discussions by presenting the national system of limitations and exceptions to the Committee. In addition to analyzing national systems of limitations and exceptions, the Delegation highlighted the merits of developing WIPO studies presenting the variety of legislations in that area, including Professor Kenneth Crews' study originally included in document SCCR/17/2. It underlined the importance of assessing the implementation and application of legislation by relevant stakeholder such as beneficiaries and rightsholders. It emphasized that policies on libraries and archives were closely related to the budgetary development and cultural policies of every country and that it was for each Member State to decide how to allocate public resources in order to stimulate public access to copyright protected works, other subject matters and to information in general. The Delegation expressed the view that modern copyright systems had to provide for a variety of useful, flexible and supportive licensing schemes for libraries and archives in their activities and that it should be up to WIPO Member States to decide what kind of instruments were more suitable to the traditions and realities of their societies and better reflected the cultural policy goals of their governments.

85. The Delegation of Paraguay, speaking on behalf of GRULAC, observed that the issue of limitations and exceptions for libraries and archives, educational institutions and research was of the greatest importance for the advancement of knowledge and information and that document SCCR/26/3 was an excellent basis for the Committee's discussions on that topic. GRULAC supported the proposal advanced at the previous meeting to hold regional workshops aimed at exploring the challenges faced by libraries and other institutions in the area of copyright.

86. The Delegation of Japan, speaking on behalf of Group B, stated that the sharing of views on limitations and exceptions was crucial to the development of national regimes on those topics insofar as it respected cultural differences among countries. It appreciated the efforts of the Delegation of the United States of America for attempting to clarify numerous issues in document SCCR/26/8 and hoped that sufficient time would be dedicated to its analysis in accordance with paragraph 11 of document SCCR/27/REF/ CONCLUSIONS. The Delegation observed that the updating of studies by the Secretariat would be beneficial to the discussions but expressed the view that it was premature to hold regional workshops at a stage when a greater technical understanding of the issues was required.

87. The Delegation of China recognized the important role of libraries and archives in societies and agreed in principle with providing for limitations and exceptions provided that the rightsholders' rights were also respected.

88. The Delegation of Kenya, speaking on behalf of the African Group, confirmed the position that it had advanced at the previous SCCR session with regard to limitations and exceptions for libraries and archives and educational institutions. It highlighted that the digital environment offered new opportunities to share information in an easier way and advance knowledge in society. At the same time, the copyright system posed new challenges for libraries and archives to take full advantage of those opportunities. The Delegation stated that the existing limitations and exceptions were inappropriate to deal with technological change because they were designed to work in the era of hard copies. The Group stressed that it was necessary to develop an international mechanism to deal with those new challenges and noted that owing to the colonial history of many African countries, information regarding culture and history was often located in foreign institutions and researches experienced difficulties to access it. With respect to educational institutions and distance learning, the Delegation stressed that digitalization was crucial to ensure that students had access to the same study materials regardless of their location. Finally, the Delegation expressed support for the proposal advanced by the Asian Group to appoint a facilitator.

89. The Delegation of the European Union and its member States expressed the view that the existing international copyright framework already provided for ample legal space and flexibility to all WIPO Member States to devise, adopt and implement meaningful limitations and exceptions. It expressed commitment to exchanging opinions and best practices among WIPO members relating to national regimes on limitations and exceptions but it was not willing to consider a legally binding instrument in that area. It expressed the view that an international solution lacked sufficient rationale and that it was necessary to maintain a degree of flexibility among WIPO members in light of their different traditions and legal systems. The Delegation emphasized the importance of national licensing laws and suggested that an exchange on that topic would represent the way forward for the Committee. It stressed the necessity to identify areas of common ground in order to achieve progress and reiterated that work finalized to the creation of an international instrument would not attract consensus. Conversely, discussions on the importance of a well-designed national system of copyright rules including as regards exceptions and limitations were welcome. The Delegation clarified that the suggested approach was one where individual Member States took responsibility for their own legal framework supported by the exchange of best practices and, when necessary, WIPO funding. Further, it expressed support for the study on exceptions and limitations for libraries and archives by Professor Kenneth Crews and the collation of limitations and extension enshrined in national laws and the status of implementation. It considered itself open to proposals for options capable of assuring and implementing proper limitations and exceptions in national laws in conformity with the three-step test and international treaty obligations.

90. The Delegation of Brazil associated itself with the statement delivered by the Delegation of Paraguay, on behalf of GRULAC, and stated that copyright law allowed certain limitations on economic rates in order to maintain appropriate balance between the interests of rightsholders and users of protected works. It stressed that limitations and exceptions for copyright and related rights varied from country to country due to particular social, economic and other historical conditions. It observed that the Committee was mandated to discuss ways in which Member States could work together to improve the efficiency of their national regimes on limitations and exceptions in whatever form was capable to foster public policy. The Delegation noted that limitations and exceptions for libraries and archives shared the international common public interest of improving access to knowledge. It explained that the latter access was affected by the 11 topics contained in document SCCR/26/3 and agreed to discuss their underlying principles.

91. The Delegation of Mexico emphasized that the main vocation of libraries was to provide a service to the public at large and function as an asset for human knowledge. In turn, knowledge fuelled creativity and economic and social development. That valuable function was recognized by Mexico Federal Copyright Law in Article 148 which stated that literary and artistic works that had already been disclosed could only be used without the consent of the owner of the economic rights and without remuneration provided that the normal exploitation of the work was not adversely affected thereby and provided also that the source was invariably mentioned and that no alteration was made to the work. A further exception under Mexican Copyright Law was that libraries and archives could make a single copy of documents at risk of exhaustion or disappearance.

92. The Delegation of Chile reminded the Committee about its initial proposal to include limitations and exceptions in the agenda of the SCCR in 2004 that had led to the Marrakesh Treaty and discussions on limitations and exceptions for libraries and archives. It explained that measures on flexibilities were essential in developing countries and expressed strong support for text-based work and the development of an international instrument. Further, it aligned itself with the proposal advanced on behalf of GRULAC as regard regional workshops.

93. The Delegation of Ecuador endorsed the statements made by GRULAC. It expressed firm conviction that discussions should be aimed at the creation of a binding international instrument or treaty without prejudice to flexibility.

94. The Delegation of Trinidad and Tobago aligned itself with the statements made on behalf of GRULAC. It observed that libraries and archives, educational teaching and research institutions and broadcasting were areas of equal importance in terms of priority. With respect to limitations and exceptions, the Delegation supported text-based work and the proposals for future regional workshops and inter-sessional meetings.

95. The Delegation of the United States of America highlighted that limitations and exceptions for libraries and archives were critical elements of a balanced copyright regime in light of the function of those institutions in preserving and providing access to creative works. It reminded the Committee that one of the earliest copyright laws, the Statute of Anne, made special provision for libraries and recognized that society at large was the ultimate beneficiary. It explained that exceptions for libraries were the subject of legislative hearings and public as well as governmental discussions in the United States and aligned itself with those delegations believing that individual countries should have flexibility to tailor limitations and exceptions to address their own needs within the constraints of international obligations, taking into account their specific legal, cultural, and economic environments. On that basis, the Delegation did not support a treaty or binding norm-setting at the international level but clarified that lack of consensus among delegations should not prevent the Committee from making progress to the benefit of all countries. It explained that the best way forward was achieve a level of consensus on general principles and objectives such as those contained in documents SCCR/26/3 and SCCR/26/8 prior to conducting further work on updating international laws by holding regional workshops, conferences and sharing of experiences as well as studies and technical assistance.

96. The Delegation of India emphasized the role of libraries and archives as engines of creativity and expressed concern that the copyright regime acquired resonance and was encircling institutions which were vital to providing socioeconomic and resource infrastructure in developing nations. It hoped that the Committee's discussions were aimed at developing a universal understanding of that issue regardless of whether or not an international treaty was ultimately implemented. The Delegation referred to a study carried out by economic historian Eckhard Höffner showing that Germany's lack of copyright in the 19th Century led to an unprecedented explosion of publishing and knowledge compared to the United Kingdom and France and pointed out that developing countries could consider catching up according to that

philosophy. It observed that it was impossible to have a perfectly balanced copyright regime and that any tilt in the system should be towards the public interest. The Delegation stressed that libraries were not only educational institutions but also engines of inter-generational inequality allowing developing countries to address development issues.

97. The Delegation of the Islamic Republic of Iran highlighted that limitations and exceptions for libraries and archives played a vital role in achieving a balanced copyright system and supported the creation of a binding international instrument aimed at strengthening the capacity of libraries and archives to provide access to preserved materials in the course of their public service role. It urged the Committee to start text-based negotiations on each proposal identified by the working document in order to fulfill the General Assembly mandate to make suitable recommendations and establish an international instrument. The Delegation reiterated the proposal advanced by some delegations at the previous session to separate the comments from the proposed text and transfer them to an Annex in the working document. Further, it associated itself with the proposal made by the Delegation of Bangladesh on behalf of the Asian Group that the Committee should consider appointing facilitators or friends of the Chair to develop working texts for limitations and exceptions.

98. The Delegation of Nigeria aligned itself to the statement made by the Delegation of Kenya on behalf of the African Group. It expressed its commitment to continuing discussions on the general principles and objectives governing limitations and exceptions for libraries, archives, educational institutions and persons with disabilities in the international context but stressed the need to progressively consider available texts inputs including the consolidated text referred to in the general statement of the African Group.

99. The Delegation of Egypt urged the Committee to reach consensus as to whether it should negotiate a single instrument for both libraries and archives or have two separate instruments and whether they should be legally binding. It pointed out that most national copyright regimes had text-based laws on limitations and exceptions and that adopting the same approach at the international level would allow the Committee to achieve progress more quickly than it did in the context of broadcasting organizations. It expressed the view that regional meetings would facilitate text-based discussions.

100. The Delegation of South Africa supported the statement made by the Delegation of Kenya on behalf of the African Group and expressed the view that developing an international copyright system in which limitations and exceptions were only dealt with at the national level created an imbalance that was amplified in the digital environment. It expressed the view that the lack of an international solution prevented libraries and archives from serving user needs and the public interest and supported GRULAC's proposal to hold regional workshops and consolidate international proposals.

101. The Delegation of Uruguay aligned itself to the statements made by the Delegation of Paraguay, on behalf of GRULAC, and supported the proposal to hold regional workshops to facilitate discussions on the principles and objectives governing libraries and archives. It reminded the Committee about the text proposal advanced by the Delegation alongside other GRULAC countries and considered document SCCR/26/3 to be an optimal starting point for text-based debates.

102. The Delegation of Algeria associated itself with the intervention made by the Delegation of Kenya, on behalf of African Group. It supported a binding international instrument on the basis that it would facilitate the implementation of national measures and the management of cross-border exchanges between libraries, archives, and educational, training and research institutions in the digital world. Further, a binding international instrument would also reestablish a balance in the international copyright system as set up by the Berne Convention in light of the recent focus on the rights of rightsholders. The Delegation supported the proposal to hold

workshops and responded to the comments made by Group B on that issue by stating that regional meetings would enable a better understanding of the issues and favor smoother negotiations. It expressed support for the proposal advanced by the Asian group to appoint facilitators or a friend of the Chair. The Delegation pointed out that the Human Rights Council, which was formed by the same Member States as WIPO, was preparing a report on the impact of the copyright regime on the right to access knowledge and culture in relation to which the opposition of some delegations to the creation of an international instrument appeared contradictory.

103. The Delegation of Guatemala supported the proposal made by GRULAC as well as the interventions made by the Delegations of Brazil, Mexico, Chile, Ecuador, Uruguay and Trinidad and Tobago on the subject of limitations and exceptions for libraries and archives. It underlined the value of access to information as a human right and agreed with the holding of regional workshops on those issues.

104. The Delegation of Malawi agreed with the intervention made by the Delegation of Kenya on behalf of the African Group and stated that the role that libraries and archives played in providing access to and preservation of copyright works could not be overemphasized. Importantly, the right to access information had to be balanced with authors' right to benefit from their work. The Delegation supported the proposal to hold regional workshops.

105. The Delegation of the Russian Federation observed that the development of Internet, e-libraries and new technologies represented a serious deviation from the role of copyright but disagreed with the extremist opinion that copyright should be denied because it prevented the development of the Internet. Rather, the Delegation expressed the view that a balance could be achieved between the interests of society, authors and businesses. It explained that the Russian Federation had improved its legislation since 2008 with a code on intellectual property due to be updated on October 1, 2014 and stressed that limitations and exceptions were not confined to libraries and archives and could embrace other areas of education and science. It invited delegations to respect each other's interests and work on the basis of a serious scientific approach. Further, it supported the need for further study in that area and the organization of regional workshops or conferences where countries could share their experiences.

106. The Chair identified a common objective among all delegations based on the recognition of the importance of the role of libraries and archives in the dissemination of culture and the fact that countries offered different solutions allowing copyright to be properly balanced. The objective was to find a way of ensuring that the copyright system was balanced so that it could allow those institutions to function fully in the completion of their role. The Chair recognized that there was disagreement on how to achieve that shared goal and invited the delegations to focus the discussions on the principles and objectives of limitations and exceptions.

107. The Delegation of the United States of America welcomed the Chair's proposal to start the discussions on principles and objectives in order to find areas of consensus and referred to document SCCR/26/8 and highlighted its six fundamental principles in turn. It underlined that the first principle, the adoption of national exceptions, was the most fundamental of all and that the sixth principle unveiled a catchall category for more general principles. The Delegation expressed flexibility to add or subtract from each principle without entering discussions about specific language which would be premature at that point.

108. The Delegation of Brazil asked the Committee to start the discussions on the basis of document SCCR/26/3 that contained 11 topics forming part of the discussions at previous sessions.

109. The Delegation of Ecuador highlighted the need to discuss principles and objectives on limitations and exceptions on the basis of previously adopted working documents as well as document SCCR/26/8.

110. The Delegation of Japan supported the work method proposed by the Delegation of the United States of America.

111. The Delegation agreed with the Delegation of Ecuador's proposal to adopt both working document SCCR/26/3 and SCCR/26/8.

112. The Delegation of the United States of America clarified that document SCCR/26/8 presented a new approach which only partially overlapped with the principles and objectives contained in document SCCR/26/3. It explained that the six principles contained in the latter document had been logically listed from the most general to the most abstract or peripheral. Therefore, it suggested discussing those six principles in general terms to gather the views of the delegations before debating further principles contained in the basic working document.

113. The Delegation of the European Union and its member states supported the proposal of the Delegation of the United States of America on the basis that document SCCR/26/8 had not been previously discussed in a meaningful way and deserved the attention of the Committee.

114. The Delegation of Australia agreed with the proposal advanced by the Delegation of the United States of America on the basis that the language of document SCCR/26/8 was very clear and worked as an intuitive introduction to the more complex principles and objectives contained in the basic working document.

115. The Chair explained for reasons of transparency that a compromise solution was agreed by the delegations to carry out principles-based discussions on the topic of limitations and exceptions. The Delegation of the United States of America would present document SCCR/26/3 and explain its rationale and structure. Following the presentation, the delegations would discuss the nature and applicability of each general principle contained in that document. Following that exchange, the delegations would then consider the 11 topics contained in document SCCR/26/8 with reference to the general principles previously discussed. The Chair invited the delegations to agree the compromise solution.

116. The Delegation of India accepted the compromise proposal but sought a clarification regarding the allocation of time to the discussion of each document.

117. The Chair explained that the time allocated to document SCCR/26/8 and SCCR/26/3 would depend on the points raised by the delegations and that no specific time schedule was agreed.

118. The Delegation of Kenya accepted the compromise proposal and urged the Committee to proceed swiftly in order to discuss all the listed topics contained in the two documents.

119. The Delegation of Japan expressed the view that every country was entitled to discuss their proposal in the way they wished and that the request of the Delegation of the United States of America was legitimate. It noted that while that request had not been satisfied, the Delegation was ready to accept the compromise proposal provided that its acceptance did not signify agreement on the content of the two documents or of their merging because document SCCR/26/8 was a set of principles which was not intended to serve into the basic proposals in document SCCR/26/3.

