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PROTECTION OF BROADCASTING ORGANIZATIONS

Document prepared by the Secretariat

1. Updating of the rights of broadcasting organizations in response to technological developments and the growing use of information and communications networks has been under discussion in the Standing Committee on Copyright and Related Rights (SCCR) during twelve consecutive sessions, from 1998 to 2004.
2. At its eleventh session in June 2004, after an assessment of the progress made in the discussions on the substantive issues, the SCCR recommended that the WIPO General Assembly "... consider, beginning at its September/October session in 2004, the possibility of convening, at an appropriate time, a diplomatic conference on the protection of broadcasting organizations."
3. In its thirty-first session, which took place from September 27 to October 5, 2004, the WIPO General Assembly was invited to consider approving the convening of a Diplomatic Conference "at an appropriate time." While many delegations supported the convening of a Conference, it was suggested that the question should be carried over to the agenda of the 2005 session of the WIPO General Assembly, with the following conclusion (WO/GA/31/15, paragraph 56):

"The General Assembly noted the contents of document WO/GA/31/7 and requested the SCCR to accelerate its work on the protection of broadcasting organizations with a view to approving the convening of a diplomatic conference by the WIPO General Assembly in 2005."

4. A revised version of the Consolidated Text for a Treaty on the Protection of Broadcasting Organizations was prepared for the twelfth session of the Committee, which met in November 2004. Considerable progress was achieved in the discussions at that time. The conclusions by the Chairman of the session contained *inter alia* the following elements (SCCR/12/4, paragraph 275):

“ - a second revised version of the Consolidated Text will be prepared by the Chairman of the present session of the Standing Committee;

- a working paper on alternative non-mandatory solutions on the protection of webcasting organizations, including simulcasting organizations, will be prepared to accompany the second revised version;

- regional consultations and other types of informal consultations meetings will be organized by the International Bureau, as requested by the Member States;

- the next session of the Standing Committee will take into account the progress made in the regional consultations and other types of informal consultations meetings;”

5. At the request of Member States, the International Bureau organized six regional consultation meetings between May to July, 2005. A regional consultation for the Arab Countries took place in Rabat, Morocco, from May 11 to 13, 2005; a regional consultation for the African Countries was held in Nairobi, Kenya, from May 17 to 19, 2005; a regional consultation for Countries of Central Asia, Caucasus and Eastern Europe in Moscow, Russian Federation, from June 8 to 10, 2005; a regional consultation for the Latin American and Caribbean Countries organized in Cartagena, Colombia, from July 4 to 6, 2005; and a regional consultation for the Asia and Pacific Countries, Manila, Philippines, took place from July 27 to 29, 2005.

6. The basis for discussions at the regional consultation meetings was the second revised version of the Consolidated Text (SCCR/12/2/Rev.2), and the Working Paper on alternative and non-mandatory solutions on protection in relation to webcasting (SCCR/12/5). The objective of these documents was to further promote consensus on the sixteen treaty proposals submitted by the Member States.

7. Representatives from 75 Member States of WIPO participated in the regional consultation meetings where they discussed substantive issues. At these meetings conclusions were adopted expressing the opinion that the convening of the Diplomatic Conference should proceed without any further delay. The reports or conclusions of the regional consultation meetings are contained in Annex I to this document.

8. Following an invitation received from the Government of Norway, an informal consultation meeting for representatives of certain WIPO Member States not represented in the above-mentioned regional consultation meetings, has been convened to take place in Brussels on September 13 and 14, 2005. The meeting will be organized by the Government of Norway in cooperation with the International Bureau.

9. Given the progress which has been made to conclude a treaty on the protection of broadcasting organizations, it is recommended that the WIPO General Assembly approve the convening of a Diplomatic Conference.

10. It is further recommended that the WIPO General Assembly approve the organizational and procedural matters of the WIPO Diplomatic Conference on the Protection of Broadcasting Organizations, as described in Annexes II to IV to this document.

11. It is proposed that the thirteenth session of the SCCR be convened before the Diplomatic Conference to discuss remaining issues. This special session will be held from November 21 to 22, 2005.

12. It is further proposed that the Chairman of the twelfth session of the SCCR, Mr. Jukka Liedes, in cooperation with the International Bureau, be requested to prepare the Basic Proposal for the Diplomatic Conference.

13. *The WIPO General Assembly is invited to take note of the contents contained in Annex I.*

14. *The WIPO General Assembly is invited to approve:*

(i) the convening of a Diplomatic Conference on the Protection of Broadcasting Organizations, to take place in the second quarter of 2006, in Geneva, provided that the International Bureau has not received an advantageous offer by a Member State to host such a Conference;

(ii) the organizational and procedural matters of the Diplomatic Conference, as laid down in Annexes II to IV;

(iii) the financing by WIPO of the cost of participation in the Diplomatic Conference of delegates from 50 developing countries and countries in transition Member States of WIPO;

(iv) that the Basic proposal for the Diplomatic Conference will be prepared as proposed in paragraph 12, above, and made available to the participants and observers of the Diplomatic Conference by January 31, 2006.

[Annexes follow]

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ANNEX I

REPORTS OF THE
REGIONAL CONSULTATIONS
ON THE PROTECTION OF BROADCASTING ORGANIZATIONS

Regional Consultations on the Protection of Broadcasting Organizations for Arab Countries, Rabat, Morocco, May 11 to 13, 2005

*Regional Consultations for Arab Countries
on the Protection of Broadcasting Organizations,
Rabat, May 11 to 13, 2005*

I. The Regional Consultation for Arab Countries on the Protection of Broadcasting Organizations, organized by WIPO in cooperation with the Government of the Kingdom of Morocco, under the auspices of the Minister of Communications and spokesperson of the Government of Morocco, was held in Rabat, Morocco, from May 11 to 13, 2005. The Meeting was attended by representatives of the League of Arab States (LAS), Jordan, United Arab Emirates, Bahrain, Tunisia, Algeria, Saudi Arabia, Sudan, Syrian Arab Republic, Oman, Libyan Arab Jamahiriya, Yemen and Morocco. It was chaired by Mr. Abdellah Ouadrhiri, Director General, Moroccan Copyright Office.

II. Discussions were based on the:

- Second Revised Consolidated Text for a Treaty on the Protection of Broadcasting Organizations (SCCR/12/2 Rev.2), and
- Working Paper on Alternative and Non-Mandatory Solutions on the Protection in Relation to Webcasting (SCCR/12/5).

III. It was agreed that WIPO Secretariat should submit to the WIPO General Assembly the conclusions of the Consultation, including an indication as to the importance of:

- broadcasting as an essential factor of cultural, social and economic development;
- WCT and WPPT as a significant step towards the development of an international copyright and related right law, adapted to a society of information, yet excluding rights of broadcasting organizations, recognized for the first time at an international level in 1961; and
- exploring means for fighting violations of rights in broadcasting signals.

The Meeting considers that the Treaty proposed by WIPO aims, in several aspects, at enhancing protection for broadcasting organizations against illicit exploitation by unauthorized third parties of broadcasting signals.

Broadcasting has always been an efficient tool for disseminating knowledge, ensuring access for the public to information, and producing and making available domestic broadcast.

The meeting expressed satisfaction with the flexible and non-mandatory nature of the proposals contained in the documents submitted to the Meeting, in relation to Webcasting and simulcasting.

It was pointed out that explanations and declarations made during the Meeting on various items of the Agenda contributed to a better understanding of the said items.

Emphasizing the need to develop international protection for broadcasting organizations, the Meeting requests that the coming session of the WIPO General Assembly takes the necessary action in the light of the above conclusions.