120. The Delegation of the European Union and its member States noted the compromise proposal but aligned itself with the clarification made by the Delegation of Japan on behalf of

Group B. It expressed the view that the Delegation would have preferred discussing document SCCR/26/8 in its own right because it provided a good structure and discussed the purpose of national exceptions and limitations in the copyright environment in which libraries and archives served their communities, which included licensed solutions and exceptions. It clarified that it did not agree to a drafting exercise or to the merging of the two documents or to the adoption of that structure for future work. Further, it reiterated the Delegation's position against an international legally binding instrument in that area.

121. The Chair invited the Delegation of the United States of America to present document SCCR/26/8.

122. The Delegation of the United States of America explained that document SCCR/26/8 was prepared to provide a blue print for the approach that it had been recommending on the subject of limitations and exceptions, which was to agree on basic international goals on which to base further work on national laws. It clarified the meaning of objectives and principles, the former being Member States' goals and the latter being further elaborations or key considerations to keep in mind in achieving those goals. The Delegation recognized that many countries had already developed limitations and exceptions that met their specific social, economic and cultural needs and hoped to identify their shared objectives. It pointed out that while document SCCR/26/3 identified a list of specific issues, document SCCR/26/8 organized objectives and principles into overarching themes of particular importance to policy-makers to enable libraries and archives to carry out their essential functions. The Delegation expressed the view that focusing on the intended outcomes was the most effective way of organizing the Committee's work. It explained that the first objective was aimed at encouraging Member States to adopt limitations and exceptions in their national laws that were consistent with international obligations and facilitated the public service role of libraries and archives while maintaining the balance between the rights of authors and the larger public interest, particularly in education, research and access to information. Additionally, the first objective provided foundational underpinnings for the other principles and objectives introduced. The second objective was the preservation of works, which attracted enormous support as reflected in Professor Crews' study stating that at least 72 countries had developed exceptions for that purpose. The third objective enabled libraries and archives to carry out the public service role of advancing research and knowledge and provide access to the cumulative heritage of the world's nations and peoples. In that regard, updated and tailored exceptions and limitations established a framework enabling libraries and archives to supply paper and/or digital copies of certain materials to researchers and other users directly or through intermediary libraries including the collaborative process known as interlibrary loan. The Delegation emphasized that authors and creators depended on such robust exceptions in order to perform research and access to work including those that might not enjoy commercial success. The fourth objective encouraged the adoption of national legal deposit laws and systems as discussed in depth in document SCCR/26/3. The fifth principle provided that Member States should enable libraries and archives to carry out the public service mission in the digital environment. The Delegation observed that digital technologies were changing all aspects of society including the ways in which libraries and archives obtained, preserved and provided access to their collections and emphasized the critical role played by those institutions in the development of the 21st Century knowledge ecosystem. It noted that the higher level of pressure on libraries and archives to provide on-line access to materials should be recognized by suitable exceptions, particularly in light of the increasingly sophisticated research collections that they provided. Finally, the sixth category provided for other general principles that were as important as the other ones but were grouped in light of their crosscutting or supportive nature. The Delegation identified four of them. The first one related to limitations on liabilities for libraries, archives and their employees and agents and was discussed in detail in document SCCR/26/3. The second principle encouraged collaborative and innovative solutions among all stakeholders. The third principle required Member States to consider the extent to which similar limitations and exceptions should apply to museums in the performance of their role. The fourth principle provided that libraries and

archives had adequate safeguards in place to ensure the responsible and lawful exercise of limitations and exceptions.

123. The Delegation of Mexico enquired about the relationship between the topic of libraries and archives and the topic of museums and whether they could be considered as a single topic.

124. The Delegation of the United States of America referred to Section 108 of the American Copyright Law containing exceptions for libraries and archives and stated that a study group concerned with the updating of that section issued a report suggesting that museums could become part of the libraries and archives group under certain circumstances and that was the reason for considering it under other general principles.

125. The Delegation of Guatemala asked the Delegation of the United States of America to give a more detailed answer to the question posed by the Delegation of Mexico regarding the link between libraries and archives and museums.

126. The Delegation of the United States of America explained that it did not have a specific approach on the issue of museums but noted that they performed many of the same public service roles in preserving materials and making their collections accessible to the public for research and educational uses that were performed by libraries and archives. Therefore, it was possible to identify a relationship between libraries and museums and their potential need to benefit from the same types of exceptions for the same objectives and principles.

127. The Delegation of Kenya agreed with the general framework highlighted by the presentation of the Delegation of the United States of America. It observed, however, that the existing national framework of limitations and exceptions failed to take into account the countries' international obligations on research and human development in the digital era because it lacked an enabling environment at the international level. Therefore, the creation of an international framework was a precondition to achieving progress at the national level.

128. The Delegation of Canada referred back to the issue raised by the Delegation of Mexico concerning museums and stated that they played a similar role to that of libraries and had been included in Canadian legislation with respect to certain exceptions. It encouraged discussions on the issue of museums, particularly in relation to preservation. Further, it welcomed the Committee's general debate on principles and objectives on the basis that it laid the foundations for future developments in that area.

129. The Delegation of Japan asked the Committee to structure the discussions according to Group B's statement as to methodology that required each general principle to be dealt with separately.

130. The Delegation of Brazil expressed support for the first principle of document SCCR/26/8 but it highlighted that it should not form the basis of the Committee's discussions because it was encompassed by the overarching principle of fostering international and cross border cooperation towards the efficient and effective implementation of exceptions and limitations for libraries and archives.

131. The Delegation of Chile welcomed document SCCR/26/8 but noted that it did not contain essential topics such as reproduction, orphan works and technological protection measures. It agreed with the objective of adopting national measures and it understood that it should represent an obligation for all countries in order to guarantee freedom of expression and the right to education through the role of libraries and archives. With respect to the principle of preservation, the Delegation recognized that it was necessary to safeguard mankind's heritage, particularly in developing countries that had a complex geography. Further, it agreed that a system guaranteeing protection to authors and access could lead to great social benefit.

132. The Delegation of Kenya associated itself with the interventions made by the Delegation of Kenya, on behalf of the African Group and by the Delegation of Brazil. It stated that an international obligation to develop national limitations and exceptions would not address cross-border issues.

133. The Delegation of the United States of America responded to the questions advanced by the Delegations of Kenya and Indonesia by clarifying that in relation to the adoption of national measures, consistency with international obligations did not mean that those measures were specifically required by international obligations. Rather, it meant that they were consistent with the existing general legal framework of rights and exceptions in international law, which included the outside limit or boundary of the three-step test for measuring the scope of limitations and exceptions. The Delegation underlined that there was sufficient room and flexibility under that legal framework, including the three-step test to implement all the relevant objectives and principles taking account of each country's legal and cultural conditions. It explained that the United States of America had already implemented the objectives and principles in its national law, with the exception of the museums issue, respecting the boundaries of its existing international obligations. It stressed that the proposal did not require the creation of further international obligations. In response to the point raised by the Delegation of Chile, it clarified that the lack of a specific reference to other topics did not reflect a wish to omit them or underestimate them. Orphan works could either be considered under the principle of research and human development or under the principle of preservation and, similarly, TPMs could be discussed as part of the objective dealing with limitations and exceptions in a digital environment.

134. The Delegation of Sudan observed that the third principle highlighted by document SCCR/26/8 was in harmony with the three-step test of international obligations. It pointed out that according to Professor Crews's study, countries had developed contradictory and diverse regimes on limitations and exceptions and that the implementation of international obligations would facilitate access to information. The Delegation explained that Sudan adopted new legislation in 2013 providing for measures on limitations and exceptions, such as use for educational purposes. It referred to Article 26(c) and stated that it did not impinge on the rights relating to works or the author. The same legislation provided for mandatory licensing and Article 37(2) stated that any decision to issue mandatory licensing had to be related to educational purposes or research and it had to determine the time and the place and the material compensation to the author. The Delegation urged WIPO to undertake a detailed study enabling research and access to information at the regional level or in regional organizations such as the European Union where those rights had been implemented. It stressed that the digital environment and smart technology provided great opportunities but also gave rise to problems that Member States could not resolve on their own and for which WIPO's assistance was necessary. With respect to the principle of legal deposit, the Delegation stressed that it should respect international criteria and that it should enable the Committee to establish links between the various conventions and treaties, including the TRIPS.

135. The Delegation of the Islamic Republic of Iran associated itself with the comments made by the Delegations of Kenya, Brazil, Indonesia and Sudan concerning the importance of having a recommendation for the countries to adopt national measures on limitations and exceptions and stressed that the Committee's mandate was to promote such measures at the international level.

136. The Delegation of Kenya pointed out that it was easier for a country like the United States of America to implement exceptions to its national legislation in light of its strong and advanced economy and almost self-sufficient standing with respect to education and research. It stressed that the economic position of most countries of the African Group was weaker and could not support the development of an independent education and publication system and had to rely

heavily on other countries. That inter-dependence triggered the need for an international framework and the *raison d'être* of international organizations such as WIPO was to encourage international understanding and cooperation.

137. The Delegation of Ecuador stressed the importance of maintaining flexibility when analyzing the question of national exceptions and urged every country to make decisions bearing in mind the international framework as well as the disparities in terms of development and the specific difficulties of libraries and archives. It highlighted the need to develop international limitations and exceptions addressing the issue of digital technology.

138. The Delegation of India welcomed the principles presented by the Delegation of the United States of America and supported the potential extension of limitations and exceptions to museums. It pointed out that the United States' experience was self-sustaining and that in many other countries limitations and exceptions were not contained within the national boundaries but raised cross-border issues in the digital environment that required international cooperation. It was therefore questionable whether the Committee's discussions should be limited to national exceptions.

139. The Delegation of Yemen expressed the view that it was necessary to develop an international law on limitations and exceptions to overcome the different degree of flexibility which developing and developed countries enjoyed under their national regimes.

140. The Delegation of the United States of America pointed out that the first principle of document SCCR/26/8 did not limit the possibility of developing international exceptions but simply stated that there should be sound national exceptions. It stressed that the development of good national laws on limitations and exceptions should not represent an area of disagreement and acknowledged that what was a good national law might vary from country to country depending on their economic circumstances.

141. The Delegation of South Africa aligned itself with the intervention made by Kenya on behalf of the African Group and supported the development of an international framework on limitations and exceptions for libraries and archives on the basis that the existing system was unbalanced and unfair. It noted that protecting copyright with international treaties and leaving limitations to national law was not conducive to development and access to knowledge.

142. The Delegation of Brazil observed that some delegations' interventions had made it clear that the adoption of national limitations and exceptions was encompassed by a broader principle of international and cross-border cooperation aimed at the effective implementation of libraries and archives. It clarified that there was no agreement in relation to that broader principle.

143. The Delegation of the United States of America clarified that the use of the term "overarching" in its previous intervention meant that those objectives were of a higher general character rather than having the specificity of some of the other topics. It expressed flexibility to consider each principle and objective on its own without any implication as to how they related to each other or to other topics.

144. The Delegation of Indonesia expressed the view that an international framework was necessary in order to develop national laws on limitations and exceptions.

145. The Delegation of Nigeria associated itself with the statement made by the Delegation of Kenya on behalf of the African Group in support of an international framework on limitations and exceptions for libraries and archives.

146. The Delegation of Trinidad and Tobago wished to highlight its increased understanding of the subject of limitations and exceptions for libraries and archives and its connection with museums. It endorsed the statement made by the Delegation of Ecuador that each country was at a different stage of development on those issues but it clarified that the principles and objectives laid out in document SCCR/26/8 were not inconsistent with the future development of an international framework on limitations and exceptions.

147. The Delegation of the European Union and its member States reiterated that assisting WIPO Member States with the implementation of exceptions in their national legal frameworks should have been the objective of discussions in that Committee and stressed that the international legal framework already allowed for enough flexibility for that to be done meaningfully. It pointed out that the principle of adoption of national exceptions referred to the articulation between the rights of authors and other public policy objectives, and to the importance of maintaining a proper right balance. The Delegation reminded the Committee that the benefits of copyright protection did not only accrue to authors and rightsholders in general, but also to users and that right protection was at the basis of the supply of creative and intersection content. It stated that both the need for high level protection of copyright and the effectiveness of exceptions were fundamental elements when discussing national exceptions. The Delegation stressed that a clear understanding of the mission of cultural institutions and their activities was important when discussing the beneficiaries of national exceptions, particularly when that mission was assigned by law and gave rise to public law issues.

148. The Chair invited the Delegation of the United States of America to explain the second principle contained in document SCCR/26/8 concerning the support of research and human development.

149. The Delegation of the United States of America stated that libraries and archives played a critical public service role in advancing research and knowledge by providing access to an enormous range of materials. It explained that their role was even more important in the 21st century and in relation to more vulnerable members of society. It was therefore important to develop limitations and exceptions enabling libraries and archives to perform their functions.

150. The Delegation of Chile agreed with the principle and objective to support research and human development and highlighted their presence in Article 19 of the International Declaration of Human Rights. It explained that, under Chilean legislation, libraries, archives and museums had to cooperate in the national teaching curriculum in an effective way even if they were not teaching institutions. It pointed out that the objective under consideration was threatened by a number of difficulties and invited the Committee to determine which elements should be included in order to guarantee its application at the international level. It observed that virtually all of the elements contained in document SCCR/26/3 sought to guarantee that function, particularly the question of loans, reproduction, and the right to translate works and that the analysis of that paper was a useful starting point.

151. The Delegation of Kenya agreed with the principle that all countries should play a role in providing access to information in order to advance research, learning and creativity. It reiterated that Member States' capacity to allow for such access depended on their economic development and in some cases on the support of other countries. Therefore, the Delegation stressed that international cooperation was necessary to share information and research and promote the economy of developing countries.

152. The Delegation of Brazil agreed with the principle that the Committee should work on practical solutions to create adequate conditions to guarantee that libraries and archives promoted access to education and research materials. It observed that the latter objective could only be achieved if Member States provided adequate limitations and exceptions

facilitating library's access to materials and cross-border cooperation with other institutions, including commercial institutions.

153. The Delegation of India endorsed the statement made by the Delegation of Brazil and agreed to set high principles like it did with the Millennium Development Goals and the Sustainable Development Goals. It acknowledged that it was important to analyze whether national laws allowed for an effective utilization of international treaties and obligations but stressed that an implementation tool was necessary where there was a lack of cross-border cooperation.

154. The Delegation of South Africa agreed with the second principle highlighted by document SCCR/26/8 and described it as one of the keys to unlocking sustainable development. It expressed the view that the existing copyright environment did not maximize effective access to learning materials. The Delegation supported the intervention made by the Delegation of Kenya that an international framework would facilitate cross-border cooperation and the sharing of information.

155. The Delegation of Canada noted that the principles advanced under support for research and human development in document SCCR/26/8 mentioned the role of library and archives in providing access to knowledge and collections and that, under the general principles, the document raised the important role of rightsholders in ensuring sustainable access to copyrighted work. It questioned whether cross-border exchanges had been considered in relation to those principles.

156. The Delegation of Sudan associated itself with the statements made by the Delegations of Brazil and India that the functions of libraries and archives to access and copy published works had to be considered in the framework of sustainable development. It explained that developing countries required a higher level of strategic planning and pointed out that the scientific research carried out by ethnographic museums benefited all people of the world and should be protected by limitations and exceptions in light of the 2003 agreement dealing with new media content and the forms of verbal and cultural expression.

157. The Delegation of Egypt expressed agreement for the general principles highlighted by document SCCR/26/8 and invited the Committee to discuss national solutions with regard to limitations and exceptions for libraries, archives and museums. It suggested that a survey be circulated in the inter-sessional period to identify which rights could the delegations agree to transfer from national to international level protection. Further, the Delegation asked the Committee to carefully consider the rights of museums, particularly in countries that had been invaded or had witnessed violence by pirates.

158. The Delegation of Indonesia agreed with the principle of support for research and human development and pointed out that it should specifically consider the question of users' access to libraries and archives. It sought a clarification on the meaning of collective knowledge of nations and people in relation to the principle of adoption of national measures and questioned whether the definition was appropriate if discussions were limited to national instruments. Further, it asked the Delegation of the United States of America to explain how countries could develop international activities on the basis of national frameworks alone.