Regional Consultations on the Protection of Broadcasting Organizations
for African Countries, Nairobi, Kenya, May 17 to 19, 2005

*Regional Consultations for African Countries
on the Protection of Broadcasting Organizations*

A Regional Consultation for African Countries on the Protection of Broadcasting Organizations took place in Nairobi, from May 17 to 19, 2005 organized by the World Intellectual Property Organization (WIPO) with the cooperation of the Government of Kenya. The Delegations of fourteen countries participated in the discussions namely: Benin, Botswana, Burkina Faso, Cameroon, Ghana, Côte d'Ivoire, Kenya, Mozambique, Namibia, Nigeria, Tanzania, Togo and Zambia, and the Director General of African Regional Intellectual Property Organization (ARIPO).

The participants of the above-mentioned countries have the honor to submit this report to the WIPO General Assemblies which will take place in September, 2005.

The current international legal framework is inadequate in protecting broadcasting organizations. The two treaties adopted in 1996, i.e., WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) represented a major step forward in the updating of international copyright and related rights law to the realities of the information society. However, these treaties did not update the rights of broadcasting organizations. Thus, the participants agreed on the necessity of a new international treaty aimed at updating the protection of broadcasting organizations. The new treaty would provide the tools necessary to prevent exploitation and misappropriation of broadcast signals by unauthorized third parties.

The participants request the WIPO General Assemblies to acknowledge the results of this Consultation of African countries and to recommend the convening of a Diplomatic Conference on the rights of broadcasting organizations not later than mid 2006.

The participants also recognized that broadcasting plays a significant role in fostering cultural, social and economic role in fostering the development of African countries. The role played by broadcasting organizations in fostering the funding, creation and dissemination of local content also constituted a key factor in this development. It was recognized that broadcasting has long been a highly effective medium for the dissemination of knowledge, for ensuring public access to information, education and freedom of expression.

The participants stressed that broadcasting was an important medium in order to promote and protect the rich folklore traditions of African countries.

RECOMMENDATIONS

Participants discussed the outstanding issues presented by the Chairman of the Standing Committee on Copyright and Related Rights and made the following recommendations:

1. Participants recognize the importance of development in the protection of broadcasting organizations rights and favor balanced protection that takes into account interests of all stakeholders.
2. Participants recognize the urgent need to immediately update broadcasting organizations' rights through a new International Instrument. Therefore, participants call on the General Assemblies at its next session to schedule a Diplomatic Conference on the subject of the protection of broadcasting organization's rights in 2006.
3. Participants welcome the proposed options on Web-casting presented by the Chairman of the Standing Committee on Copyright and Related Rights in document SCCR/12/5 and call for more time to consider and discuss the document before making a decision on it.

OUTSTANDING ISSUES

With regard to the outstanding issues in the Revised Consolidated Text, the following recommendations were made:

i) Scope of Protection

The participants agreed that the treaty should cover traditional broadcasting and cablecasting.

ii) Term of protection

Most participants were of the view that the 50-year term is sufficient. However, some participants were of the view that the term of protection should be left open for further consideration.

iii) Technological measures

Participants in principle supported Alternative MM of Article 16.

iv) Nature of Rights

In Articles 9-12, the participants agreed to provide exclusive rights.

ACKNOWLEDGEMENT

The participants to the meeting thanked the Government of Kenya for hosting the regional consultation on protection of broadcasting organizations, the Attorney General The Hon. Amos Wako for opening the consultations, the Deputy Director General of WIPO Mrs. Rita Hayes, the International Bureau of WIPO and the SCCR Chair for organizing this consultation which had contributed to a better understanding of all issues raised by the Revised Consolidated Text for a Treaty on the Protection of Broadcasting Organizations (SCCR/12/2 Rev.2).

Regional Consultations on the Protection of Broadcasting Organizations for the
Countries of Central Asia, Caucasus, and Eastern Europe
Moscow, the Russian Federation, June 8 to 10, 2005

*Recommendations prepared on the basis of the results of the regional consultations
between the countries of Central Asia, Caucasus and Eastern Europe on the protection
of the rights of broadcasting organizations, Moscow, June 8 to 10, 2005*

At the invitation of the Federal Service for Intellectual Property, Patents and Trademarks (ROSPATENT), the World Intellectual Property Organization (WIPO) organized regional consultations for the countries of Central Asia, Caucasus and Eastern Europe on the question of protection of the rights of broadcasting organizations. The consultations were held in Moscow from June 8 to 10, 2005.

Representatives of the following countries took part in the consultations: the Republic of Azerbaijan, the Republic of Armenia, the Republic of Belarus, Georgia, Kyrgyzstan, the Republic of Moldova, the Russian Federation, the Republics of Tajikistan and Ukraine.

During the discussions, which were based on the Second Revised Consolidated Text for a Treaty on the Protection of Broadcasting Organizations (document SCCR/12/2 Rev.2) and the Working Paper on Alternative Non-Mandatory Solutions for the Protection of Webcasting Organizations, including Simulcasting Organizations (document SCCR/12/5 Prov.), individual provisions of the consolidated text of the draft Treaty, containing alternatives, were examined.

The participants in the consultations noted that during the past few years broadcasting had developed very rapidly and consequently its structure had acquired different forms. The discussions concerning the possibility of concluding a new treaty for the protection of the rights of broadcasting organizations began in 1998 and are continuing.

At the current time, it appears obvious that the conclusion of such a treaty is an issue of the utmost importance. The protection granted to broadcasting organizations must be balanced in relation to the rights of other rights owners.

As a result of the above discussions, participants in the consultations concluded that a decision concerning the holding of a Diplomatic Conference on the conclusion of the Treaty examined must be taken by the WIPO General Assembly at its session in September 2005, and such a Conference could most usefully be held in the first half of 2006.

The above Recommendations will be submitted to the WIPO General Assembly in September 2005.

Moscow, June 9, 2005

Regional Consultations on the Protection of Broadcasting Organizations for the Countries of Latin America and the Caribbean, Cartagena, Colombia, July 4 to 6, 2005

Conclusions

The Regional Consultation Meeting for the Countries of Latin America and the Caribbean on the Protection of Broadcasting Organizations, organized by the Ministry of Interior and Justice of Colombia, through the National Directorate of Copyright of Colombia and the World Intellectual Property Organization (WIPO), took place in Cartagena, Colombia, from July 4 to 6, 2005.

The following 15 countries participated in the meeting: Argentina, Chile, Colombia, Costa Rica, Cuba, Ecuador, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Trinidad and Tobago and Uruguay. Brazil was represented as an observer.

The participants in the Regional Consultation Meeting for the countries of Latin America and the Caribbean on the Protection of Broadcasting Organizations expressed to their long-standing colleague, Mr. Otávio Afonso, Copyright Coordinator in Brazil, their best wishes for his prompt recovery.

Discussions were based on the following documents: the Second Revised Consolidated text for a Treaty on the Protection of Broadcasting Organizations (SCCR/12/2 Rev. 2) and the Working Paper on Alternative and Non-Mandatory Solutions on Protection in relation to Webcasting (SCCR/12/5 Prov.)

Most of the delegations agreed on the importance of the regional consultations, accompanied by a prior information session with the participation of non-governmental organizations (NGOs), broadcasting organizations and recognized academics, which constituted a useful methodology for work and international analysis in relation to the protection of broadcasting organizations.

At the beginning of the discussions, Chile expressed its interest in drawing up a study on the implications and economic effects, for broadcasters and users, of the obligations contained in document SCCR/12/2 Rev. 2.

The delegations expressed their support for continuing the work done within the framework of WIPO, in order to update the international system of rules for protection of the rights of broadcasting organizations. This was reflected during the subsequent discussions, during which the following outstanding issues in the international debate were examined:

- Content of protection and nature of rights in the case of Articles 9 to 12;
- Term of protection;
- Obligations relating to technological measures;
- Internet broadcasting;
- Relationship with other agreements, conventions and treaties; and
- Requirements for being a party to the Treaty.

With regard to the outstanding issues, the countries agreed firstly that the concept of the “right to prohibit” generates many doubts and difficulties of interpretation, particularly where the national legislation of many of the countries present uses the concept of “authorizing or prohibiting”.