159. The Delegation of Australia proposed that NGOs would make contributions to the discussions on general principles.

160. The Delegation of the United States of America clarified that the third principle under the heading of support for research and human development that reasonable exceptions and limitations could establish the framework enabling libraries and archives to provide materials directly or through intermediary libraries could include international exchanges.

161. The Delegation of Italy observed that discussions on limitations and exceptions were limited to works protected by copyright and that historic heritage in museums and archeological and ethnographic artifacts were freely accessible and already available for cross-border uses such as library exchange. It reminded the Committee that materials that purely pertained to scientific research were not protected by copyright.

162. The Delegation of Ecuador explained the need to encourage the exchange of information among institutions such as libraries and archives in less developed countries in order to guarantee human development. Further, it supported the proposal made by the Delegation of Australia in relation to NGOs' contributions.

163. The Delegation of Indonesia aligned itself with the need expressed by the Delegation of Brazil to discuss accessibility and sustainable development. It referred to the third principle under adoption of national measures which addressed the protection of traditional and cultural knowledge including scientific heritage. It expressed the view that those types of issues fell under the competence of the WIPO Intergovernmental Committee and that different approaches should be taken when discussing contemporary IP law and genetic resources and traditional knowledge of copyrights of vulnerable members of society. With respect to intermediary library mechanisms, the Delegation stressed the need to discuss that issue at the international level.

164. The Delegation of Tunisia associated itself with the view that confining the discussions to domestic legislation would not help libraries and archives to achieve access and that limitations and exceptions had to be seen in an institutional framework through mechanisms for appropriate exchange.

165. The Delegation of the European Union and its member states expressed support for the role of libraries, archives and other institutions in supporting research and human development and stressed the importance of understanding their remedy and their mission when considering them as beneficiaries of limitations and exceptions. In relation to the field of research, the Delegation referred to Directive 2001/29/EC and stated that it contained an optional exception to the reproduction in making available rights for the use of works for the sole purpose of illustration for teaching or scientific research, which could be used as long as the source was indicated, unless that turned out to be impossible, and to the extent justified by the non-commercial purpose to be achieved. It explained that the European Union had implemented those exceptions and that in some cases they were limited or complimented by licensing with rightsholders. The Directive further stated that when applying limitations and exceptions in that area, the non-commercial nature of the activity in question should be determined by that activity as such, whereas the organizational structure and the means of the establishment of concerns were not the size of the factors in that respect. The Delegation highlighted a link between the role of libraries and archives to support research and their role as safeguards of the copyright system. With respect to the intervention made by the Delegation of Italy, it clarified that different issues needed to be discussed in relation to research and human development that were not necessarily copyright related.

166. The Chair invited the Delegation of the United States of America to introduce the principle of limitations and exceptions in a digital environment.

167. The Delegation of the United States of America explained that evolving digital technologies had transformed the way in which works were created, disseminated, stored, preserved, accessed and experienced and that libraries and archives had to adjust their practices so that they could continue to carry out their functions. It observed that some materials were born digital and prompted an increase in expectations regarding the formats in which content could be accessed. It expressed the view that the principles contained in SCCR/26/8 recognized the impact and challenges posed by the new digital environment.

168. The Delegation of Kenya supported the principle as expressed by the Delegation of the United States of America and observed that consensus in that area made it possible to develop international measures allowing libraries and archives to share information in the digital environment.

169. The Delegation of Chile supported the objective set out in relation to the development of limitations and exceptions in the digital environment. It underlined that Chilean copyright legislation was developed to guarantee a neutral balance between provisions sanctioning rights and those establishing exceptions in respect of both analog and digital works. It explained that new technological realities required specific adjustments to make provisions applicable and stated that the normative environment should maximize rather than hinder the use of different formats and technologies. The Delegation pointed out that since 2011 Chile had developed the digital public library to facilitate the on-line lending of both protected works and works in the public domain. The library enabled thousands of Chilean users to access texts in digital format free of charge. However, the entity responsible for that platform experienced difficulties in granting licenses to publishers whose different business models required the negotiation of alternative licensing parameters. The Delegation emphasized that the greatest challenge of digital public libraries were the costs of downloading digital materials imposed by publishers through their own platforms and that an international instrument was necessary to develop a balanced administration of TPMs that did not obstacle the objectives of libraries and archives.

170. The Delegation of Brazil expressed the view that the general principle of limitations and exceptions in a digital environment was cross-cutting and could be considered when discussing specific provisions in that area.

171. The Delegation of South Africa agreed with the principle of limitations and exceptions in the digital environment and associated itself with the intervention made by the Delegation of Kenya on behalf of the African Group. It identified a need for libraries to digitize for preservation purposes and to make materials accessible for educational and research institutions. The Delegation highlighted that obtaining the copyright holder's permission prior to any digitalization was excessively time-consuming and expensive and that copyright clearance was inconvenient due to the frequent difficulties in tracing the authors of older works. Further problems arose in contacting publishers with resulting gaps in libraries' collections, which could remain inaccessible unless digitalized. The Delegation emphasized that a solution had to be found at the international level, particularly to preserve the cultural heritage attached to the works of legal deposit libraries that were mandated to provide access to their collections to present and future generations.

172. The Delegation of the European Union and its member states supported the discussions on the principle of limitations and exceptions in the digital environment and pointed out that their application was not restricted to libraries and archives but could extend to the copyright system generally. The Delegation questioned whether different conditions to the existing exceptions were required in light of the three-step test and identified users' expectation of equivalence between the analog and digital works that was made possible by digital technology and mass connectivity. Further, it recognized the possibility that limitations and exceptions could facilitate the substitution of the normal channels of distributions for new digital methods. In more general terms, the Delegation reiterated that discussions should be aimed at finding a balance between adequate protection of copyright and certain public policy objectives and goals. It stressed that such balance could not be determined at the international level because policy objectives often presented a national dimension. It stated that the three-step test provided the general criteria that had to be respected while allowing for national specificities and needed to be factored into public policy decisions.

173. The Delegation of Italy clarified that although certain materials were already in the public domain and were not subject to restrictions on cross-border transmission, they were still embodied in a material medium and had to incur the expenses of being digitalized. It explained that the Italian national library launched a digitalization project based on agreements with enterprises which were costly and raised the issue of sharing expenses. The Delegation highlighted that the digitalization process represented an economic burden regardless of whether the relevant work was copyright protected or in the public domain.

174. The Chair invited the Delegation of the United States of America to comment on the other general principles contained in document SCCR/26/8.

175. The Delegation of the United States of America referred to the last section of principles and objectives contained in document SCCR/26/8 labeled other general principles. It explained that each principle contained in that section was as important as the other ones but that they were considered to be crosscutting or supportive of other objectives. The first principle under that section stated that other exceptions and limitations including general use exceptions might also play an important role in enabling libraries and archives to carry out their public service mission. The Delegation recognized that Member States used different combinations of specific exceptions and exceptions of a general application. The second principle reiterated the importance of limitations on liability that was amply discussed in document SCCR/26/3. The third principle recognized that rightsholders had a critical role in ensuring sustainable access to copyrighted works in both developed and developing country and that Member States should encourage collaborative and innovative solutions among all stakeholders. The fourth principle related to museums. With respect to the final principle, which included safeguards to ensure responsible behavior by users of libraries and archival services, the Delegation underscored the comment made by the Delegation of the European Union and its member states supporting the importance of their role.

176. The Delegation of Brazil agreed with the third principle regarding rightsholders as interpreted by the Delegation of the United States of America and welcomed new joint initiatives regarding the idea of improving access of libraries and archives to works.

177. The Delegation of Chile acknowledged the explanation of the Delegation of the United States of America as to why certain principles had been grouped together but expressed the view that they should be dealt with independently. It supported the inclusion of a principle on museums on the basis that they faced similar obstacles to those of libraries and archives.

178. The Delegation of Canada associated itself with the proposal advanced by the Delegation of Australia that stakeholders be given the opportunity to make specific inputs on those topics to facilitate the delegations' understanding and the reaching of consensus.

179. The Delegation of the European Union and its member states agreed with the first principle highlighted by the Delegation of the United States of America that some exceptions and limitations and national frameworks other than those explicitly addressed to libraries, archives or similar beneficiaries could still be applicable and have a role for those institutions to fulfill their activities. It supported the principle of limitations and exceptions for museums to reflect the preservation issues that arose with those bodies and explained that Directive 2001/29/EC gave member States the option to implement an exception to the reproduction rights made by publicly accessible libraries, educational establishment or museums, or by archives which was not for direct or indirect economic or commercial advantage. The Delegation supported the principle of developing collaborative and innovative solutions and explained that public authorities rather than stakeholders could be suited to foster them as shown by the national experience of member states and at the European Union level. It asked the Delegation of the United States of America to provide a more detailed explanation of the relevance of adequate safeguards to the discussions.

180. The Delegation of Ecuador pointed out that its country had shown special interest for the issue of liabilities that could be assigned to libraries.

181. The Delegation of the United States of America responded to the request for clarification made by the Delegation of the European Union and its member states by stating that section 108 of its copyright law imposed requirements to provide notice that a material was subject to copyright protection. Further, it explained that the law also imposed some requirements about the use of TPMs to make sure that materials were being provided to their intended audience and that they were only available for as long as they were needed.

182. The Chair invited the NGOs to make interventions on the specific principles under discussion and requested that general discussions be avoided.

183. The Representative of the International Federation of Library Associations and Institutions (IFLA) made comments in relation to the principles of adoption of national measures, support of research and human development and the digital environment. IFLA observed that it was not possible for libraries to own every material they needed and that cross-supplies between institutions on a non-commercial basis were customary practice and served the aim of providing the widest access to knowledge and the best service to their patrons. It clarified that the collaborative system of resource sharing was commonly known as interlibrary loan for print material or interlibrary document supply for digital material. Those were established means for ensuring rich diversity in collections while protecting the legitimate interests of rightsholders. IFLA stressed that sharing could not be limited to certain materials or solely to national repositories and also provide access to the cumulative knowledge to the world's nations and people as mentioned in the principle. With respect to the supply of copies of individual items to individual users for research, study or other private purpose, IFLA highlighted that it would be impractical and hamper the free-flow of information if permission had to be obtained for each copy whether the material was in a national or a foreign repository; it therefore suggested that a transnational solution was needed. The Representative quoted the Vice President of the European Commission who stated that copyright reform and more harmonized exemptions were required to end the irritating barriers hampering access to content across borders to the detriment of researchers, cultural heritage and the human right of access to knowledge.

184. The Representative of the Canadian Library Association (CLA) made a statement about the digital environment and the impact it had on limitations and exceptions for libraries. CLA observed that licenses often prohibited the sharing of information across borders and between national institutions, even when the interlibrary request dealt with materials that were not copyright protected or in relation to which the copyright had expired. Secondly, CLA pointed out that there was a high rate of platform and format obsolescence in the digital environment and that libraries and archives should be able to preserve peoples' heritage before it became inaccessible. It referred to Canada's Copyright Modernization Act which had introduced provisions for libraries and archives to preserve materials in advance of obsolescence in 2012. The Representative also highlighted the problem that libraries had with TPMs such as digital locks that allowed content owners to disregard legal uses of materials and overreach citizens' national statutory rights. It expressed the view that an international framework on limitations and exceptions for libraries and archives was needed in those areas.

185. The Representative of the Society of American Archivists (SAA) referred to the principle of adoption of national measures and presented two examples from the American experience to show that that principle was not a viable option unless the national exceptions were coordinated through an international instrument. Using the example of American sovereign states' heterogeneous copyright systems following the gaining of independence, the Representative concluded that encouraging Member States to adopt exceptions and limitations in their national law could not provide the same clarity that the United States of America recognized. SAA

expressed the view that while the United States of America had one of the most comprehensive sets of archives and library exceptions, they were still insufficient to satisfy its needs and those of the rest of the world. The Representative emphasized that libraries and archives were faced with unworkable copyright barriers and that copyright law should demonstrate a vitality to cope with the modern information environment otherwise it would become irrelevant.

186. The Representative of KARISMA stated that, when discussing the issue of principles and objectives, limitations and exceptions and digital environment, it was vital to consider that access to the Internet had to do with access to technological infrastructures but also allowed for the exercise of human rights. Karisma noted that the digital environment and certain contractual provisions constituted a further barrier to access for libraries and archives and could worsen their precarious legal situation. It explained that many libraries in Colombia would own data but would not deliver them, therefore failing to safeguard access to knowledge for future generations. It clarified that even when libraries did provide the users with access platforms and digital content, the contractual licenses limited the remote access of users and forced them to access materials from the library computers. KARISMA supported the finding of an international solution to guarantee that libraries, archives and their users could use digital technology in favor of access without any limitation or measures.

187. The Representative of the Ibero-Latin-American Federation of Performers (FILAIÉ) associated itself with the intervention made by the Delegation of Italy concerning the public domain and the costs of the digitalization of works. FILAIÉ expressed the view that libraries and archives should receive a different treatment because they had different functions. It observed that archives were only concerned with collecting and preserving data and did not engage in a creative process while libraries were involved in the lending of material. With respect to digital lending, the Representative expressed the concern that notwithstanding the technological safeguarding measures, there were more than 100 pages on how to unprotect a digital loan with a determined termination and necessary mechanisms to be disseminated along the viral sense which acquired tremendous proportions. With regard to the general principles contained in document SCCR/26/8, the Representative sought a clarification on libraries' liabilities and the requirement of good faith.

188. The Representative of the International Federation of Journalists (IFJ) expressed the view that promoting conditions in which independent authorship could develop was a consideration that should inform all discussion of principles concerning limitations or exceptions, whether national or international. IFJ pointed out that exceptions should not be interpreted as derogations from authors' rights, because schools and libraries were worthy institutions aiming at extending reach and quality. However, it stressed that exceptions without fair compensation reduced the funds available to authors who depended on patronage, commercial sponsorship of publishers, inherited wealth or research funding where available. It clarified that only research grants were compatible with the independent creation that was necessary to the expansion of knowledge and its transmission through libraries and pointed out that they were limited in their range. It clarified that if being a widely distributed author were to depend on those sources of income then the scope for the free expression of culture would be limited. In order to reiterate those issues in economists' terms, the Representative stated that exceptions without fair compensation were a legislative transfer of value from authors or from one set of corporations in the global North to another which skimmed off value by distributing works that others wrote and produced and sold advertisement alongside them. It expressed the view that the solution to the needs of libraries and educational establishments lied in fair licensing by agreement and welcomed the submissions made by the International Federation of Reproduction Rights Organizations (IFRRO) in that respect. The Representative acknowledged the complexity of the issue of fair compensation and especially when it was routed via the intermediaries. Finally, it invited the delegations to make submissions to the IFJ on that topic.

189. The Representative of Electronic Information for Libraries (EIFL) strongly supported the need for limitations and exceptions for libraries and archives to enable preservation and to provide support for research and human development. EIFL firmly agreed with the principles of adoption of national measures and limitations and exceptions that applied in a digital environment and stressed that libraries and archives in every part of the world should have exceptions to carry out their institutional mandate in fulfillment of public policies set by governments. The Representative referred to the Crews study and stated that more than half of the world's countries lacked legal certainty in their ability to perform activities essential to their mission, particularly in handling digital information. It pointed out that even when such exceptions existed, they could be taken away by contract terms in licensed digital resources as it happened to the British Library since 2012. The Representative expressed the view that licensed services resulted in a marked retrogression for libraries and a reduction in the availability of information to end users for scholarships and research. It explained that some scholars' articles were no longer available or only available at unaffordable rates for developing countries. The Representative expressed the view that the only way to achieve digital access in a meaningful and timely manner was to establish a basic international standard that enabled libraries and archives to fulfill their missions for people everywhere.

190. The Representative of IFFRO agreed with the conclusion reached by the CEBS Group and the Delegation of the United States of America that the existing international legal framework allowed Member States to introduce appropriate exceptions and limitations in their national legislation and that there was a need for updated information and the sharing of experiences in that area. Additionally, the Representative emphasized the need to discuss implementation mechanisms and noted the Member States' acknowledgment of the value of information on real life practices provided by stakeholders. IFFRO stressed that it was essential to recognize the critical role of authors, publishers and Collective Management Organizations (CMOs) and Reproduction Rights Organizations (RROs) in providing sustainable access to Intellectual Property in both developed and developing countries. It pointed out that the dynamic needs of the user communities could not be met by free access to copyright works but had to be based on an agreement between authors and publishers supported by collective rights management. Finally, IFFRO aligned itself with the proposal advanced by the Delegation of the European Union and its member states to improve the information sharing exercise via global, regional or national seminars.

191. The Representative of the International Publishers Association (IPA) stated that many African publishers developed materials that better reflected the local curriculum and lending requirements, thereby providing a platform to continental writers to develop work that was based on those materials and which was subsequently popularized at the global level developing a healthier dialogue between local and international publishers. The Representative highlighted that many countries were heading towards a saturation point in terms of lender-to-book ratio by bringing in cheaper editions, which were not lending as finished products, and by optimizing the quality of the book, thereby helping the state in terms of book retention, management and distribution. He explained that such result was possible because a viable local sector was mediating the lending process and that developing the mediation of, rather than the access to information would represent the challenge of the future.

192. The Representative of the Scottish Council of Archives (SCA) expressed the view that international strategies were needed to enable libraries and archives to harness digital innovation in advancing research and human development and to ensure that limitations and exceptions delivered real benefits within the digital environment. SCA reminded the Committee that the European Commission had initially adopted a soft-law approach to solve the problem of orphan works by making a non-binding recommendation encouraging member states to develop mechanisms to facilitate on-line access. It observed that the national approach proved to be a failure because it offered limited opportunity for cross-border on-line access, thereby deterring libraries and archives' activity in the domain of orphan works and triggering numerous claims for

copyright infringement across Europe. In response to that failure, the European Union adopted Directive 2012/28/EU. The new normative approach was echoed by the words of the Vice President of the European Commission responsible for the digital agenda who called for pragmatic copyright reform to enable cross-border access to on-line content via harmonized exceptions benefiting researchers, teachers, cultural heritage institutions and users. It observed that transnational solutions were needed outside of Europe. The imperatives underpinning Directive 2012/28/EU such as closing the international knowledge gap, reducing the operating costs and risks for libraries and archives providing access to their collections across borders, promoting cross cultural awareness and guaranteeing the free movement of information and knowledge in a global network environment, also underpinned the need for international action on the copyright challenges facing libraries and archives.

193. The Representative of the Italian Association of Libraries referred to the principle of limitations and exceptions in the digital environment and stated that Italian universities and research centers were increasingly dependent on digital resources whose access was regulated by contracts with publishers. Libraries and users experienced a steady erosion of socially and economically important uses of copyrighted works hampering their core services. The Representative pointed out that the principles of liability and limitations and exceptions by way of contract were already recognized by Directive 96/9/EC and Directive 2009/24/EC and that while Directive 2001/29/EC was silent on the specific issue of digital environment, the speech of the Vice President of the European Commission made it clear that the widespread circumvention of limitations and exceptions in the digital age and its impact on libraries and their users was a serious issue that needed to be suitably addressed.

194. The Representative of KEI referred to the intervention made by the Representative of FIJ and expressed the view that the SCCR should value authors who were not specifically paid for their works like many academic writers. Libraries were facing a crisis due to the increased costs of journals and academic publications and explained that while restrictive licenses and contracts, digital locks and high prices seemed to benefit authors and publishers, they would ultimately damage them by reducing people's willingness to invest money in those institutions. The Representative acknowledged that not all countries had implemented national measures and questioned how WIPO would solve that problem. KEI disagreed with the comments made by the Delegations of the United States of America and of the European Union and its member states regarding the three-step test and with the attempt of those delegations in the Trans-Pacific Partnership (TPP) negotiations to make the test subject to private litigation and allow investors and publisher to sue and fine countries on the basis of its alleged violations. With respect to exceptions in the digital environment, the Committee should consider Article 7 of the Marrakesh Treaty stating that providing effective remedies against a circumvention of technological measures like digital locks should not prevent beneficiaries from enjoying limitations and exceptions. The latter formulation was better than the one proposed in document SCCR/26/8 as a basis for the Committee's discussions. The Representative proposed that anti-competitors practices such as excessive pricing and the exhaustion of rights be discussed as part of other general principles.

195. The Representative of the Centre for Internet and Society (CIS) referred to the principle of adoption of national exceptions and expressed the view that a complete digitalization would not be possible without an international legal instrument laying out minimum international standards that fostered a system for cross-border exchange. It would create an enabling environment to facilitate the adoption of limitations and exceptions at the national level. The Representative appreciated the objective set out in the proposal made by the Delegation of the United States of America and welcomed the statements by the Delegations of Kenya, Chile and South Africa that international regulation would grant a solution to the problems faced by libraries and archives in that area.

196. The Representative of the Chartered Institute of Library and Information Professionals (CILIP) reminded the Committee that libraries and archives associations presented evidence at the SCCR 27 of a dysfunction caused by the uneven provisions of copyright limitations and exceptions among countries or by licensing terms for digital knowledge goods that had the effect of overriding national exceptions. CILIP pointed out that the United Kingdom had already enforced legislation preventing contract terms from overriding exceptions and urged the Committee to follow the pragmatic approach underlined by the speech of the Vice President of the European Commission on copyright reform rather than discuss general principles.

197. The Representative of the Brazilian Libraries Association (BLA) recognized the need of WIPO Member States to adopt limitations and exceptions at the national level but expressed the view that the problem of libraries providing access to information would only be solved if those national measures were harmonized to facilitate the international cross-border sharing of knowledge and culture.

198. The Representative of the Scientific and Technical Medical Publishers (STM) stated that copyright laws should recognize and balance the public interest in support of the institutions that required content and the commercial and non-commercial publishers that provided services to them. He expressed the view that meeting the public interest in the electronic world and enabling access for more people to more content and more places was the core mission of publishers and that such mission was accomplished through licensing. The Representative stressed that licensing met costumers' demand and could be interpreted as an exceptions that delivered additional targets more efficiently. He explained that there was a difference between interlibrary loan and those services that were in competition with publishers and licensees and that it was necessary to find harmony between different channels serving scholarly communication.

199. The Representative of the International Council of Archives (CIA) endorsed the development of an international framework for limitations and exceptions for libraries and archives in light of the growing interest of people to gain cross-border access resulting from colonialism, migrations and transport improvements. CIA wished to highlight that archives held unique works that had never been published and rarely had any significant commercial value and which were accessed by the supply of hard or digital copies to individual researchers for non-commercial purposes. The Representative expressed concern for the cross-border difficulties connected with orphan works and reiterated that the adoption of national measures was not a satisfactory solution.

200. The Representative of the Trans-Atlantic Consumer Dialogue (TACD) referred to the adoption of national measures and pointed out that the Delegation of the United States of America had failed to explain how and when did the three-step test apply in the context of copyright exceptions. TACD observed that the application of the test was restricted to authors and to a single exception of the Berne Convention and it did not extend to the Appendix of the Berne Convention for developing countries or to the control of anticompetitive practices or to limitations on remedies for infringement. With respect to limitations and exceptions in the digital environment, the principle should include a statement that technological tools should not undermine exceptions or unduly restrict access to works. In relation to general principles, the Representative considered it helpful to include language addressing the need to control anticompetitive practices including excessive pricing and noted that the first sale doctrine was an important exception to exclusive rights. It proposed the addition of another principle titled protection of space for exceptions, aimed at refraining Member States from entering into trade agreements that reduced flexibility for library copyright exceptions.

201. The Representative of Computer and Communications Industry Association (CCIA) expressed the view that achieving greater legal certainty regarding the functions of libraries and archives was a priority for the Committee. He pointed out that the Committee heard clear

examples of how copyright issues prevented uses that any reasonable person would consider to be socially beneficial and indicated that national implementations of copyright should be reconciled to take advantage of the benefits of a largely borderless electronic world. He recognized that there were different views on what actions should the Committee take to meet that challenge and urged the delegations to have open, frank and fact-based discussions with a view to reach consensus.

202. The Representative of the International Federation of Film Producers Associations (FIAPF) referred to the principle of limitations and exceptions in the digital environment and stated that open exchanges between Member States on best practices combined with informal cooperation between professional services, archives and other public resources represented the best approach to facilitate the migration to digital format. FIAPF disagreed with the creation of an international legal instrument in that area on the basis that it would conflict with existing national laws, be detrimental to the common market of private and public partnerships, discourage participation of professional sectors and subject heritage to arbitrary influences. He expressed the view that existing treaties already granted the necessary flexibility to Member States enabling them to introduce limitations and exceptions.

203. The Representative of the Software and Information Industry Association (SIIA) supported the adoption of national exceptions on the basis that they reflected the particular histories, cultures, traditions and legal environments in which libraries and archives functioned and were consistent with the internationally recognized three-step test. SIIA disagreed with the implementation of a binding international instrument on the basis that it would inevitably override the flexibility needed by countries to address local circumstances.

204. The Chair thanked the NGOs for their interventions and adjourned the session.

205. The Delegation of Brazil sought a clarification concerning the Committee's schedule and its approach to discuss the 11 topics included in working document SCCR/26/3.

206. The Chair invited the Committee to comment on the topic of preservation.

207. The Delegation of Brazil stated that preservation was at the heart of the mission of archives and public libraries and supported the view that those institutions should be able to reproduce works without rightsholders' authorization. Libraries and archives needed to employ new technologies to guarantee the preservation of works and national provisions on preservation should be updated to consider digital progress. The Delegation observed that preservation and replacement measures should only be allowed for non-profit uses in the general interest of the public and for human development without conflicting with the normal exploitation of the work. It reminded the Committee that the Delegations of Brazil, India and Uruguay created a consolidated text for topics 1 to 11 contained in document SCCR/26/3 and suggested that the document be simplified by having one single draft text instead of different proposals as presented by the delegations.

208. The Chair welcomed the work described by the Delegation of Brazil to consolidate the proposals contained in document SCCR/26/3.

209. The Delegation of Chile agreed that preservation was one of the main tasks of libraries and archives and that it was important to have an exception allowing the preservation or replacement of works in case of loss or damage. It invited Member States that had developed such exceptions to discuss them and supported the proposal made by the Delegation of India on preservation contained in document SCCR/26/3.

210. The Delegation of the European Union and its member states explained that Directive 2001/29/EC contained a provision that allowed Member States to introduce limitations and

exceptions to the reproduction right in respect of specific acts by public libraries or museums or by archives which did not result in a direct or indirect commercial advantage. It clarified that general preservation exceptions were exceptions to the reproduction right and therefore they did not *per se* allow the making available. The Committee should consider that the Directive did not apply to acts made in the context of on-line delivery of protected works or phonograms when considering digitization activities in the context of museums or memory institutions that were aimed at subsequently making the content available. It pointed out that rights needed to be cleared as appropriate in the context of preservation activities and that the European Union and its member states adopted a memorandum of understanding on out of commerce works and collective licenses to facilitate that process. The Delegation informed that the EU legal framework was silent as to the application of exceptions to works that had not been published or made legally available, with the exception contained in Directive 2012/28/EU on phonograms that had never been published or broadcasted, provided that they were orphan works and with the prior authorization of the rightsholder to make them publicly accessible. It clarified that most member states excluded the application of exceptions to unpublished works but reminded the Committee that authors had divulgation rights in some countries enabling them to decide whether to divulge their work.

211. The Delegation of Australia highlighted the need to discuss the importance of cross-border cooperation between libraries when discussing the topic of preservation.

212. The Delegation of Canada explained that its country had adopted limitations and exceptions aimed at maintaining and managing collections and invited the Committee to consider the preserving function of museums.

213. The Delegation of the United States of America reiterated that limitations and exceptions enabling libraries and archives to preserve works were crucial to ensure constant public access to published and unpublished materials. It explained that preservation exceptions were contained in Article 108 of the national copyright law that included security or deposit for research use. The Delegation stressed the need to create suitable exceptions reflecting the fact that preservation in the digital era included digitization of born analog works and born digital works.

214. The Delegation of Ecuador reiterated the need for international legislation regulating limitations and exceptions for libraries and archives in order to ensure the preservation and the non-profit reproduction of works.

215. The Delegation of the Russian Federation stated that its legislation guaranteed the preservation of works by allowing unrestricted access to libraries and archives provided that they had no lucrative purpose in reproducing the material.

216. The Chair summarized the Committee's discussions on the topic of preservation. He identified a consensus among the delegations that limitations and exceptions should allow libraries and archives to fulfill their public service role, including that of preserving works. He understood that such exceptions should allow libraries and archives to make copies of published works and identified different opinions on their application to unpublished works. In relation to published works, the Chair highlighted a common understanding that limitations and exceptions did not only apply to preservation but also to replacement in certain circumstances and that both principles had to be clearly identified in national legislation. Further, he emphasized that preservation measures should provide an efficient answer to the obsolescence of certain media or formats and facilitate migration to new formats.

217. The Delegation of Brazil asked the Chair to include the need to consider how limitations and exceptions could facilitate cross-border cooperation between libraries on the issue of preservation in the topic summary.

218. The Chair expressed the view that it was possible to link the valuable contribution of the Delegation of Australia to a number of different topics and suggested its reevaluation at the end of the discussions.

219. The Representative of the Scientific and Technical Medical Publishers (STM) mentioned the portico system presented at the WIPO workshop and stressed that rightsholders played an active role in the preservation of documents and in the making available of materials in modern formats.

220. The Representative of the International Council of Archives (CIA) expressed the view that the preservation should extend to unpublished materials in order to preserve the existence of archives in a digital environment.

221. The Chair clarified that the issue of unpublished works had not been excluded from the scope of preservation but required further discussion to reach consensus.

222. The Representative of Knowledge Ecology International (KEI) observed that in some countries the term of unpublished works was considerably longer than that of published works.

223. The Representative of the Society of American Archivists (SAA) endorsed the concern expressed by CIA regarding the exclusion of unpublished works from the scope of preservation and highlighted that archives faced consistent difficulties in copying materials when it was stored in obsolete formats. SAA gave the example of the archives of a famous geneticist whose work was stored in over 1400 different file types leading to a considerable delay in the process of copying.

224. The Chair invited the delegations to make comments on the second topic of document SCCR/26/3 on right of reproduction and safeguarding copies.

225. The Delegation of Brazil observed that the topic of right of reproduction and safeguarding copies was closely related to libraries' role to provide access to information and knowledge. It recognized that new technologies created opportunities for libraries and archives to expand access to copyright works and stressed that legal certainty was necessary to ensure that those institutions could fulfill their mission in the digital environment. It highlighted that few Member States had developed national regimes that took account of technological development and stated that limitations and exceptions should be in line with existing international obligations.

226. The Delegation of the United States of America expressed the view that consensus could be achieved on the idea that reasonable limitations and exceptions should establish the framework enabling libraries and archives to supply copies of materials to researchers and other users directly or through intermediary libraries. It associated itself with the comment made by the Delegation of Brazil that such limitations and exceptions should facilitate the dissemination of materials in digital format.

227. The Delegation of Chile explained that its current legislation only allowed for the copying of fragments of work without making specific reference to percentages or proportions. It explained that the body managing libraries and archives established a maximum number of pages that was insufficient to satisfy specific user needs and stressed that there was no legal certainty in relation to the copying of photographs and maps. On the basis of those facts, the Delegation suggested that international exceptions should envisage the possibility of reproducing and distributing complete works.

228. The Delegation of the European Union and its member states reiterated that Directive 2001/29/EC contained an optional exception for the reproduction right. It clarified that the

exception did not expressly refer to reproduction rights but was largely adopted for preservation purposes provided that the excepted acts were very specific and not-for-profit. The topic under discussion referred to specific types of reproduction such as interlibrary supply or the supply of copies to patrons. It explained that the European framework maintained a more general approach by leaving discretion to its member states. Two users that supplied to libraries or individual patrons were normally considered separately and that the conditions were well defined to ensure compliance with the three-step test.