As to the term of protection, most of the countries considered that 50 years is a reasonable minimum in relation to the terms of protection which the legislation of Latin American and Caribbean countries grant to the holders of related rights.

The article referring to the obligations concerning technological measures was widely accepted, in particular delegations expressed their support for the alternative measures available. Nevertheless, they considered important the need to seek solutions in order to avoid technological measures hampering the application of limitations and exceptions.

In that regard, Colombia stated that it would submit a suitable formula at the appropriate time, a view which received initial support from various delegations.

In respect of Internet broadcasting, a number of delegations agreed that although this subject, in particular simultaneous broadcasting, is an aspect of interest for the countries, the procedures for its inclusion within the scope of the treaty should continue to be analyzed. The relationship with other agreements, conventions and treaties, as well as the requirements for being a party to the Treaty, were explained by the Chairman of the Committee, Mr. Jukka Liedes; the absence of comments by participants may be taken as an unambiguous signal of the possibility that an agreement can be reached in the future with respect to both subjects.

In addition, other issues were discussed, such as limitations and exceptions and the obligations relating to information on rights’ management.

The delegations recognized the importance of the limitations and exceptions, and expressed their support for the formula contained in the consolidated and revised text, in so far as it constitutes a guarantee for countries to be able to decide freely which limitations correspond to their interests of a cultural, scientific, educational and information-related nature, according to the so-called three steps rule. One delegation (the Delegation of Chile) emphasized the need to draw up a minimum list of limitations and exceptions, according to the tradition of the Rome Convention, in order to harmonize certain limitations.

The delegations expressed broad support for the obligations relating to information on rights management.

As a result of the consultations, the participants concluded that a decision on the holding of a Diplomatic Conference for the adoption of a Treaty on the Protection of Broadcasting Organizations could be considered by the WIPO General Assembly at the September 2005 session^{*}

^{*}The Delegation of Chile issued a reservation to the reference to the possible holding of a Diplomatic Conference.

Regional Consultations on the protection of Broadcasting Organizations for the Central European, Baltic States and Other Countries, Bucharest, Romania, July 18 to 20, 2005.

Summary Report

Following the invitation of Romanian Office for Copyright (ORDA), endorsed by the Ministry of Culture and Religious Affairs, The World Intellectual Property Organization organized in Bucharest a Regional Consultation for the Central European, Baltic States and Other Countries, from July 18 to 20, 2005.

Thirteen countries from the region were represented in the consultations, namely: Bulgaria, Croatia, Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Romania, Serbia and Montenegro, Slovenia, The former Yugoslav Republic of Macedonia and Turkey.

The consultations were preceded by an information session. Presentations were given by international academic experts, representatives of public and private broadcasting organizations from the region and national NGO's. The participants commended the Romanian Government and the WIPO Secretariat for the high quality of the information session.

The discussions were based on the Second Revised Consolidated Text for a Treaty on the Protection of Broadcasting Organizations (document SCCR/12/2 Rev.2) and on the Working Paper on Alternative and Non-Mandatory Solutions on the protection in relation to Webcasting (document SCCR/12/5 Prov.). Participants had a useful exchange of views on various aspects of the updating of the international regime of the protection of broadcasting organizations. The opinion was expressed that the present state of preparation of the documents makes it possible to move forward without delay.

They noted that on the national legislation level their legislation already provided rather comprehensive protection for the activities of the broadcasting organizations. However, they recognized that on the international level, the rights of broadcasting organizations do not correspond to the needs created by the global development of information and communication technologies.

The participants stressed the need for a balanced system of protection and considered that the present preparatory documents take due account of all relevant interests.

It was noted that the international discussions on the protection of broadcasting organizations have already extended over a long period of time, and that the discussions have progressed in a significant way and left only a few substantive issues open. The preparatory documents provided for reasonable solutions for each of them.

The level of participation demonstrated the importance that the countries of the region attach to the issues under discussion. Most of the delegates stressed the necessity for an update of the legal international framework on the rights of the broadcasting organizations. The participants also underlined, as a general remark, the fact that due to their position as EU Member States or as future EU Member States, their positions will follow the Community positions coordinated between the Member States.

The discussions mainly focused on the following issues:

- Simulcasting and Webcasting
- Exclusive rights – right to prohibit
- Duration of protection
- Technological measures
- Eligibility conditions

SIMULCASTING AND WEBCASTING

The majority of participants agreed upon the introduction of simulcasting within the scope of application. The participants reserved their position on other Webcasting to be formulated at a later stage.

EXCLUSIVE RIGHTS – RIGHT TO PROHIBIT

All the participants expressed their support in favor of granting exclusive rights to broadcasting organizations.

DURATION OF PROTECTION

The participants stressed the fact that under their national laws the related rights holders benefit for a term of protection of 50 years, so the term of 50 years proposed within the revised consolidated text was unanimously supported.

TECHNOLOGICAL MEASURES

All the participants were in favor of the inclusion of provisions on the protection of technological measures.

ELIGIBILITY CONDITIONS

Eligibility opened for all WIPO member states was broadly supported.

Participants, referring also to the decision of the General Assembly in September 2004, agreed that the new treaty on the protection of broadcasting organizations should be adopted urgently. They considered that the General Assembly of WIPO in its September 2005 session should approve the convening of a Diplomatic Conference early 2006. The participants agreed that after this decision it is necessary to hold a last meeting of the Standing Committee on Copyright and Related Rights on the protection of the broadcasters' rights.

The participants unanimously expressed their continuous and firm support to Mr. Jukka Liedes, Chair of the SCCR and supported his ongoing leadership with the view of reaching a prompt and satisfactory finalization of the work for a treaty on the protection of the broadcasting organizations.

Regional Consultations on the Protection of Broadcasting Organizations for the
Asia Pacific Countries, Manila, Philippines, July 27 to 29, 2005

*Report of the Regional Consultations on the
Protection of Broadcasting Organizations
for the Asia Pacific Countries*

The Regional Consultations on the Protection of Broadcasting Organizations for the Asia Pacific Countries organized by the World Intellectual Property Organization, in collaboration with the Intellectual Property Office of the Philippines, was held in Makati City, Philippines, on July 27-29, 2005.

Fourteen countries were represented, namely: Bangladesh, China, India, Indonesia, Islamic Republic of Iran, Malaysia, Mongolia, Nepal, Philippines, Republic of Korea, Singapore, Sri Lanka, Thailand and Viet Nam.

Presentations were made during the first day by experts, representatives of government, broadcasting organizations and NGOs in the region that were widely received by the delegations and participants.

During the consultation sessions following the presentations, delegates, on the second day, exchanged views and sought clarifications on two documents, namely: (1) the Second Revised Consolidated Text for a Treaty on the Protection of Broadcasting Organizations (SCCR/12/2 Rev.2); and the (2) Working Paper on Alternative and Non-Mandatory Solutions on the Protection in relation to webcasting (SCCR/12/5 Prov.).

The delegations agreed that the rights of broadcasting organizations have to be updated in the face of the challenges posed by new technologies and that the Rome Convention, having been formulated in 1961, has been rendered inadequate to protect these rights. They also expressed the need to arrive at a balanced level of protection giving due consideration to the rights of authors, performers and phonogram producers.

As regards some particular issues, the delegates made the following observations and recommendations:

1. Webcasting and simulcasting

The proposed Alternative Solutions in the Working Document were extensively discussed. Many delegates, however, expressed the need to conduct further analysis and to consult with their respective stakeholders before making any definite position on the proposed solutions.

2. Scope of Application

It was largely recognized that the main objective of the Treaty should be the protection of the broadcast signals, not the underlying content.

3. Nature of Rights

Following extensive discussion and analysis on the subject, it was clarified and noted that exclusive rights include the right to prohibit.

4. Term of Protection

Some delegations expressed support to the proposal of fifty (50) years protection considering the large amount of resources employed by broadcasting organizations for their broadcasts. Other delegations, however, expressed interest in retaining the twenty (20) year protection.

5. Pre-broadcast signals

The delegations expressed support to the protection of pre-broadcast signals.

In view of the wide convergence on most of the provisions of the Treaty, the delegations reached a consensus for the holding of a Diplomatic Conference. Following formal consultations between the delegates, the need for the Standing Committee on Copyrights and Related Rights to meet soon after the WIPO General Assembly approves the Diplomatic Conference was likewise suggested to resolve any remaining issues.

The delegates expressed their gratitude and appreciation for the patience and considerable efforts of Mr. Jukka Liedes in facilitating the delegates' understanding of the issues. The delegations also manifested their strong support for Mr. Jukka Liedes to continue chairing the SCCR until the conclusion of the Treaty.

The delegates likewise expressed their gratitude to WIPO and IPOPhil for convening the Regional Consultation.

India expressed reservations in some of the paragraphs stated above which are separately annexed in this report.

Makati, Philippines, 29 July 2005.

*India's observations on the Report of the Regional Consultations
on the Protection of Broadcasting Organisations for the Asia Pacific
Countries held in Manila, Philippines, from July 27 to 29, 2005*

A. In the paragraph starting "The delegations agreed that the rights of ...performers and phonogram producers.

In addition to what is stated in the main text, the following needs to be emphasized

"India feels that though the rights of the Broadcasting Organisations need to be reviewed in the face of the challenges posed by the new and emerging technologies, in the present context the provisions of the Rome Convention and TRIPS Agreement are sufficient."

B. In the paragraph

1. Webcasting and simulcasting

In addition to what is recorded in the main text, the following needs emphasis

"Having participated in the extensive discussions on the alternative solutions in the working documents, India is of the firm view that all direct and indirect references to webcasting must be kept out of the purview of the consolidated text."

C. In the paragraph

3. Nature of Rights

In addition to what is recorded in the main text, the following needs emphasis

"India participated in the extensive discussions on the nature of protection sought to be given to the Broadcasting Organisations. India is of the view that the approach followed in the TRIPS Agreement on Right to prohibit must be followed."

D. In the paragraph

5. Pre-broadcast signals

In addition to what is stated in the main text, the following needs to be added:

"Some countries expressed the view that the scope of such rights needs to be examined in detail."

E. On the paragraph

“In view of the wide convergence...suggested to resolve any remaining issues,”

The following is the view of India

“The issue of holding of the diplomatic conference was not discussed formally during the deliberations. India is of the view that it would be premature to discuss or recommend the holding of the diplomatic conference when so many issues still remain to be resolved.”

F. On the paragraph

“The delegates expressed their gratitude...”

The following is the view of India

“While appreciative of the talent and experience of the Mr. Jukka Liedes, the question regarding his continued chairing of the SCCR was neither discussed during the meeting nor is it a part of the mandate of the consultations.”

[Annex II follows]

ANNEX II

DRAFT RULES OF PROCEDURE

Prepared by the Secretariat

[The draft corresponds to the Rules of Procedure of earlier diplomatic conferences held under the auspices of WIPO]

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CHAPTER I: OBJECTIVE, COMPETENCE, COMPOSITION AND
SECRETARIAT OF THE CONFERENCE

Rule 1: Objective and Competence of the Conference

(1) The objective of the Diplomatic Conference on the Protection of Broadcasting Organizations (hereinafter referred to as “the Conference”) is to negotiate and adopt the WIPO Treaty on the Protection of Broadcasting Organizations (hereinafter referred to as “the Instrument”).

(2) The Conference, meeting in Plenary, shall be competent to:

(i) adopt the Rules of Procedure of the Conference (hereinafter referred to as “these Rules”) and to make any amendments thereto;

(ii) adopt the agenda of the Conference;

(iii) decide on credentials, full powers, letters or other documents presented in accordance with Rules 6, 7 and 8 of these Rules;

(iv) adopt the Instrument;

(v) adopt any recommendation or resolution whose subject matter is germane to the Instrument;

(vi) adopt any agreed statements to be included in the Records of the Conference;

(vii) adopt any final act of the Conference;

(viii) deal with all other matters referred to it by these Rules or appearing on its agenda.

Rule 2: Composition of the Conference

(1) The Conference shall consist of:

(i) delegations of the States members of the World Intellectual Property Organization (hereinafter referred to as “the Member Delegations”),

(ii) the special delegation of the European Community (hereinafter referred to as “the Special Delegation”),

(iii) the delegations of States members of the United Nations other than the States members of the World Intellectual Property Organization invited to the Conference as observers (hereinafter referred to as “the Observer Delegations”), and

(iv) representatives of intergovernmental and non-governmental organizations invited to the Conference as observers (hereinafter referred to as “the Observer Organizations”).

(2) References in these Rules of Procedure to Member Delegations shall be considered, except as otherwise provided (see Rules 11(2), 33 and 34), as references also to the Special Delegation.

(3) References in these Rules of Procedure to “Delegations” shall be considered as references to the three kinds (Member, Special and Observer) of Delegations but not to Observer Organizations.

Rule 3: Secretariat of the Conference

(1) The Conference shall have a Secretariat provided by the International Bureau of the World Intellectual Property Organization (hereinafter referred to as “the International Bureau” and “WIPO,” respectively).

(2) The Director General of WIPO and any official of the International Bureau designated by the Director General of WIPO may participate in the discussions of the Conference, meeting in Plenary, as well as in any committee or working group thereof and may, at any time, make oral or written statements, observations or suggestions to the Conference, meeting in Plenary, and any committee or working group thereof concerning any question under consideration.

(3) The Director General of WIPO shall, from among the staff of the International Bureau, designate the Secretary of the Conference and a Secretary for each committee and for each working group.

(4) The Secretary of the Conference shall direct the staff required by the Conference.

(5) The Secretariat shall provide for the receiving, translation, reproduction and distribution of the required documents, for the interpretation of oral interventions and for the performance of all other secretariat work required for the Conference.

(6) The Director General of WIPO shall be responsible for the custody and preservation in the archives of WIPO of all documents of the Conference. The International Bureau shall distribute the final documents of the Conference after the closing of the Conference.

CHAPTER II: REPRESENTATION

Rule 4: Delegations

(1) Each Delegation shall consist of one or more delegates and may include advisors.

(2) Each Delegation shall have a Head of Delegation and may have a Deputy Head of Delegation.

Rule 5: Observer Organizations

An Observer Organization may be represented by one or more representatives.

Rule 6: Credentials and Full Powers

- (1) Each Delegation shall present credentials.
- (2) Full powers shall be required for signing the Instrument. Such powers may be included in the credentials.

Rule 7: Letters of Appointment

The representatives of Observer Organizations shall present a letter or other document appointing them.

Rule 8: Presentation of Credentials, etc.

The credentials and full powers referred to in Rule 6 and the letters or other documents referred to in Rule 7 shall be presented to the Secretary of the Conference, preferably not later than twenty-four hours after the opening of the Conference.

Rule 9: Examination of Credentials, etc.

- (1) The Credentials Committee referred to in Rule 11 shall examine the credentials, full powers, letters or other documents referred to in Rules 6 and 7, respectively, and shall report to the Conference, meeting in Plenary.
- (2) The decision on whether a credential, full powers, letter or other document is in order shall be made by the Conference, meeting in Plenary. Such decision shall be made as soon as possible and in any case before the adoption of the Instrument.

Rule 10: Provisional Participation

Pending a decision upon their credentials, letters or other documents of appointment, Delegations and Observer Organizations shall be entitled to participate provisionally in the deliberations of the Conference as provided in these Rules.

CHAPTER III: COMMITTEES AND WORKING GROUPS

Rule 11: Credentials Committee

- (1) The Conference shall have a Credentials Committee.
- (2) The Credentials Committee shall consist of seven Member Delegations elected by the Conference, meeting in Plenary, from among the Member Delegations, except that the Special Delegation shall not be eligible for membership in the Credentials Committee.