229. The Delegation of Austria referred to section 40 of its copyright act that explicitly addressed all institutions which were open to the public and which collected works. Paragraph 7 provided two options for the reproduction and the distribution of works for archival preservation and replacement purposes. The first option allowed the making of a single copy of any work, published or unpublished, when the original was in possession of the collection. That option was commonly known as preservation copy and would typically be made when an item was not available to the public due to conservational or security reasons or because it was lent to third parties for documentation. Further, preservation copies could also be needed for safeguarding digital assets. The second option allowed the making of several copies of a published work provided that the work was out of print or had not been distributed in a sufficient number of copies. That option was commonly known as the archival copy and served the purpose of allowing public access to out of print works. The Delegation added that legitimate copies should not be obtained for commercial purposes and could be lent and displayed on workstations.

230. The Delegation of Guatemala referred to Article 64 of its copyright law which stated that copies of works could be made for non-lucrative purposes if they were part of the permanent collection and the aim was to preserve that copy or to replace a similar copy when it became lost, destroyed or unusable, provided it was impossible to replace it under reasonable conditions. It associated itself with the statement made by the Delegation of Chile concerning the need to determine the number of copies which libraries and archives were authorized to make for the purpose of reproduction and the possibility to change their format. It highlighted that that national provision was only applicable to published works.

231. The Delegation of Canada stated that its national legislation enabled libraries, archives and museums to make copies of printed material and to provide those copies to patrons of other libraries and archives and museums as part of their interlibrary loan. The Delegation clarified that the exception did not apply to works of fiction, poetry, drama or music and had built-in safeguards to prevent the person requesting the copy from communicating it to any other person or using it for more than five business days from the date of the first use.

232. The Delegation of France explained that under its copyright system the reproduction of materials contained in libraries and archives was only possible with permission and there was no wider principle or objective connected to a right to reproduce or safeguard copies. It clarified that principle of preservation allowed certain institutions to make copies for non-profit uses.

233. The Delegation of Sudan referred to its copyright legislation updated in 2013 and stated that it allowed reproduction in case of damage or for the purpose of academic research or other activities undertaken by libraries, including use in the media or in the courts. It observed that in light of technological progress it became necessary to increase international cooperation between Member States in order to facilitate access to works and benefit scientific research within the framework of freedom of information. It highlighted the difficulty encountered by the authors of preserved materials to obtain up-to-date copies and pointed out that the making available of materials should be balanced with appropriate remuneration for rightsholders.

234. The Delegation of Ecuador emphasized that limitations and exceptions allowing libraries and archives to reproduce and safeguard copies was vital to the advancement of research and education, which represented absolute needs in developing countries.

235. The Chair invited to delegations to discuss whether the right to reproduce and safeguard copies was separate from the principle of preservation and to clarify its relationship with other concepts such as research, education, private study, or interlibrary loan. He pointed out that reproduction was linked to safeguards as highlighted by the Delegation of Canada but might also be linked to the general principle of support for research and human development contained in SCCR/26/8. Therefore, he urged the Committee to draw clear lines between the different principles.

236. The Delegation of Brazil recognized that limitations to the right of reproduction could apply to many other principles. It suggested that preservation and reproduction could be treated as a first broader principle or that the need for a limitation to the right of reproduction could be considered under each topic separately. The Delegation identified consensus in relation to the non-commercial use of reproductions.

237. The Delegation of the European Union and its member states asked to the Chair to clarify whether it was suggesting that the right of reproduction could or could not be analyzed under a given exception or whether it wished to subsume that right under one of the uses on the assumption that the exceptions to the reproduction rights were ultimately used for one or the other of the uses.

238. The Chair clarified that he was advancing the second suggestion mentioned by the Delegation of the European Union and its member states and observed that the delegations could only re-evaluate their position on that matter following the discussions of all eleven topics contained in document SCCR/26/8.

239. The Chair invited the delegations to make comments on the topic of legal deposit.

240. The Delegation of the United States of America referred to document SCCR/26/8 and stated that legal deposit systems helped developing national connections and preservation efforts especially if they included many categories of works in multiple formats. It explained that their national law provided for deposits of copyrighted works published in the Library of Congress and clarified that deposit and registration were distinct systems. Further, it highlighted that deposit systems around the world faced the new challenge of managing digital works and hoped to find adjustment solutions by sharing best practices among the delegations.

241. The Delegation of Brazil supported the general objective of legal deposit that was required by Brazilian legislation. It was of the view that designated legal deposit repository should be permitted for the purpose of preserving and demanding the production of copyrighted works and works protected by related rights that had been incorporated or made available to the public.

242. The Delegation of the European Union and its member states stated that the European Union framework did not provide specific legal provisions on legal deposit and that each member state had its own arrangements. It suggested that discussions on the voluntary or obligatory nature of legal deposit in different countries could raise interesting points.

243. The Delegation of Chile observed that its legislation on press uses imposed an obligation to send copies of all the works that had been published commercially to the national library and hoped to understand how the principles of legal deposit operated in other countries.

244. The Delegation of Austria explained that legal deposit in the analog world did not give rise to any copyright issues. However, it acknowledged that some limited copyright problems had developed in the framework of the recently introduced legal deposit of digital works and that acts of reproduction could be necessary depending on the delivery of such works. It clarified that the Austrian national library made the copies of delivered works but had no right to distribute them. Further, the Delegation pointed out that Austria had developed a legal basis for web harvesting.

245. The Delegation of the Russian Federation expressed the view that legal deposit did not have any connection with copyright in the context of preservation and explained that the Russian deposit system was aimed at preserving copies of works produced by various authors and institutions and provided for a national repository making such works available to users. It invited the Committee to consider the connection between copyright and legal deposit and stressed that the latter was not obligatory under the Berne Convention.

246. The Delegation of India aligned itself with the intervention made by the Delegation of the Russian Federation and explained that in India the Library Act of 1954 mandated authors to deposit one copy of their publications to the national library and obtain a certificate of legal deposit. It also invited the Committee to consider the United Nation library depository system.

247. The Delegation of France associated itself with the appeal made by the Delegation of Chile to have exchanges on the specific implementation of the digital legal deposit system.

248. The Delegation of Tunisia referred to the comparative study carried out by UNESCO on the importance of legal deposit in the preservation of cultural heritage and highlighted the need to differentiate between legal deposit defined by law and legal deposit interpreted as the management of copyright that could be either mandatory or voluntary. It stated that the objective of legal deposit was to preserve national heritage and that it was important to investigate the new instruments provided by the digital environment to keep such deposit.

249. The Delegation of Italy informed that publishers had to carry out legal deposit according to Italian law and expressed the view that there was no link between copyright and legal deposit because the latter was just a proof that the work was created, that it was an original one, and that it was written by a specific author, but it had nothing to do with the recognition of copyright.

250. The Delegation of Guatemala stated that legal deposit was not considered under copyright law in its country.

251. The Delegation of the Bolivarian Republic of Venezuela explained that legal deposit was mandatory under its copyright regime and that each publisher was under the obligation to send copies of published works to the national library to ensure it was preserved and available to the public. It expressed the view that legal deposit was connected to copyright because it avoided the need for future copies and protected the authors of work from plagiarism.

252. The Delegation of Ecuador stated that its copyright law imposed mandatory legal deposit obligations on publishing houses in order to preserve works but also to allow access to contents available in libraries and archives. The regime was voluntary in practice for authorities and involved the participation of the national copyright office, cultural institutions and libraries.

253. The Delegation of Senegal pointed out that there was no link in its legislation between legal deposit and copyright. It explained that authors were encouraged to deposit their works with the collective management organization in order to facilitate the protection of their rights but such deposit was not a condition for granting them protection.

254. The Delegation of Cameroon stated that legal deposit was regulated by a formal law that was aimed at tracing public works and had no connection to copyright.
255. The Delegation of Congo explained that its mandatory legal deposit regime was aimed at ensuring the permanence of works within the country but had no relation with copyright legislation.
256. The Delegation of Switzerland agreed with the statements made by the Delegations of Congo and Italy and reiterated that the Berne Convention did not attach any particular condition to legal deposit.
257. The Delegation of Yemen stated that its copyright law was a voluntary deposit that constituted proof of ownership but did not provide protection. It proposed that legal deposit be a mandatory provision.
258. The Delegation of Sudan explained that its law on legal deposit was initially developed in relation to archives and separately from copyright law. It clarified that the field of competence of copyright law was extended and it allowed publishers to submit five copies of each published work to the national library within a period of one month from the date of publication in order to protect the rights of authors in cases of plagiarism or simultaneous publications. The Delegation pointed out that the legal deposit was compulsory in cases of drafts and texts other than books.
259. The Delegation of Mexico stated that its country developed a system called express authorship that permitted the full registration of works within one day and an even faster program by which it granted registration certificates to vulnerable members of society in one hour.
260. The Delegation of the United States of America noted that the proposal was limited to encouraging the adoption of national legal deposit laws and systems. It stressed that the legal deposit requirement available in its country was not a condition to copyright protection.
261. The Delegation of Nigeria stated that its copyright legislation made no reference to legal deposit but identified a trend within the copyright commission to encourage authors to deposit their work with the national library. It clarified, however, that such deposit already happened on a voluntary basis.
262. The Representative of the International Publishers Association (IPA) explained that from a publisher's perspective legal deposit did not initially give rise to a copyright issue because copyright law did not restrict the act of providing works to libraries. IPA pointed out that legal deposit could be a compulsory system under the law or a voluntary one and that the compliance rate did not depend on that difference but on the trust that the rightsholders had in the capacity of libraries to protect their work. It expressed the view that the digital environment posed new challenges to the legal deposit system concerning IT security and the operability and capability of libraries in dealing with new digital products in the long-term and observed that publishers' trust in the legal deposit system also depended on the degree of protection that copyright law afforded to their economic interest. The Representative stressed that the collaboration between publishers and libraries was based on a restricted access policy set by publishers that gave rise to copyright issues such as the taking of a legal deposit copy for the purposes of remote access, document delivery, education or preservation. It emphasized that there was no need to treat legal deposit separately from those copyright issues and warned the Committee that an excessively lax copyright law would harm compliance.
263. The Chair identified a general consensus on the importance of legal deposit and highlighted that the questions for the Committee were whether the principle was connected to

copyright and to what extent it should be discussed as a national limitation or exception to copyright. The Chair recognized that there was not sufficient time to start discussions on the topic of library lending.

264. The Delegation of Brazil informed the Committee that it completed the compilation of text proposals on the 11 topics from the Delegations of Brazil, Ecuador and Uruguay and from the African Group and asked whether it could be presented so as to be included in working document SCCR/26/3 for the purpose of future discussions of the SCCR.

265. The Delegation of Paraguay proposed that regional workshops be organized to discuss the challenges that libraries faced at the national level and the relationship that existed between limitations and exceptions for copyright. It asked whether the Secretariat had preliminary information about the necessary budget for such workshops.

266. The Chair invited the Delegation of Brazil to present the text proposal on working document SCCR/26/3.

267. The Delegation of Brazil clarified that the proposal was a single text that merged the proposals advanced at the previous session by the Delegations of Brazil, Ecuador and Uruguay and the African Group that were contained in document SCCR/26/3. It explained that the compilation of the work of the previous sessions was aimed at streamlining the position and facilitating the Committee's discussions.

268. The Delegation of Kenya reiterated that the idea behind the proposal was to replace the proposals from the African Group and the Delegations of Brazil and India with one text providing a clearer view in terms of the issues that were under discussion.

269. The Delegation of Japan asked the Delegation of Brazil to clarify the relationship between its proposal and paragraph 15 of document SCCR/27/REF/ CONCLUSIONS.

270. The Delegation of Brazil explained that considerable areas of convergence were highlighted in the three texts proposed by the Delegations of Ecuador, Brazil, Uruguay, India and the African Group and that those texts and further comments were compiled in document SCCR/26/3.

271. The Delegation of Ecuador endorsed the comment made by the Delegation of Brazil and stressed that the work conducted by the Delegations of Brazil, Ecuador, Uruguay, India and the African Group was aimed at achieving progress in the area of limitations and exceptions.

272. The Delegation of the United States of America expressed concern that the compiled text might result in the deletion of certain proposals and asked the Committee to allow some time for consultation before accepting the proposal.

273. The Delegation of India pointed out that the substance of the original proposals contained in document SCCR/26/3 were not changed but simply merged using a simpler language.

274. The Delegation of South Africa welcomed the proposal advanced by the Delegation of Brazil.

275. The Delegation of Canada expressed the view that the draft proposal advanced by the Delegation of Brazil failed to sufficiently reflect the exchange of best practices among the delegations.

276. The Delegation of the European Union and its member states asked the Delegation of Brazil to clarify whether the text proponents had limited themselves to merging and streamlining the content of document SCCR/26/3 as they considered appropriate.

277. The Delegation of Brazil explained that the comment made by the Delegation of the European Union was correct and that the Delegations of Brazil, Uruguay, Ecuador, India and the African Group had identified areas on consensus among the different proposals and compiled them so that a single proposal was advanced under each topic.

278. The Chair adjourned the session.

ITEM 7: LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND FOR PERSONS WITH OTHER DISABILITIES

279. The Secretariat referred to SCCR/26/4 PROV, Provisional Working Document towards an appropriate International Legal Instrument (in whatever form) on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with other Disabilities Containing Comments and Textual Suggestions. It explained that the document contained a compilation of text proposals, comments and other materials advanced by Member States over a number of meetings. The Secretariat clarified that the comments referred to the textual proposals or reflected national experiences and were split between the document and the Annex depending on the choice of Member States. The working document was divided in seven broad sections containing subtopics. The Secretariat also referred to document SCCR/27/8, Objectives and Principles for Exceptions and Limitations for Educational, Teaching, and Research Institutions, submitted by the Delegation of the United States of America at the previous meeting and presented four categories on principles and objectives.

280. The Delegation of Japan, speaking on behalf of Group B, recognized that document SCCR/24/4 PROV contained valuable comments advanced by Member States and that its format should be kept for the future work of the Committee in that area. It welcomed document SCCR/27/8 and observed that the updating of studies by the Secretariat would be beneficial to the discussions.

281. The Delegation of the European Union and its member states expressed the view that the legal space and flexibility provided for by the existing international copyright framework was sufficient for all Member States to draft, adopt and implement meaningful limitations and exceptions in that area. The Delegation supported the sharing of best practices among WIPO members but reiterated its unwillingness to consider work leading towards a legally binding instrument on the basis that there was not sufficient rationale for harmonizing exceptions at the international level. It stressed the importance of maintaining a degree of flexibility among WIPO members in view of their different legal systems and traditions and highlighted that licensing played an important role in many Member States alongside or instead of the application of exceptions. The Delegation acknowledged the lack of consensus concerning the desired outcome of the Committee's work in that area but stressed that it should not prevent delegations from having meaningful discussions. It encouraged Member States to update, adopt and implement relevant limitations and exceptions at the national level in agreement with the existing international framework.

282. The Delegation of the United States of America stated that limitations and exceptions in that area reflected its twin goals of promoting authorship and creativity and promoting students and researchers' achievement. Delegations should focus on finding common ground on high level objectives and principles and learning from one another by examining the diverse range of educational exceptions in nations around the world. Individual countries should have flexibility to tailor exceptions and limitations to address their own needs according to their respective legal, cultural and economic environments. The Delegation recognized that some delegations

wished to consider limitations and exceptions which were not specific to the educational context and warned that bringing controversial issues such as Internet Service Providers (ISP) liability or public health in the discussions would be highly detrimental to make substantive progress.

283. The Delegation of Brazil aligned itself with the intervention made by the Delegation of the United States of America and stressed the need to maintain that item on the agenda.

284. The Delegation of Chile pointed out that limitations and exceptions for educational and research institutions and persons with other disabilities were crucial to the development of countries like Chile and underlined the need to understand the impact of the digital environment on access to information.

285. The Chair opened the floor for interventions from Observers.

286. The Representative of KEI encouraged the Committee to consider extending the benefits of limitations and exceptions to other disabled groups such as deaf people using the same approach that was adopted in the negotiations of the Marrakesh VIP Treaty. KEI explained that it was not necessary to develop a separate treaty to achieve that aim and that a short instrument could be adopted on the line of the proposal advanced by the Delegations of Brazil, Paraguay and Ecuador.