Rule 12: Main Committees and Their Working Groups

(1) The Conference shall have two Main Committees. Main Committee I shall be responsible for proposing for adoption by the Conference, meeting in Plenary, the substantive law provisions of the Instrument and any recommendation, resolution or agreed statement referred to in Rule 1(2)(v) and (vi). Main Committee II shall be responsible for proposing for adoption by the Conference, meeting in Plenary, any administrative and the final clauses of the Instrument.

(2) Each Main Committee shall consist of all the Member Delegations.

(3) Each Main Committee may create working groups. In creating a working group, the Main Committee creating it shall specify the tasks of the Working Group, decide on the number of the members of the Working Group and elect such members from among the Member Delegations.

Rule 13: Drafting Committee

(1) The Conference shall have a Drafting Committee.

(2) The Drafting Committee shall consist of 14 elected members and two *ex officio* members. The elected members shall be elected by the Conference, meeting in Plenary, from among the Member Delegations. The Presidents of the two Main Committees shall be the *ex officio* members.

(3) The Drafting Committee shall prepare drafts and give advice on drafting as requested by either Main Committee. The Drafting Committee shall not alter the substance of the texts submitted to it. It shall coordinate and review the drafting of all texts submitted to it by the Main Committees, and it shall submit the texts so reviewed for final approval to the competent Main Committee.

Rule 14: Steering Committee

(1) The Conference shall have a Steering Committee.

(2) The Steering Committee shall consist of the President and Vice-Presidents of the Conference, the President of the Credentials Committee, the Presidents of the Main Committees and the President of the Drafting Committee. The meetings of the Steering Committee shall be presided over by the President of the Conference.

(3) The Steering Committee shall meet from time to time to review the progress of the Conference and to make decisions for furthering such progress, including, in particular, decisions on the coordination of the meetings of the Plenary, the committees and the working groups.

(4) The Steering Committee shall propose the text of any final act of the Conference (see Rule 1(2)(vii)), for adoption by the Conference, meeting in Plenary.

CHAPTER IV: OFFICERS

Rule 15: Officers and their Election; Precedence Among Vice-Presidents

- (1) The Conference shall have a President and 10 Vice-Presidents.
- (2) The Credentials Committee, each of the two Main Committees and the Drafting Committee shall have a President and two Vice-Presidents.
- (3) Any Working Group shall have a President and two Vice-Presidents.
- (4) The Conference, meeting in Plenary, and presided over by the Director General of WIPO, shall elect its President, and, then, presided over by its President shall elect its Vice-Presidents and the officers of the Credentials Committee, the Main Committees and the Drafting Committee.
- (5) The officers of a Working Group shall be elected by the Main Committee that establishes that Working Group.
- (6) Precedence among the Vice-Presidents of a given body (the Conference, the Credentials Committee, the two Main Committees, any Working Group, the Drafting Committee) shall be determined by the place occupied by the name of the State of each of them in the list of Member Delegations established in the alphabetical order of the names of the States in French, beginning with the Member Delegation whose name shall have been drawn by lot by the President of the Conference. The Vice-President of a given body who has precedence over all the other Vice-Presidents of that body shall be called “the ranking” Vice-President of that body.

Rule 16: Acting President

- (1) If any President is absent from a meeting, the meeting shall be presided over, as Acting President, by the ranking Vice-President of that body.
- (2) If all the officers of a body are absent from any meeting of the body concerned, that body shall elect an Acting President.

Rule 17: Replacement of President

If any President becomes unable to perform his or her functions for the remainder of the duration of the Conference, a new President shall be elected.

Rule 18: Vote by the Presiding Officer

- (1) No President, whether elected as such or acting (hereinafter referred to as “the Presiding Officer”), shall take part in voting. Another member of his or her Delegation may vote for that Delegation.
- (2) Where the Presiding Officer is the only member of his or her Delegation, he or she may vote, but only in the last place.

CHAPTER V: CONDUCT OF BUSINESS

Rule 19: Quorum

(1) A quorum shall be required in the Conference, meeting in Plenary; it shall, subject to paragraph (3), be constituted by one-half of the Member Delegations represented at the Conference.

(2) A quorum shall be required for the meetings of each Committee (the Credentials Committee, the two Main Committees, the Drafting Committee and the Steering Committee) and any working group; it shall be constituted by one-half of the members of the Committee or working group.

(3) The quorum at the time of the adoption of the Instrument by the Conference, meeting in Plenary, shall be constituted by one half of the Member Delegations whose credentials were found in order by the Conference meeting in Plenary.

Rule 20: General Powers of the Presiding Officer

(1) In addition to exercising the powers conferred upon Presiding Officers elsewhere by these Rules, the Presiding Officer shall declare the opening and closing of the meetings, direct the discussions, accord the right to speak, put questions to the vote, and announce decisions. The Presiding Officer shall rule on points of order and, subject to these Rules, shall have complete control of the proceedings at any meeting and over the maintenance of order thereat.

(2) The Presiding Officer may propose to the body over which he or she presides the limitation of time to be allowed to each speaker, the limitation of the number of times each Delegation may speak on any question, the closure of the list of speakers or the closure of the debate. The Presiding Officer may also propose the suspension or the adjournment of the meeting, or the adjournment of the debate on the question under discussion. Such proposals of the Presiding Officer shall be considered as adopted unless immediately rejected.

Rule 21: Speeches

(1) No person may speak without having previously obtained the permission of the Presiding Officer. Subject to Rules 22 and 23, the Presiding Officer shall call upon persons in the order in which they ask for the floor.

(2) The Presiding Officer may call a speaker to order if the remarks of the speaker are not relevant to the subject under discussion.

Rule 22: Precedence in Receiving the Floor

(1) Member Delegations asking for the floor are generally given precedence over Observer Delegations asking for the floor, and Member Delegations and Observer Delegations are generally given precedence over Observer Organizations.

(2) The President of a Committee or working group may be given precedence during discussions relating to the work of the Committee or working group concerned.

(3) The Director General of WIPO or his representative may be given precedence for making statements, observations or suggestions.

Rule 23: Points of Order

(1) During the discussion of any matter, any Member Delegation may rise to a point of order, and the point of order shall be immediately decided by the Presiding Officer in accordance with these Rules. Any Member Delegation may appeal against the ruling of the Presiding Officer. The appeal shall be immediately put to the vote, and the Presiding Officer's ruling shall stand unless the appeal is approved.

(2) The Member Delegation that has risen to a point of order under paragraph (1) may not speak on the substance of the matter under discussion.

Rule 24: Limit on Speeches

In any meeting, the Presiding Officer may decide to limit the time allowed to each speaker and the number of times each Delegation and Observer Organization may speak on any question. When the debate is limited and a Delegation or Observer Organization has used up its allotted time, the Presiding Officer shall call it to order without delay.

Rule 25: Closing of List of Speakers

(1) During the discussion of any given question, the Presiding Officer may announce the list of participants who have asked for the floor and decide to close the list as to that question. The Presiding Officer may nevertheless accord the right of reply to any speaker if a speech, delivered after the list of speakers has been closed, makes it desirable.

(2) Any decision made by the Presiding Officer under paragraph (1) may be the subject of an appeal under Rule 23.

Rule 26: Adjournment or Closure of Debate

Any Member Delegation may at any time move the adjournment or closure of the debate on the question under discussion, whether or not any other participant has asked for the floor. In addition to the proposer of the motion to adjourn or close the debate, permission to speak on that motion shall be given only to one Member Delegation seconding and two Member Delegations opposing it, after which the motion shall immediately be put to the vote. The Presiding Officer may limit the time allowed to speakers under this Rule.

Rule 27: Suspension or Adjournment of the Meeting

During the discussion of any matter, any Member Delegation may move the suspension or the adjournment of the meeting. Such motions shall not be debated, but shall immediately be put to the vote.

Rule 28: Order of Procedural Motions; Content of Interventions on Such Motions

(1) Subject to Rule 23, the following motions shall have precedence in the following order over all other proposals or motions before the meeting:

- (i) to suspend the meeting,
- (ii) to adjourn the meeting,
- (iii) to adjourn the debate on the question under discussion,
- (iv) to close the debate on the question under discussion.

(2) Any Member Delegation that has been given the floor on a procedural motion may speak on that motion only, and may not speak on the substance of the matter under discussion.

Rule 29: Basic Proposal; Proposals for Amendment

(1) (a) Document [identification of the Basic Proposal, to be inserted] shall constitute the basis of the discussions in the Conference, and the text of the draft Instrument contained in those documents shall constitute the “Basic Proposal.”

(b) Where, for any given provision of the draft Instrument, there are two or three alternatives in the Basic Proposal, consisting of either two or three texts, or one or two texts and an alternative that there should be no such provision, the alternatives shall be designated with the letters A, B and, where applicable, C, and shall have equal status. Discussions shall take place simultaneously on the alternatives and, if voting is necessary and there is no consensus on which alternative should be put to the vote first, each Member Delegation shall be invited to indicate its preference among the two or three alternatives. The alternative supported by more Member Delegations than the other one or two alternatives shall be put to the vote first.

(c) Wherever the Basic Proposal contains words within square brackets, only the text that is not within square brackets shall be regarded as part of the Basic Proposal, whereas words within square brackets shall be treated as a proposal for amendment if presented as provided in paragraph (2).

(2) Any Member Delegation may propose amendments to the Basic Proposal.

(3) Proposals for amendment shall, as a rule, be submitted in writing and handed to the Secretary of the body concerned. The Secretariat shall distribute copies to the Delegations and the Observer Organizations. As a general rule, a proposal for amendment cannot be taken into consideration and discussed or put to the vote at a meeting unless copies of it have been distributed not later than three hours before it is taken into consideration. The Presiding

Officer may, however, permit the taking into consideration and discussion of a proposal for amendment even though copies of it have not been distributed or have been distributed less than three hours before it is taken into consideration.

Rule 30: Decisions on the Competence of the Conference

(1) If a Member Delegation moves that a duly seconded proposal should not be taken into consideration by the Conference because it is outside the latter's competence, that motion shall be decided upon by the Conference, meeting in Plenary, before the proposal is taken into consideration.

(2) If the motion referred to in paragraph (1), above, is made in a body other than the Conference, meeting in Plenary, it shall be referred to the Conference, meeting in Plenary, for a ruling.

Rule 31: Withdrawal of Procedural Motions and Proposals for Amendment

Any procedural motion and any proposal for amendment may be withdrawn by the Member Delegation that has made it, at any time before voting on it has commenced, provided that no amendment to it has been proposed by another Member Delegation. Any motion or proposal thus withdrawn may be reintroduced by any other Member Delegation.

Rule 32: Reconsideration of Matters Decided

When any matter has been decided by a body, it may not be reconsidered by that body unless so decided by the majority applicable under Rule 34(2)(ii). In addition to the proposer of the motion to reconsider, permission to speak on that motion shall be given only to one Member Delegation seconding and two Member Delegations opposing the motion, after which the motion shall immediately be put to the vote.

CHAPTER VI: VOTING

Rule 33: Right to Vote

(1) Each Member Delegation shall have the right to vote. A Member Delegation shall have one vote, may represent itself only and may vote in its name only.

(2) The Special Delegation has no right to vote and, for the purposes of paragraph (1) of this Rule and Rule 34, the Special Delegation is not covered by the term "Member Delegations."

(3) The Special Delegation may, under the authority of the European Community, exercise the rights to vote of the Member States of the European Community which are represented at the Diplomatic Conference, provided that

(i) the Special Delegation shall not exercise the rights to vote of the Member States of the European Community if the Member States exercise their rights to vote and vice versa, and

(ii) the number of votes cast by the Special Delegation shall in no case exceed the number of Member States of the European Community that are represented at the Diplomatic Conference and that are present at and entitled to participate in the vote.

Rule 34: Required Majorities

(1) All decisions of all bodies shall be made as far as possible by consensus.

(2) If it is not possible to attain consensus, the following decisions shall require a majority of two-thirds of the Member Delegations present and voting:

- (i) adoption by the Conference, meeting in Plenary, of these Rules, and, once adopted, any amendment to them,
- (ii) decision by any of the bodies to reconsider, under Rule 32, a matter decided,
- (iii) adoption by the Conference, meeting in Plenary, of the Instrument,

whereas all other decisions of all bodies shall require a simple majority of the Member Delegations present and voting.

(3) "Voting" means casting an affirmative or negative vote; express abstention or non-voting shall not be counted.

Rule 35: Requirement of Seconding; Method of Voting

(1) Any proposal for amendment made by a Member Delegation shall be put to a vote only if seconded by at least one other Member Delegation.

(2) Voting on any question shall be by show of hands unless a Member Delegation, seconded by at least one other Member Delegation, requests a roll-call, in which case it shall be by roll-call. The roll shall be called in the alphabetical order of the names in French of the States, beginning with the Member Delegation whose name shall have been drawn by lot by the Presiding Officer.

Rule 36: Conduct During Voting

(1) After the Presiding Officer has announced the beginning of voting, the voting shall not be interrupted except on a point of order concerning the actual conduct of the voting.

(2) The Presiding Officer may permit a Member Delegation to explain its vote or its abstention, either before or after the voting.

Rule 37: Division of Proposals

Any Member Delegation may move that parts of the Basic Proposal or of any proposal for amendment be voted upon separately. If the request for division is objected to, the motion for division shall be put to a vote. In addition to the proposer of the motion for division, permission to speak on that motion shall be given only to one Member Delegation seconding

and two Member Delegations opposing it. If the motion for division is carried, all parts of the Basic Proposal or of the proposal for amendment that have been separately approved shall again be put to the vote, together, as a whole. If all operative parts of the Basic Proposal or of the proposal for amendment have been rejected, the Basic Proposal or the proposal for amendment shall be considered rejected as a whole.

Rule 38: Voting on Proposals for Amendment

(1) Any proposal for amendment shall be voted upon before the text to which it relates is voted upon.

(2) Proposals for amendment relating to the same text shall be put to the vote in the order of their substantive remoteness from the said text, the most remote being put to the vote first and the least remote being put to the vote last. If, however, the adoption of any proposal for amendment necessarily implies the rejection of any other proposal for amendment or of the original text, such other proposal or text shall not be put to the vote.

(3) If one or more proposals for amendment relating to the same text are adopted, the text as amended shall be put to the vote.

(4) Any proposal the purpose of which is to add to or delete from a text shall be considered a proposal for amendment.

Rule 39: Voting on Proposals for Amendment on the Same Question

Subject to Rule 38, where two or more proposals relate to the same question, they shall be put to the vote in the order in which they have been submitted, unless the body concerned decides on a different order.

Rule 40: Equally Divided Votes

(1) Subject to paragraph (2), if a vote is equally divided on a matter that calls only for a simple majority, the proposal shall be considered rejected.

(2) If a vote is equally divided on a proposal for electing a given person to a given position as officer and the nomination is maintained, the vote shall be repeated, until either that nomination is adopted or rejected or another person is elected for the position in question.

CHAPTER VII: LANGUAGES AND MINUTES

Rule 41: Languages of Oral Interventions

(1) Subject to paragraph (2), oral interventions made in the meetings of any of the bodies shall be in Arabic, Chinese, English, French, Russian or Spanish, and interpretation shall be provided by the Secretariat into the other five languages.

(2) Any of the Committees and any working group may, if none of its members objects, decide to dispense with interpretation or to limit interpretation to some only of the languages that are referred to in paragraph (1).

Rule 42: Summary Minutes

(1) Provisional summary minutes of the meetings of the Conference, meeting in Plenary, and of the Main Committees shall be drawn up by the International Bureau and shall be made available as soon as possible after the closing of the Conference to all speakers, who shall, within two months after the minutes have been made available, inform the International Bureau of any suggestions for changes in the minutes of their own interventions.