287. The Representative of EIFL reminded the Committee that people with other disabilities, including deaf people, were excluded from the negotiations leading to the Marrakesh VIP Treaty for persons with print disabilities notwithstanding the substantial communication difficulties they had to face and their higher reliance on technologies such as subtitles and captioning. EIFL highlighted that access to reading materials was rightly described as a humanitarian issue and that copyrights issues arising in creating accessible format copies for deaf people were of a similar nature. It suggested that the Committee considered making a recommendation or agreed principle to the General Assemblies that the provisions of the Marrakech Treaty applied *mutatis mutandis* to persons with other disabilities in order to ensure equality of treatment.

288. The Representative of the IPA drew the delegations' attention to its study titled "Growing Knowledge" which was a collection of initiatives by publishers and librarians aimed at increasing access to eBooks and journals in Africa and other developing countries.

289. The Secretariat informed the Committee that it was prepared to conduct a study, subject to the availability of funding, and that it was in the process of identifying appropriate authors for a study on the intersection of copyright with disabilities other than those affecting blind and visually impaired and print disabled people. It welcomed suggestions from the delegations and hoped to make the study available at the 29th or 30th session of the SCCR. It explained that the study would consist of a broad examination of the areas where the national copyright laws of different countries intersected and it would illustrate the relationship between copyright and disability laws, whether in the form of general provisions that benefitted persons with disabilities or in respect of specific matters such as captioning as previously mentioned by EIFL.

290. The Chair invited the Delegation of the United States of America to present document SCCR/27/8 named Objectives and Principles for Exceptions and Limitations for Educational, Teaching, and Research Institutions.

291. The Delegation of the United States of America referred to the first topic of document SCCR/27/8, the adoption of national exceptions and limitations, which reflected the goals of the U.S. Copyright Office to provide authorship and creativity by administering a sustainable copyright system and promoting student achievement. Those principles were codified in its national law through a combination of exclusive rights for authors and limitations and exceptions to copyright. Aside from Section 107 which provided a general exception to copyright, there

were other fair use exceptions relating to education including Section 110.1 addressing displays and performances in face to face teaching, Section 110.2 addressing displays and performances in distance education and Section 108 which was the specific exception for library and archival copying. The Delegation referred to the second topic of document SCCR/27/8, promote access to educational and research materials by fostering a vibrant commercial market and the use of innovative licensing models. It recognized that a vibrant commercial market was an essential component of a fully functional education system and highlighted those publishers' difficulties in adapting to the on-line environment led to a fall in the revenues of certain parts of the education industry. Licensing helped managing complex multijurisdictional Internet issues giving parties a clear set of negotiable rights, thereby responding to the concerns voiced by users and educators that transaction costs or unavailability of works could create barriers to access. It pointed out that publishers of educational materials were aware of the need to adjust prices to distinguish among different types of users and that in the United States different packages comprising variable value added features could be created to accommodate different users and educational institutions. The Delegation clarified that those packages increasingly relied on micro licensing that allowed users to pay only for the type of access and use that they needed. It pointed out that other licensing schemes such as open educational resources (OER) enabled educators and students alike to access, customize and modify high quality educational materials and encouraged other countries to adopt them. Some intergovernmental organizations and U.S. government agencies developed policies for commissioned copyrightable works. The Assistance Community College and Career Training Grant Program (TAACT), for instance, required that copyrightable materials produced under its grants be licensed under a creative commons attribution license so that those materials could be freely used by anyone and for any purpose. The Delegation referred to the third topic contained in document SCCR/27/8, support exceptions and limitations for use in technologically evolving learning environments. It explained that the objective acknowledged the fact that educational material was delivered and absorbed in a dramatically different way since the advent of the Internet. The Delegation stated that the United States of America recognized the rapidly expanding role of the Internet in education and developed the Technology Education and Copyright Harmonization Act (TECH Act) whose provisions allowed for the conditional posting of materials to servers and were used in tandem with licensing mechanisms to enable and support distance-learning activities. The Delegation noted that new digitally based learning mediums had flourished such as Open University and iTunes U and that publishers were adapting to 21st century changes by providing instructional materials that were affordable, portable and adaptable to students with different learning styles and abilities. The Delegation referred to the fourth topic contained in document SCCR/27/8, other general principles. It noted that the United States adopted both specific exceptions and general exceptions to enable educational, teaching and research institutions to carry out their public service missions and pointed out that such exceptions had to be consistent with international obligations including the three step test. It expressed the view that Member States should recognize limitations on liability of certain types of monetary damages applicable to non profit educational, teaching and research institutions and their employees and agents when they acted in good faith, believing or having reasonable grounds to believe that they acted in accordance with copyright law. The Delegation referred to Section 504.C2 of title 17 of the United States Copyright Act which provided that non profit educational institutions and their employees and agents acting in the scope of their employment were not liable for statutory damages for the reproduction of works or phone records if they believed and had reasonable grounds for believing that their action was a fair use under section 107 of the same Act. It stated that under Section 1203CD5 courts could not impose certain damages in cases where an educational institution proved that it was not aware of and had no reason to believe that its acts constituted a violation of the prohibition to circumvent Technological Protection Measures (TPMs).

292. The Representative of KEI referred to other general principles in document SCCR/27/8 and pointed out that under the 11th amendment to the United States Constitution the Supreme Court had ruled that state governments were not liable for copyright damages for infringement,

thereby preventing copyright holders to seek damages from state-run universities and colleges. The Representative explained that limitations on the revenues for infringement were not subject to the three step test because the relevant provision of the World Trade Organization (WTO) agreement appeared in part three of the TRIPS but not in part two and damages were not mentioned in the Berne Convention. KEI referred to the African Group's proposal on limitations on damages in the educational context and invited the Committee to note that the legal status of a limitation or exception relating to remedies was different from the legal status it held with respect to the three step test.

ITEM 4: ADOPTION OF THE REPORT OF THE TWENTY-SEVENTH SESSION OF THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (cont.)

293. The Chair invited the Committee to adopt document SCCR/27/9, Draft Report of the 27th Session of the SCCR.

294. The Committee adopted the report of the 27th Session of the SCCR.

ITEM 8: CONTRIBUTION OF THE SCCR TO THE IMPLEMENTATION OF THE RESPECTIVE DEVELOPMENT AGENDA RECOMMENDATIONS

295. The Chair stated in a written statement that the SCCR has undertaken its activities consistent with the WIPO Development Agenda since its last report in 2011. In particular he highlighted the decision to hold a diplomatic conference to adopt the text of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, and Print Disabled. Like the previous Beijing Treaty on Audiovisual Performances, the Marrakesh VIP Treaty has an explicit reference to the Development Agenda in its Preamble, which includes the following provision: "Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work". The adoption of this Treaty focused on limitations and exceptions is consistent with Development Agenda recommendations 15 and 17. Work towards implementing this Treaty continues with the signature of the Treaty by 80 SCCR Members and the announcement of the first ratification, by India, during the 28th meeting of the SCCR.

296. The Delegation of Kenya, speaking on behalf of the African Group, recalled that the General Assembly recognized in 2010 a mechanism to help mainstream the Development Agenda (DA) recommendations within WIPO's work. The SCCR, especially regarding norm-setting activities, should contribute to the DA and more specifically with its recommendation 15 which calls for all activities to be inclusive and member-driven, to take into account different levels of development and the balance between costs and benefits, and to be a participatory process which takes into consideration the interests and priorities of all WIPO Member States and the viewpoints of stakeholders. The Delegation noted that the Committee had topics reflecting that balance, but that discussions did not seem to be working towards the interests of all Member States. It was necessary to look carefully at how the Committee was handling discussions, especially where there was no balance in terms of weight and manner in which discussions had been carried out: While some topics gained or had a lot of weight, others seemed to be treated casually. This was exemplified during that day, when at the same time the plenary took place a regional coordination meeting also occurred, preventing Member States from actively participating in a topic of discussion. There had been no similar mechanism in the first two days of the SCCR. While the Development Agenda Group (DAG) stated that all DA recommendations should be mainstreamed in WIPO's work, that did not seem to happen. The Member States and the General Assembly should emphasize the need to have a balance, and that balance should be reflected in terms of outcomes and not only in terms of the topics on the table. The Delegation concluded that the weight and importance given to the different topics should be equal.

297. The Delegation of India stated that appropriate time should be allocated to all agenda items and associated itself with the statement delivered by the Delegation of Kenya on behalf of the African Group.

298. The Delegation of Brazil supported the statements made by the Delegation of Kenya on behalf of the African Group and India. There were concerns about how important issues of the DA were being handled at the Committee and in the Organization as a whole. The SCCR's contribution to the implementation of the DA was very relevant. The work program on limitations and exceptions and the clear reference to the DA included in the Beijing Treaty were concrete examples. It was important to mainstream to a more development-oriented perspective in WIPO. The SCCR's agenda items on limitations and exceptions were one of the most important contributions to the DA because they directly contributed to the more balanced intellectual property system in a practical way. The work undertaken by the SCCR comes from the value of copyright. Encouraging creative cultural developments while recognizing the need to establish limitations and exceptions in key areas strikes the necessary balance in the intellectual property system and assures that those rights do not adversely affect access to knowledge and culture for the disadvantaged segments of the population. The Delegation encouraged Member States to stay committed to advance the limitations and exceptions' agenda.

299. The Delegation of Indonesia supported the statements made by the Delegations of Kenya on behalf of the African Group, India, and Brazil regarding the allocation of time. The Delegation proposed to include the discussion on the contributions to the DA as the first agenda item.

300. The Delegation of Iran (Islamic Republic of) endorsed the statement delivered by the Delegation of Indonesia.

301. The Delegation of Japan, on behalf of Group B, believed that development considerations formed an integral part of WIPO's work in the field of copyright, including the SCCR. The work relating to a treaty for the protection of broadcasting organizations at the SCCR also contributed to the DA relating to norm setting and in particular to recommendation 15. The negotiation was being conducted in an inclusive and member-driven manner that gave due consideration to levels of development. The Delegation stated that the work done at the Committee on limitations and exceptions also contributed to an increased understanding, including on copyright flexibilities. The DA could continue to be implemented in a positive way in the work of the SCCR.

ITEM 9: OTHER MATTERS

302. No other matter was raised.

CONSIDERATION OF CONCLUSIONS

303. The Secretariat introduced document SCCR/28/REF/CONCLUSIONS. It noted that the document began with a section on the protection of broadcasting organizations and ended with a recommendation to the WIPO General Assembly. A section followed on limitations and exceptions for libraries and archives, which also ended with a proposed recommendation to the WIPO General Assembly. Further sections were dedicated to limitations and exceptions for educational and research institutions and persons with other disabilities. The document proposed to maintain those three items on the agenda for the following SCCR. Additionally, there was an item on the implementation of the respective Development Agenda recommendations, which required a minor edit in the first line where the words "including those submitted to the Secretariat in writing" had to be inserted. The last section of the document

stated that the following session of the SCCR would run from 8 to 12 December 2014 and stated that the allocation of time would be the same as the allocation decided for that meeting.

304. The Chair invited all delegations to comment on the draft conclusions on a paragraph-by-paragraph basis.

305. The Delegation of Kenya expressed the view that it could not adopt a paragraph-by-paragraph format and that the document could only be agreed at the end of the discussions of the 17 paragraphs.

306. The Delegation of India clarified that discussions regarding document SCCR/28/REF/CONCLUSIONS had already been carried out in the regional coordinators plus three format and that the Committee should be summarily briefed on the outcome of those discussions in plenary for transparency reasons.

307. The Chair pointed out that some regional coordinators advanced ideas to achieve progress that did not reflect national positions and clarified for transparency reasons that the content of document SCCR/28/REF/CONCLUSIONS reflected the agreement reached by the regional coordinators. He reiterated that comments would be received on each topic on a paragraph-by-paragraph basis with no decision being taken until the end of the discussions on paragraph 17.

308. The Secretariat read paragraph 1 of SCCR/28/REF/CONCLUSIONS which stated that the Committee pursued discussions on issues relating to the categories of platforms, activities to be included under the object and scope of protection to be granted to broadcasting organizations in the traditional sense and initiated discussions on definitions.

309. The Delegation of India supported the proposal advanced by the Delegation of Iran that a reference be added at the end of paragraph 1 specifying that the conclusion was consistent with the 2007 General Assembly mandate.

310. The Delegation of the Islamic Republic of Iran clarified that its proposal consisted in the addition of the words "Consistent with the 2007 General Assembly mandate, including the signal-based approach" at the end of paragraph 1.

311. The Delegation of the European Union and its member states agreed with the proposal advanced by the Delegations of the Islamic republic of Iran and supported by the Delegation of India.

312. The Delegation of Kenya reserved the right to comment on paragraph 1 at a later stage of the discussions regarding the conclusions.

313. The Chair disagreed with the approach taken by the Delegation of Kenya on the basis that it would be problematic to repeatedly open discussions on the same paragraph. He offered to repeat that no agreement would be reached until the end of the discussions and invited the Delegation of Kenya to communicate its preliminary position on paragraph 1.

314. The Delegation of Kenya agreed with the text addition advanced by the Delegation of the Islamic Republic of Iran and proposed that a reference to the mandate be added in the context of limitations and exceptions as a matter of consistency.

315. The Secretariat read paragraph 2 of document SCCR/28/REF/CONCLUSIONS stating that the discussions were based on technical working non-papers addressing those issues submitted at the 27th and 28th Sessions of the SCCR and that technical explanations submitted by stakeholders in relation to some specific issues considered in the informal discussions which

took place during the session were compiled into an informal document. The Secretariat referred to paragraph 3 of SCCR/28/REF/CONCLUSIONS, which stated that the discussions contributed to progress on the substance concerning the draft treaty to update the protection of broadcasting organizations in the traditional sense.

316. The Delegation of Kenya expressed preliminary agreement in relation to paragraph 3 provided that a reference to the 2007 General Assembly mandate was included.

317. The Delegation of the European Union sought a clarification on the absence of any reference to the mandate in paragraph 3.

318. The Delegation of Kenya explained that the minutes of the broadcasting treaty were about the protection of broadcasting organizations in the traditional sense and therefore covered the mandate in general terms.

319. The Delegation of Brazil supported the proposal advanced by the Delegation of Kenya on behalf of the African Group to add a reference to the mandate in paragraph 3 in order to maintain a balance between the different topics.

320. The Delegation of the Islamic Republic of Iran suggested that the term “substance” be substituted with the term “issues” in paragraph 3.

321. The Delegation of the European Union and its member states expressed the view that the nature of the discussions that the Committee had that week should be characterized.

322. The Delegation of India suggested that the word “meaningful” in relation to “progress made” should be deleted. It clarified that the Committee did not make meaningful progress on the text of the treaty but rather had meaningful discussions on the issues concerning the draft treaty.

323. The Delegation of Japan disagreed with the deletion proposed by the Delegation of India and expressed the view that meaningful progress was made because the clarification of the issues contributed to the development of the text negotiations.

324. The Delegation of the Czech Republic supported the comment made by the Delegation of Japan and the suggestion of the Delegation of the European Union and highlighted that the proposal made by the Delegation of India would result in a repetition of the work “discussions”.

325. The Delegation of India clarified that the incipit of the paragraph would only state that there were meaningful discussions, thereby avoiding any repetition of the word.

326. The Delegation of Australia proposed to leave the text of paragraph 3 unchanged and move on to paragraph 4.

327. The Chair indicated that because there was no other comment the Secretariat could read the following paragraph.

328. The Secretariat read paragraph 4 of document SCCR/28/REF/CONCLUSIONS, which requested it to provide an update of the 2010 study on current market and technology trends in the broadcasting sector, document SCCR/19/2, focusing on the use of digital technology by cablecasting and broadcasting organizations in the traditional sense, whether public or commercial, including in developing countries, with the aim of presenting the results of the study and providing opportunities for technical discussion at the 29th session of the SCCR.

329. The Delegation of Iran suggested that the sentence “and impact assessment on all stakeholders” be added after the word “commercial” in the fourth line of paragraph 4 to reflect that the update study should be comprehensive and encompass stakeholders, authors and public domain access to knowledge.

330. The Chair asked the Delegation of the Islamic Republic of Iran to clarify whether its proposal referred to the study or a new suggestion on the general topic of broadcasting organizations.

331. The Delegation of the Islamic Republic of Iran clarified that the proposed sentence was an invitation to update the study on the impact on other stakeholders.