(2) The final summary minutes shall be published in due course by the International Bureau.

Rule 43: Languages of Documents and Summary Minutes

(1) Any written proposal shall be presented to the Secretariat in English, Arabic, Chinese, French, Russian or Spanish. Such proposal shall be distributed by the Secretariat in Arabic, Chinese, English, French, Russian and Spanish.

(2) Reports of the Committees and any working group shall be distributed in English, Arabic, Chinese, French, Russian and Spanish. Information documents of the Secretariat shall be distributed in English and French; and, whenever practicable, also in Arabic, Chinese, Russian and Spanish.

(3) (a) Provisional summary minutes shall be drawn up in the language used by the speaker if the speaker has used English, French or Spanish; if the speaker has used another language, the intervention shall be rendered in English or French at the choice of the International Bureau.

(b) The final summary minutes shall be made available in English and French; and, whenever practicable, also in Arabic, Chinese, Russian and Spanish.

CHAPTER VIII: OPEN AND CLOSED MEETINGS

Rule 44: Meetings of the Conference and of the Main Committees

The meetings of the Conference, meeting in Plenary, and of the Main Committees shall be open to the public unless the Conference, meeting in Plenary, or the interested Main Committee, decides otherwise.

Rule 45: Meetings of Other Committees and of Working Groups

The meetings of the Credentials Committee, the Drafting Committee, the Steering Committee and any working group shall be open only to the members of the Committee or the working group concerned and to the Secretariat.

CHAPTER IX: OBSERVER DELEGATIONS AND OBSERVER ORGANIZATIONS

Rule 46: Status of Observers

(1) Observer Delegations may attend, and make oral statements in, the Plenary meetings of the Conference and the meetings of the Main Committees.

(2) Observer Organizations may attend the Plenary meetings of the Conference and the meetings of the Main Committees. Upon the invitation of the Presiding Officer, they may make oral statements in those meetings on questions within the scope of their activities.

(3) Written statements submitted by Observer Delegations or by Observer Organizations on subjects for which they have a special competence and which are related to the work of the Conference shall be distributed by the Secretariat to the participants in the quantities and in the languages in which the written statements were made available to it.

CHAPTER X: AMENDMENTS TO THE RULES OF PROCEDURE

Rule 47: Possibility of Amending the Rules of Procedure

With the exception of the present Rule, these Rules may be amended by the Conference, meeting in Plenary.

CHAPTER XI: FINAL ACT

Rule 48: Signing of the Final Act

If a final act is adopted, it shall be open for signature by any Delegation.

[Annex III follows]

ANNEX III

LIST OF PARTICIPANTS AND OBSERVERS

1. Member Delegations: It is proposed that the Member States of WIPO be invited to the Diplomatic Conference as “Member Delegations,” that is, with the right to vote (see the Draft Rules of Procedure of the Diplomatic Conference in Annex II (“Draft Rules of Procedure”), Rule 2(1)(i)). The list of those States and the draft of the invitation to be addressed to them follow below.
2. Special Delegation: It is proposed that the European Community be invited to the Diplomatic Conference as a “Special Delegation,” that is, with the same status as a Member Delegation, except that the European Community could not be a member of the Credentials Committee and would not have the right to vote (see Draft Rules of Procedure, Rules 2(1)(ii), 11(2) and 33(2) and (3)). The draft of the invitation to be addressed to the European Community follow below.
3. Observer Delegations: It is proposed that the States members of the United Nations which are not members of WIPO be invited to the Diplomatic Conference as “Observer Delegations,” that is, *inter alia*, without the right to vote (see Draft Rules of Procedure, Rule 2(1)(iii)). The list of those States and the draft of the invitation to be addressed to them follow below.
4. Observer Organizations: It is proposed that intergovernmental organizations and non-governmental organizations be invited to the Diplomatic Conference as “Observer Organizations” (see Draft Rules of Procedure, Rule 2(1)(iv)). The lists of those organizations and the draft of the invitation to be addressed to them follow below. It is understood that organizations that are granted observer status in WIPO during the Forty-First Series of Meetings of the Assemblies will also be invited.
5. The proposals set out in the foregoing paragraphs are the same as the corresponding proposals made in respect of the Diplomatic Conference on Audiovisual Performances (“the 2000 Diplomatic Conference”).

I. COUNTRIES TO BE INVITED TO SEND MEMBER DELEGATIONS

Albania, Algeria, Andorra, Angola, Antigua and Barbuda, Argentina, Armenia, Australia, Austria, Azerbaijan, Bahamas, Bahrain, Bangladesh, Barbados, Belarus, Belgium, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Brunei Darussalam, Bulgaria, Burkina Faso, Burundi, Cambodia, Cameroon, Canada, Cape Verde, Central African Republic, Chad, Chile, China, Colombia, Comoros, Congo, Costa Rica, Côte d’Ivoire, Croatia, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Democratic Republic of the Congo, Denmark, Djibouti, Dominica, Dominican Republic, Ecuador, Egypt, El Salvador, Equatorial Guinea, Eritrea, Estonia, Ethiopia, Fiji, Finland, France, Gabon, Gambia, Georgia, Germany, Ghana, Greece, Grenada, Guatemala, Guinea, Guinea-Bissau, Guyana, Haiti, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Jordan,

Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Lao People's Democratic Republic, Latvia, Lebanon, Lesotho, Liberia, Libyan Arab Jamahiriya, Liechtenstein, Lithuania, Luxembourg, Madagascar, Malawi, Malaysia, Maldives, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Mozambique, Myanmar, Namibia, Nepal, Netherlands, New Zealand, Nicaragua, Niger, Nigeria, Norway, Oman, Pakistan, Panama, Papua New Guinea, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Samoa, San Marino, Sao Tome and Principe, Saudi Arabia, Senegal, Serbia and Montenegro, Seychelles, Sierra Leone, Singapore, Slovakia, Slovenia, Somalia, South Africa, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Syrian Arab Republic, Tajikistan, Thailand, The former Yugoslav Republic of Macedonia, Togo, Tonga, Trinidad and Tobago, Tunisia, Turkey, Turkmenistan, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Uzbekistan, Venezuela, Viet Nam, Yemen, Zambia and Zimbabwe (182 countries).

Draft of The Invitation Proposed To Be Addressed
To Each Member Delegation

The Director General of the World Intellectual Property Organization (WIPO) presents his compliments to the Minister for Foreign Affairs and has the honor to invite His Excellency's Government to be represented as a Member Delegation at the Diplomatic Conference on the Protection of Broadcasting Organizations.

The Diplomatic Conference will take place in Geneva, at the [venue], from [dates], and will open at 10:00 a.m. on the first day. Participants may register at the Headquarters of WIPO as from 3 p.m. on [date].

Simultaneous interpretation will be provided in English, Arabic, Chinese, French, Russian and Spanish.

The draft Agenda of the Diplomatic Conference, the draft Rules of Procedure of the Diplomatic Conference and the draft of the Basic Proposal (substantive, administrative and final clauses) of the WIPO Treaty on the Protection of Broadcasting Organizations, as mentioned in Rule 29(1)(a) of the Draft Rules of Procedure, are enclosed with this Note.

His Excellency's attention is drawn to the fact that the representatives of His Excellency's Government will need to be provided with credentials, and, for signing the WIPO Treaty on the Protection of Broadcasting Organizations, with full powers (see Rule 6 of the Draft Rules of Procedure of the Diplomatic Conference, document ...). The said full powers should be signed by the Head of State, the Head of Government or the Minister for Foreign Affairs.

It would be appreciated if the names and titles of the representatives of His Excellency's Government could be communicated to the Director General of WIPO by [date].

[date]

Enclosures: ...

Draft of the Invitation Proposed to be addressed to
The European Community

[date]

Dear President Barroso,

I have the pleasure to invite the European Community to be represented as a Special Delegation at the Diplomatic Conference on the Protection of Broadcasting Organizations.