332. The Secretariat read paragraph 5 of document SCCR/28/REF/CONCLUSIONS stating that the protection of broadcasting organizations was going to be maintained on the agenda of the 29th session of the SCCR.

333. The Secretariat read paragraph 6 of document SCCR/28/REF/CONCLUSIONS, which stated that the Committee agreed on the following recommendations to the 46th WIPO General Assembly that: (a) the WIPO General Assembly approved at its session in 2014 the convening of a Diplomatic Conference in 2016 for the adoption of a treaty on the protection of broadcasting organizations with the exact dates and venue to be decided by a preparatory committee meeting; and (b) the roadmap to be followed would include three further SCCR meetings, one in December 2014 and two in 2015 and that at its session in 2015 the General Assembly would be in a position to review the progress made in the SCCR.

334. The Delegation of Kenya proposed the replacement of the word “approve” with “consider” and the substitution of “2014” for “2015” in the first line of paragraph 6.

335. The Delegation of India agreed with the proposal advanced by the Delegation of Kenya and suggested that subparagraph (b) be removed from paragraph 6 because it did not specifically refer to the protection of broadcasting organizations and placed under paragraph 15 or 16. It disagreed with the content of subparagraph (a) on the basis that it was premature to make a recommendation to the General Assembly for the convening of a diplomatic conference when no text-based discussions had taken place during the 27th and 28th Sessions of the SCCR. It suggested that the Committee would be in a better position to make a recommendation in 2015 after further evaluations and pointed out that the General Assembly decision of 2013 did not impose an obligation on the Committee to hold a diplomatic conference.

336. The Delegation of South Africa agreed with the date substitution proposed by the Delegation of Kenya and supported the Delegation of India’s proposal to remove subparagraph (b) from paragraph 6 and place it under paragraph 16.

337. The Delegation of the Islamic Republic of Iran supported the statements of the Delegations of India and South Africa and suggested that subparagraph (b) should be placed under paragraph 15. Further, it proposed the addition of the sentence “the progress made in SCCR and on the convening of a Diplomatic Conference” following 2015 in the first line of paragraph 6.

338. The Delegation of the Czech Republic expressed a preference for the original wording suggested in the draft. With respect to subparagraph (b), it considered deleting of the first part as suggested by the Delegation of India and maintaining the review clause.

339. The Delegation of Malawi supported the proposal advanced by the Delegation of Kenya on behalf of the African group in relation to subparagraph (a) and expressed the view that subparagraph (b) should be left unchanged.

340. The Delegation of India asked the Secretariat to clarify the reference to the three SCCR meetings in subparagraph (b).

341. The Secretariat explained that the subparagraph referred to the three future SCCR meetings scheduled following the usual pattern and meant that the protection of broadcasting organizations would be discussed at those meetings among other topics.

342. The Delegation of India asked the Chair and the Secretariat to clarify the rationale for having that reference in paragraph 6.

343. The Chair reiterated that the express reference to future SCCR meetings under paragraph 6 did not imply the exclusion of other topics from future discussions.

344. The Delegation of Brazil associated itself with the concern expressed by the Delegation of India that subparagraph (b) had the effect of limiting the Committee's discussions at future meetings and that it should be placed under another paragraph.

345. The Secretariat explained that having a roadmap mentioning specific SCCR meetings did not limit the agenda for those meetings and left discretion to the members to allocate time to different issues. It pointed out that a similar roadmap referring to an SCCR meeting was adopted in the context of the Marrakesh Treaty negotiations.

346. The Delegation of India highlighted that the Marrakesh Treaty negotiations were largely based on consensus and that in order to avoid confusion it was necessary to either repeat the reference to future SCCR meetings for all the other agenda topics or delete it from paragraph 6 and place it at the end of document to avoid repetition.

347. The Chair suggested that the wording "without prejudice to the discussion of other topics" be included in subparagraph (b).

348. The Delegation of Indonesia proposed that subparagraph (b) be moved under the heading next session of the SCCR.

349. The Delegation of Chile supported the proposal to move subparagraph (6) so that it would apply to all agenda topics.

350. The Delegation of Czech Republic clarified that only the first part of subparagraph (b) needed to be removed from paragraph 6 because the review clause expressly referred to broadcasting organization and had to be kept under that paragraph. It proposed to delete the first part in accordance with the suggestion made by the Delegation of India.

351. The Delegation of Switzerland supported the proposal advanced by the Delegation of Czech Republic on behalf of the CEBS Group.

352. The Delegation of India confirmed that it was only necessary to delete the first part of subparagraph (b) from paragraph 6 and place it under paragraph 16. It expressed flexibility to accept the date amendment suggested by the African Group but pointed out that it would make the second part of subparagraph (b) redundant.

353. The Delegation of the European Union and its member states agreed with the proposal advanced by the Delegation of Czech Republic on behalf of the CEBS Group and seconded by the Delegation of Switzerland.

354. The Secretariat read paragraph 7 of document SCCR/28/REF/CONCLUSIONS, which stated that based on the outcome of the 27th session of SCCR and documents SCCR/26/3 and SCCR/26/8, the Committee pursued discussions on general subjects, namely adoption of national exceptions, support for research in human development and limitations and exceptions in a digital environment, as well as on specific subjects related to the 11 topics identified in previous SCCR sessions, namely preservation, right of reproduction, and safeguarding copies and legal deposit.

355. The Delegation of India proposed the addition of the sentence “including international framework on cooperation on limitations and exceptions for libraries and archives” after “national exceptions” in the third line of paragraph 7.

356. The Delegation of the United States of America requested more time to consider the proposal advanced by the Delegation of India and clarified that the words “limitations and exceptions” in the fourth line of paragraph 7 should specifically refer to libraries and archives.

357. The Delegation of India recalled that its and other delegations’ expression of the need for an international cooperation framework should be reflected in the conclusions.

358. The Secretariat explained that paragraph 7 did not represent an effort to capture all of the elements that were discussed under various headings but simply to list the headings under which discussions took place.

359. The Delegation of India stressed that other general principles had informed the discussions and should be reflected in the conclusions.

360. The Delegation of Kenya supported the proposal of the Delegation of India and suggested that the sentence “including the need for an international framework” be added at the end of paragraph 9. It also proposed to add the sentence “the Committee pursued discussions to an appropriate international legal instrument or instruments, whether model law, joint recommendation, or treaty and other forms starting with general subjects” at the beginning of paragraph 7.

361. The Delegation of the Islamic Republic of Iran agreed with the proposal made by the Delegation of India to add a reference on international cooperation to paragraph 7.

362. The Delegation of the United States of America expressed satisfaction with the answer given by the Secretariat to the Delegation of India and stated that the conclusions should only cover general principles and avoid being excessively lengthy.

363. The Delegation of Brazil associated itself with the view expressed by the Delegations of India, Kenya and the Islamic Republic of Iran that the conclusions should reflect that discussions were guided by a principle of international cooperation. It supported the need to include a reference to the mandate in relation to limitations and exceptions and observed that the conclusions should also refer to the compiled proposal based on document SCCR/26/3 and to its discussion at the following session of the SCCR.

364. The Delegation of the European Union and its member stated asked the Delegation of Kenya to clarify the language of its proposal and expressed concern that the approach taken by the Delegation of India could lead to the same problems that characterized the discussions of the conclusions of the previous SCCR.

365. The Secretariat read paragraph 7 as reformulated in accordance with the proposal made by the Delegation of Kenya. It stated that based on the outcome of the 27th session of the SCCR and documents SCCR/26/3 and SCCR/26/8, the Committee pursued discussions

towards an appropriate international legal instrument or instruments, whether model law, joint recommendation, treaty and/or other forms, starting with general subjects, namely adoption of national exceptions etcetera.

366. The Delegation of the European Union and its member states expressed the view that the rephrased paragraph referred to the mandate in a very explicit way and that it was preferable to adopt the tangential reference contained in paragraph 3. It sought a clarification from the Delegation of Brazil regarding the presentation of the compiled proposal on document SCCR/26/3.

367. The Delegation of Brazil reminded the Committee that its Delegation alongside those of Uruguay, Ecuador, India, and the African Group had compiled the proposals contained in document SCCR/26/3 in a single text to be discussed at the following SCCR and requested that that fact be reflected in the conclusions.

368. The Chair confirmed that it was clear from the record of the meeting that the Delegation of Brazil announced that the proponents of the proposals contained in document SCCR/26/3 undertook a text consolidation exercise and requested that it be noted so that those items could be discussed at the following session of the SCCR. He suggested that the term “announced” rather than “proposed” could be adopted in relation to the new text.

369. The Delegation of Brazil expressed flexibility on the language, provided that it clarified that the combined text would be substituted for the proposals previously contained in document SCCR/26/3. The Delegation stated that it would submit a written statement for the record, and in the statement it announced the following results of the consolidation exercise:

CONSOLIDATION OF CURRENT PROPOSED TEXTS AVAILABLE IN SCCR/27/REF/26/3

Submitted by African Group, Brazil, Ecuador, India and Uruguay to substitute for the proposed text presented by these Delegations for the eleven topics contained in document SCCR/26/3:

TOPIC 1: PRESERVATION

1. It shall be permitted for libraries and archives to reproduce published and unpublished works, or materials protected by related rights, regardless of their format, without the authorization of the copyright owner;
2. The copies made in accordance with paragraph (1) may be used in place of the original works or materials preserved or replaced, for purposes such as education, research and preservation of cultural heritage, and for the uses permitted by this instrument/treaty, in accordance with fair practice.
3. The reproduction referred to in paragraph (1) shall be made for non-profit uses, in the general interest of the public and for human development, without conflicting with the normal exploitation of the work or unreasonably prejudicing the legitimate interests of the author. This activity may be exercised in situ or remotely.

TOPIC 2: RIGHT OF REPRODUCTION AND SAFEGUARDING COPIES

1. It shall be permissible for a library or archive to reproduce and to supply, by any means, any works, or materials protected by related rights, lawfully acquired or accessed by the

library or archive, to its users or to another library or archive for subsequent supply to their users, for the purposes of education, private study, research or interlibrary document supply, provided that such uses are compatible with fair practice as determined by national law.

2. Libraries and archives shall be permitted to reproduce and supply a copy of a work, or of a material protected by related rights, to a library or archive user, in any other case where a limitation or exception in national legislation would allow the user to make such copy.

TOPIC 3: LEGAL DEPOSIT

1. Member States/Contracting Parties may determine that specific libraries and archives or any other institution shall serve as designated repositories in which at least one copy of every work published in the country, regardless of the format, is to be deposited and permanently retained.

2. A designated repository or repositories shall demand the deposit of copies of published copyright works, or copies of published material protected by copyright or related rights.

3. It shall be permitted for the designated legal deposit repository or repositories to reproduce, for purposes of preservation, publicly available content and to demand the deposit of reproductions of copyright works or works protected by related rights, which have been communicated to the public or have been made available to the public.

TOPIC 4: LIBRARY LENDING

1. It shall be permissible for a library or archive to lend copyright works, materials protected by related rights, lawfully acquired or accessed by the library or archive, to a user or another library or archive for subsequent supply to any of its users, by any means, including digital transmission, provided that such use is compatible with fair practice as determined in national law.

2. Notwithstanding the provisions of paragraph (1), any Contracting Party/Member State which expressly provides for a public lending right, may keep such right.

TOPIC 5: PARALLEL IMPORTATIONS

1. It shall be permissible for libraries and archives to acquire and import legally published works to be incorporated into their collections in cases where a Member State/Contracting Party does not provide for international exhaustion of distribution right after the first sale or other transfer of ownership of a work.

TOPIC 6: CROSS-BORDER USES

1. Member States/Contracting Parties shall provide that if a copy of a work, or material protected by related rights, in any format available, is made under a limitation or exception or in accordance with its national law, that copy may be distributed, lent or made available by a library or archive to another library or archive in another Member State.

TOPIC 7: ORPHAN WORKS, RETRACTED AND WITHDRAWN WORKS, AND WORKS OUT OF COMMERCE

1. Libraries and archives shall be permitted to reproduce, make available to the public and otherwise use any work, or material protected by related rights, for which the author or other rightsholder cannot be identified or located after reasonable inquiry.
2. It shall be a matter for national law to determine whether certain commercial uses of a work, or material protected by related rights, referred to in paragraph (1) would require payment of remuneration.
3. Member States/Contracting Parties may provide that, should the author or other rightsholder subsequently identify him or herself to the library or archive, he or she shall be entitled to claim equitable remuneration for future use, or require termination of the use.
4. Except as otherwise provided by national law or through the decision of the court in relation to a specified work, it shall be permitted for libraries and archives to reproduce and make available, as appropriate, in any format for preservation, research or other legal use, any copyright work, or material protected by copyright or related rights, which has become inaccessible, but which has previously been communicated to the public or made available to the public by the author or other rightsholder.
5. Any Member State/Contracting Party may, in a notification deposited with the Director General of WIPO, declare that it will apply the provisions of paragraph (1) only in respect of certain uses, or that it will limit their application in some other way, or that it will not apply these provisions.

TOPIC 8: LIMITATIONS ON LIABILITY FOR LIBRARIES AND ARCHIVES

1. A librarian or archivist acting within the scope of his or her duties shall not be liable for copyright infringement, when the alleged action is performed in good faith, in the belief, and where there are reasonable grounds for believing, that:
 - (a) the work, or material protected by related rights, is being used as permitted within the scope of a limitation or exception in this instrument, or in a way that is not restricted by copyright; or
 - (b) the work, or material protected by related rights, is in the public domain or under an open content license.
2. When a Contracting Party/Member State provides for secondary liability regimes, libraries and archives shall/should be exempt from liability for the actions of their users.

TOPIC 9: TECHNOLOGICAL PROTECTION MEASURES

1. Member States/Contracting parties shall take appropriate measures, as necessary, to ensure that when they provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures, this legal protection does not prevent libraries and archives from enjoying the limitations and exceptions provided for in this instrument/treaty.

TOPIC 10: CONTRACTS

1. Any contractual provisions which provide exemptions from the application of the limitations and exceptions adopted by Member States/Contracting Parties according to the provisions of this instrument/treaty, or otherwise prohibit or restrict their exercise or enjoyment, shall be null and void.

TOPIC 11: RIGHT TO TRANSLATE WORKS

1. Libraries and archives may, for the purpose of teaching, scholarship or research, translate, in any format, works lawfully acquired or accessed when those works are not available in a language, provided that the source, including the author's name, is indicated whenever possible.

370. The Delegation of South Africa agreed with the proposal of the Delegation of India to insert a reference to the need for international cooperation under paragraph 9 and supported the proposal of the Delegation of Kenya to have some reflection of the mandate in relation to limitations and exceptions. Further, it supported the proposal of the Delegation of Brazil with respect to the consolidated text.

371. The Delegation of Indonesia aligned itself to the support expressed by the Delegation of South Africa in relation to the proposals of the Delegations of India, Kenya and Brazil. It expressed the view that the conclusions should be a factual reflection of the Committee's discussions.

372. The Secretariat clarified that document SCCR/28/REF/CONCLUSIONS was not the report of the meeting. It explained that a separate report based on the verbatim transcript of the proceedings and reflecting the comments made by each delegation on each topic would be prepared by the Secretariat at the end of the session and posted for review, comments, corrections and then approval at the following meeting.

373. The Delegation of Uruguay supported the proposals of the Delegations of India and Kenya to include references to the need for international cooperation and to the mandate in the conclusions. Further, it agreed with the proposal of the Delegation of Brazil to replace the text of document SCCR/26/3 and suggested that each proposal be considered separately.

374. The Chair welcomed the suggestion of the Delegation of Uruguay to proceed on a topic-by-topic basis and invited the delegations to comment on the proposal of the Delegation of India.

375. The Secretariat reformulated paragraph 9 so as to reflect the proposal made by the Delegation of India adding the words "this included discussion of the international framework for cooperation on limitations and exceptions for libraries and archives" after the first sentence.

376. The Delegation of Kenya strongly supported the proposal made by the Delegation of Brazil on the basis that the compilation of proposals was a major announcement made to the Committee and deserved to be reflected in the conclusions.

377. The Chair reminded the delegations about specific suggestions to proceed on a topic-by-topic basis.

378. The Delegation of Japan expressed the view that the inclusion or replacement of the compiled document prepared by the text proponents of document SCCR/26/3 could not be reflected in the conclusions because it was not discussed in the plenary and it was not approved by the delegations.

379. The Delegation of India clarified that the principle of international framework of cooperation attracted support from several delegations and was discussed in the context of the adoption of national exceptions. For that reason the Delegation considered that it should be reflected in paragraph 7 of the draft conclusions but expressed flexibility on the choice of paragraph. Further, it suggested that the headings of the eleven topics be removed from paragraph 7 and that simple document references be adopted instead. The Delegation supported the statement made by the Delegation of Brazil and suggested that the reference to the replaced text be introduced in paragraph 7 alongside the principle of international cooperation.

380. The European Union and its member states disagreed with the introduction of a reference to the need for international cooperation in paragraph 9 on the basis that it represented a selective account of the Committee's discussions. It expressed a preference for the introduction of the principle under paragraph 7.

381. The Delegation of Canada suggested that a less specific language be adopted in order to achieve consensus, for example by referring to "an" international cooperation framework as opposed to "the" international cooperation framework.

382. The Delegation of Brazil explained that Member States had a right to merge their own proposals in a single text and it stressed that the compiled version of document SCCR/26/3 did not contain any new proposal that was not contained in the original version of that document. The Delegation agreed that no discussions took place on the revised document and simply wished to state that its proponents had concluded the task announced at the previous session and presented their completed work at that meeting.

383. The Delegation of Kenya sought to explain the Delegation of Japan's opposition to the proposal of the Delegation of Brazil on the basis that Group B and the Delegation of the European Union and its member states did not support the merging of proposals because they did not want their comments to be affected. It explained that a general understanding was achieved at the previous session that the proponents of a single text could work on their own proposals provided that they did not disturb the comments advanced by other delegations contained in document SCCR/26/3. The Delegation pointed out that such understanding was respected, entitling the proponents to carry out the proposed text replacement. Further, it expressed the view that a reference to international cooperation should be included under paragraph 7 as suggested by the Delegation of India.

384. The Delegation of Indonesia agreed with the proposals advanced by the Delegations of Brazil and India and stressed that the principle of international cooperation should be introduced under paragraph 7 so as to reflect the factual situation.

385. The Delegation of South Africa asked the Delegation of Japan to clarify whether it objected to the merging and substitution of the text or the reflection of the Delegation of Brazil's proposal into the draft conclusions.

386. The Delegation of Japan clarified that it could not agree to the replacement or addition of the compiled proposal to document SCCR/26/3 without having had the opportunity to analyze the merged text.

387. The Delegation questioned whether a delegation could object to what other delegations did with their own proposals and supported the proposal to include the assessment of the compiled proposal in the agenda of the following session in order to discuss its merits.

388. The Delegation of the European Union and its member states explained that it did not question the entitlement of the proponents to withdraw their proposals and advance a single

merged proposal but doubted the need to include a reference to the fact that the completion of that work was announced during that session. With respect to the proposal of the Delegation of India, it stated that the need for an international cooperation framework was one of numerous points raised in the discussions on the adoption of national measures and that listing all of them in the conclusions would not reflect the Committee's decision to focus on general principles and objectives.

389. The Delegation of the Islamic Republic of Iran agreed with the proposal advanced by the Delegation of Brazil.

390. The Delegation of Switzerland proposed that further discussions on the conclusion be based on the general understanding that the report of that session was going to faithfully reflect each intervention made during that session. In relation to broadcasting organizations, it proposed to draft the conclusions in a way that was simple but still reflected the statements made by the delegations. That could be achieved by adding the words "consistent with the 2007 mandate including the signal-based approach" after "discussions" in the second line of paragraph 7, mirroring the same wording adopted in paragraph 1.

391. The Chair thanked the interpreters and announced that the interpretation services were suspended due to the late hour.

392. The Delegation of the United States of America emphasized that all the specific comments advanced by the delegations would be contained in the report and that there was no need for the delegations to have controversial discussions on the conclusions. It asked the Chair to consider making a simple summary of the conclusions.

393. The Delegation of Brazil recognized that no consensus could be achieved on the inclusion of a reference to the compiled text in the conclusions and stated that the text could be annexed to the report of that session for all delegations to consult.

394. The Delegation of India asked the Chair to clarify which rules of procedure applied in circumstances where the discussions continued after midnight of the last day of the session.

395. The Delegation of Italy expressed the view that no reference to the announcement of a compiled text should be made in the conclusions.

396. The Delegation of Canada endorsed the statement made by the Delegation of the United States of America and invited the Chair to prepare its own summary of the conclusions.

397. The Delegation of Australia supported the proposal to have a Chair's summary and emphasized that it should reflect the basic outcomes of the session without including details of the delegations' views. It doubted that the positioning which some delegations were trying to achieve with respect to the draft conclusions could produce any substantive effect on the future discussions of the Committee. The Delegation expressed flexibility in relation to a reference to an appropriate legal instrument provided that it was reflected by the mandate and suggested that the conclusions should state that the Committee pursued discussions on general subjects as reflected in the report and delete any reference to specific subjects. Further, it suggested that Brazil focused on merging the proposals and presenting them at the following session so that they could be reflected as a proposal in the 29th report of the SCCR.

398. The Delegation of the European Union and its member states agreed to adopt the original wording of the draft conclusions without any recommendation and hoped that all delegation could be able to do the same in the spirit of compromise.

399. The Delegation of Brazil reiterated that it clearly announced that the document was available for consultation in the course of that session and observed that it was not presented merely because a decision was taken by the Committee to discuss general principles. It stressed that the document had been shared with the Secretariat and could therefore form part of the report of that session. With respect to the intervention made by the Delegation of Australia, it clarified that the compiled proposal was not presented as a new document but rather as information that would substitute the proposals that were contained in document SCCR/26/3.

400. The Delegation of Chile pointed out that the Chair's conclusion would not be binding on the delegations and emphasized the value in making a reference to the fact that the compilation process had been terminated and that the text would be available to the next Committee for consultation in light of the efforts placed by the proponents in completing that task.

401. The Secretariat read paragraph 8 of document SCCR/28/REF/CONCLUSIONS stating that reference was also made by delegations to general and specific subjects from other general principles when they were understood as such.

402. The Delegation of Kenya expressed the view that the progress achieved on different topics was affected by the order in which they were discussed and invited the Committee to prioritize discussions on limitations and exceptions at the following Session.

403. The Delegation of Japan, speaking on behalf of Group B, supported the intervention made by the Delegation of the European Union and agreed to the draft conclusions without any amendment.

404. The Secretariat read paragraph 9 of document SCCR/28/REF/CONCLUSIONS stating that discussions contributed to improve understanding on the issues faced by libraries and archives, in particular in the digital environment.

405. The Delegation of Kenya objected to the adoption of the draft conclusions without recommendations.

406. The Delegation of Brazil referred to the studies and presentations that were planned for the following session and noted that there was no discussion on those issues. It sought a clarification regarding the procedure that applied to topics that did not receive factual corrections and were not agreed upon by the Member States.

407. The Secretariat clarified that Professor Kenneth Crews's study had already been commissioned and was going to be ready for the following session. It explained that the Secretariat would arrange for the author of the study to be present at the session as per usual practice. With respect to any other request for presentations, workshops and seminars, the Secretariat explained that it would be a matter of consultation with coordinators as to whether there was any agreement in the interim; otherwise those matters would be carried forward for discussion at the following meeting of the Committee.

408. The Delegation of Kenya referred to paragraph 13 of document SCCR/28/REF/CONCLUSIONS and expressed the view that a reference to the mandate should be added to maintain a balance approach between the topics.

409. The Chair acknowledged that the Committee could not agree on its own conclusions and explained that Chair's conclusions would be prepared on the basis of the draft conclusions and taking account of the factual suggestions made by the delegations. He clarified that the Chair's conclusion would not reflect individual contributions that had not reached consensus and stressed that no recommendations would be made to the General Assembly. The Chair

reiterated his understanding of the additions and concerns advanced by the delegations but he clarified that he did not support some delegations' inflexible individualism which inhibited progress on the different topics.

410. The Delegation of Paraguay expressed disappointment in the lack of consensus on the conclusions and recommendations but aligned itself with the Chair's view that useful discussions took place on the protection of broadcasting organizations and on limitations and exceptions.

411. The Delegation of Kenya invited the Chair to bear in mind the difficulties encountered in drafting the Chair's conclusions at the previous session and respectfully urged him to adopt a progressive approach. It pointed out that the inability to reach conclusions in the past two sessions gave to the Committee the opportunity to reflect on the delegations' willingness to credit their national systems to reach international understanding and cooperation.

412. The Delegation of Czech Republic expressed disappointment in the Committee's inability to agree to its own conclusions and regretted that no consensus was reached on making recommendations to the General Assembly. It pointed out that the CEBS Group made numerous compromises in order to make progress on the convening of a diplomatic conference on the protection of broadcasting organizations and adopted a constructive approach on the topic of limitations and exceptions. The Delegation regretted that the latter approach was not reciprocated by all delegations.

413. The Delegation of Japan associated itself with the regret expressed by other delegations for the lack of consensus on the conclusions and recommendations. However, it recognized that meaningful progress was made in relation to a treaty for the protection of broadcasting organizations and found that the exchange of views on limitations and exception was useful.

414. The Delegation of the Republic of Korea hoped that the Committee would approach the following session with a different perspective.

415. The Delegation of the European Union and its member states observed that the Committee had covered significant ground during that session. It explained that the adoption of technical documents on the topic of broadcasting organization proved useful to establish further clarity on the scope of application of the treaty and the catalog of rights, which were two crucial steps towards achieving the convening of a diplomatic conference. The Delegation expressed appreciation for the Chair and the other delegations' understanding that there were different views and approaches to the topic of limitations and exceptions but that it was still possible to find common ground. It regretted that the Committee could not agree its own conclusions and reiterated that its Delegation would have accepted the Chair's draft without amendments. Further, it suggested that having Chair's conclusions could be accepted from the outset in light of the Committee's recent difficulties to reconcile different positions at the end of the sessions.

416. The Delegation of the United States of America stated that the inability to reach agreed conclusions for the past two sessions threw a doubt on the usefulness of the Committee in light of the great amount of work and money which was invested in organizing it.

ITEM 10: CLOSING OF THE SESSION

417. The Chair thanked the Vice President for her coordination of the regional groups. He thanked the Secretariat and, as suggested by the Delegation of the Bolivarian Republic of Venezuela, invited the Committee to join him in thanking the WIPO Assistant Director General Ambassador Trevor Clarke for devoting his best efforts to the establishment of the WIPO Development Agenda and for pursuing a balanced approach to intellectual property in the

interest of developing countries in the WTO. The Committee had a round of applause for Mr. Clarke.

418. The Chair closed the 28th Session of the SCCR.

[Annex follows]

ANNEXE/ANNEX

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

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TRINITÉ-ET-TOBAGO/TRINIDAD AND TOBAGO

Justin SOBION, First Secretary, Permanent Mission, Geneva

TUNISIE/TUNISIA

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Raja YOUSFI (Mme), conseillère, Mission permanent, Genève

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TURQUIE/TURKEY

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ZAMBIE/ZAMBIA

KENNETH MUSAMVU, Registrar, Copyright Administration, Information and Broadcasting Services, Lusaka

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Rhoda Tafadzwa NGARANDE (Ms.), Counsellor, Permanent Mission, Geneva

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UNION EUROPÉENNE (UE)*/EUROPEAN UNION (EU)*

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Giorgio MONGIAT, Policy Officer, Copyright Office, Brussels

Olivier HALL-ALLEN, First Counsellor, Geneva

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INTERGOVERNMENTAL ORGANIZATIONS

CENTRE SUD (CS)/SOUTH CENTRE (SC)

Nirmalya SYAM, Programme Officer, Innovation and Access to Knowledge Programme, Geneva

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

Halim GRABUS, premier secrétaire, Genève

ORGANISATION INTERNATIONALE DU TRAVAIL (OIT)/INTERNATIONAL LABOUR
ORGANIZATION (ILO)

John MYERS, Industry Specialist, Media and Culture Sector, Sectoral Activities Department, Geneva

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

Hannu WAGER, Counselor, Intellectual Property Division, Geneva

* Sur une décision du Comité permanent, la Communauté européenne a obtenu le statut de membre sans droit de vote.

* Based on a decision of the Standing Committee, the European Community was accorded member status without a right to vote.

UNION AFRICAINE (UA)/AFRICAN UNION (AU)

Georges Rémi NAMEKONG, Senior Economist, Permanent Mission, Geneva

UNION DES RADIODIFFUSIONS DES ÉTATS ARABES (ASBU)/ARAB STATES
BROADCASTING UNION (ASBU)

Nabil KHAIRAT, Chief, Sports and Media Rights Office, Tunis

V. ORGANISATIONS NON GOUVERNEMENTALES/
NON-GOVERNMENTAL ORGANIZATIONS

Agence pour la protection des programmes (APP)

Didier ADDA, conseil en propriété industrielle, Paris

Alliance Panafricaine des Auteurs et Compositeurs de Musique (PACSA)/Pan-African
Composers and Songwriters Alliance (PACSA)

Sam MBENDE, President, Bruxelles

Alianza de Radiodifusores Iberoamericanos para la Propiedad Intelectual (ARIPI)

Cristina AMADO PINTO (Ms.), Miembro, Zurich

José Manuel BRAVO, Miembro, Madrid

Fernando CONTRERAS, Miembro, San José

Carlos CORRALES, Miembro, San José

Jorge MARTINEZ DE LEÓN, Miembro, Bogotá

Fernando VILLANUEVA, Member, Guatemala

Asociación Argentina de Intérpretes (AADI)

Martin MARIZCURRENA ORONNOZ, Consultor de Asuntos Internacionales, Relaciones Internacionales, Buenos Aires

Association de l'industrie de l'informatique et de la communication (CCIA)/Computer &
Communications Industry Association (CCIA)

Nick ASHTON-HART, Representative, Geneva

Association des organisations européennes d'artistes interprètes (AEPO-ARTIS)/Association of
European Performers' Organizations (AEPO-ARTIS)

Xavier BLANC, General Secretary, Brussels

Association des télévisions commerciales européennes (ACT)/Association of Commercial
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Emilie ANTHONIS (Mrs.), Advisor, European Union Affairs, Brussels

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Alexandre JOBIM, Presidente, Montevideo

Javier MARQUEZ, Miembro, Montevideo

Nicolás NOVOA, Miembro, Montevideo
Edmundo REBORA, Miembro, Montevideo
Alberto SÁENZ AZCÁRRAGA, Miembro, Montevideo
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Association internationale pour la protection de la propriété intellectuelle (AIPPI)/International Association for the Protection of Intellectual Property (AIPPI)

Thomas WIDMER, Observer, Zurich
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Association internationale pour le développement de la propriété intellectuelle (ADALPI)/International Society for the Development of Intellectual Property (ADALPI)

Kurt KEMPER, Founder Member, Geneva
Brigitte LINDNER (Ms.), Chair, Geneva

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

Victor NABHAN, President, Paris

Association mondiale des journaux (AMJ)/World Association of Newspapers (WAN)

Holger ROSENDAL, Head of Legal Department, Copenhagen

Central and Eastern European Copyright Alliance (CEECA)

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Centre de recherche et d'information sur le droit d'auteur (CRIC)/Copyright Research and Information Center (CRIC)

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

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Chartered Institute of Library and Information Professionals (CILIP)

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European Bureau of Library, Information and Documentation Associations (EBLIDA)

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Groupement international des éditeurs scientifiques, techniques et médicaux (STM)/International Group of Scientific, Technical and Medical Publishers (STM)

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Independent Film & Television Alliance (IFTA)

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International Authors Forum (IAF)

Maureen DUFFY (Ms.), Author, London
Katie WEBB (Ms.), London
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Vice-président/Vice-Chair: Alexandra GRAZIOLI (Mrs.) (Suisse/Switzerland)
Secrétaire/Secretary: Michele WOODS (Mrs.) (OMPI/WIPO)

VII. BUREAU INTERNATIONAL DE L'ORGANISATION MONDIALE DE LA
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