The Diplomatic Conference will take place in Geneva, at the [venue], from [dates], and will open at 10 a.m. on the first day. Participants may register at the Headquarters of WIPO as from 3 p.m. on [date].

Simultaneous interpretation will be provided in English, Arabic, Chinese, French, Russian and Spanish.

The draft Agenda of the Diplomatic Conference, the draft Rules of Procedure of the Diplomatic Conference and the draft of the Basic Proposal (substantive, administrative and final clauses) of the WIPO Treaty on the Protection of Broadcasting Organizations, as mentioned in Rule 29(1)(a) of the Draft Rules of Procedure, are enclosed with this Note.

The Delegation of the European Community will need to be provided with credentials (see Rules 2 and 6 of the Draft Rules of Procedure of the Diplomatic Conference, document ...). The question of whether the Delegation of the European Community may become party to the WIPO Treaty on the Protection of Broadcasting Organizations will be answered by the WIPO Treaty on the Protection of Broadcasting Organizations itself whose adoption is expected to take place towards the end of the Conference: if the answer is in the affirmative and the Delegation of the European Community wishes to sign the WIPO Treaty on the Protection of Broadcasting Organizations, it will need full powers.

I would appreciate it if the names and titles of the persons who will represent the European Community could be communicated to me by [date].

Sincerely yours,

Kamil Idris
Director General

Enclosures:

II. COUNTRIES TO BE INVITED TO SEND OBSERVER DELEGATIONS

Afghanistan, Kiribati, Marshall Islands, Micronesia, Nauru, Palau, Solomon Islands, Timor-Leste, Tuvalu and Vanuatu (10 countries).

Draft of the Invitation Proposed to be addressed to
each Observer delegation

The Director General of the World Intellectual Property Organization (WIPO) presents his compliments to the Minister for Foreign Affairs and has the honor to invite His Excellency's Government to be represented as an Observer Delegation at the Diplomatic Conference on the Protection of Broadcasting Organizations.

The Diplomatic Conference will take place in Geneva, at [venue], from [dates], and will open at 10 a.m. on the first day. Participants may register at the Headquarters of WIPO as from 3 p.m. on [date].

Simultaneous interpretation will be provided in English, Arabic, Chinese, French, Russian and Spanish.

The draft Agenda of the Diplomatic Conference, the draft Rules of Procedure of the Diplomatic Conference and the draft of the Basic Proposal (substantive, administrative and final clauses) of the WIPO Treaty on the Protection of Broadcasting Organizations, as mentioned in Rule 29(1)(a) of the Draft Rules of Procedure, are enclosed with this Note.

His Excellency's attention is drawn to the fact that the representatives of His Excellency's Government will need to be provided with credentials.

It would be appreciated if the names and titles of the representatives of His Excellency's Government could be communicated to the Director General of WIPO by [date].

[date]

Enclosures: ...

III. OBSERVER ORGANIZATIONS

United Nations System of Organizations

United Nations (UN), International Labour Organization (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO), World Health Organization (WHO), International Bank for Reconstruction and Development (IBRD), International Telecommunication Union (ITU), World Meteorological Organization (WMO) and International Maritime Organization (IMO) (eight organizations), and such organizations as the Director General may invite.

Other Intergovernmental Organizations
Worldwide

Commonwealth of Learning (COL), Community of Portuguese-speaking Countries (CPLP), International Institute for the Unification of Private Law (UNIDROIT), Organisation internationale de la francophonie (OIF), South Centre and World Trade Organization (WTO) (six organizations), and such organizations as the Director General may invite.

Other Intergovernmental Organizations
Regional

African Regional Intellectual Property Organization (ARIPO), Arab League Educational, Cultural and Scientific Organization (ALECSO), Arab States Broadcasting Union (ASBU), Association of South East Asian Nations (ASEAN), (Board of the) Cartagena Agreement (JUNAC), Caribbean Community (CARICOM), Commonwealth Fund for Technical Cooperation (CFTC), Commonwealth of Independent States (CIS), Conference of Latin American Authorities on Informatics (CALAI), Council of Europe (CE), Economic Community of the Great Lakes Countries (CEPGL), European Free Trade Association (EFTA), European Audiovisual Observatory, General Secretariat of the Andean Community, Islamic Educational, Scientific and Cultural Organization (ISESCO), Latin American Economic System (SELA), League of Arab States (LAS), *Mercado Común del Sur* (MERCOSUR), African Union (AU), *Organisation africaine de la propriété intellectuelle* (OAPI), Organization of American States (OAS), Organization of the Islamic Conference (OIC), Central American Economic Integration Secretariat, Southern African Development Community (SADC) and *Communauté économique et monétaire en Afrique centrale* (CEMAC) (25 organizations), and such organizations as the Director General may invite.

International Non-Governmental Organizations

Actors, Interpreting Artists Committee (CSAI), Afro-Asian Book Council (AABC), *Agence pour la protection des programmes* (APP), American Federation of Television and Radio Artists (AFTRA), American Film Marketing Association (AFMA), AMSONG, *ARTIS GEIE*, *Groupement européen des sociétés de gestion des droits des artistes interprètes*, ASEAN Intellectual Property Association (ASEAN IPA), Asia-Pacific Broadcasting Union (ABU), *Association européenne des éditeurs de journaux* (ENPA), *Association européenne pour la protection des œuvres et services cryptés* (AEPOC), Association for the International Collective Management of Audiovisual Works (AGICOA), Association of Commercial Television in Europe (ACT), Association of European Performers' Organizations (AEPO), Association of European Radios (AER), Business Software Alliance (BSA), Caribbean Broadcasting Union (CBU), Center for Public Resources, Inc. (CPR), Central and Eastern European Copyright Alliance (CEECA), Civil Society Coalition (CSC), Computer & Communications Industry Association (CCIA), *Conseil francophone de la chanson* (CFC), Co-ordinating Council of Audiovisual Archives Associations (CCAA), Coordination of European Independent Producers (CEPI), Coordination of European Picture Agencies-News and Stock (CEPIC), Digital Media Association (DiMA), Digital Video Broadcasting (DVB), Electronic Frontier Foundation (EFF), Electronic Industries Association (EIA), *Entidad de Gestión de Derechos de los Productores Audiovisuales* (EGEDA), European Alliance of Press Agencies (EAPA), European Association of Communications Agencies (EACA), European

Broadcasting Union (EBU), European Bureau of Library, Information and Documentation Associations (EBLIDA), European Cable Communications Association (ECCA), European Committee for Interoperable Systems (ECIS), European Computer Manufacturers Association (ECMA), European Council of American Chambers of Commerce (ECACC), European Digital Rights (EDRi), European Information and Communications Technology Industry Association (EICTA), European Publishers Council (EPC), European Sound Directors Association (ESDA), European Tape Industry Council (ETIC), European Visual Artists (EVA), European Writers' Congress (EWC), Exchange and Cooperation Centre for Latin America (ECCLA), *Fédération européenne des sociétés de gestion collective de producteurs pour la copie privée audiovisuelle* (EUROCOPYA), Federation of European Audiovisual Directors (FERA), Ibero-American Television Organization (OTI), Ibero-Latin-American Federation of Performers (FILAIE), Independent Film Producers International Association (IFPIA), Information Technology Industry Council (ITI), Institute for African Development (INADEV), Institute of Intellectual Property (IIP), Intellectual Property Owners (IPO), Interactive Software Federation of Europe (ISFE), Inter-American Copyright Institute (IIDA), International Affiliation of Writers' Guilds (IAWG), International Alliance of Orchestra Associations (IAOA), International Anticounterfeiting Coalition, Inc. (IACC), International Association for Mass Communication Research (IAMCR), International Association for the Protection of Industrial Property (AIPPI), International Association of Art (IAA), International Association of Audio-Visual Writers and Directors (AIDAA), International Association of Authors of Comics and Cartoons (AIAC), International Association of Broadcasting (IAB), International Association of Conference Interpreters (AIIC), International Association of Entertainment Lawyers (IAEL), International Bar Association (IBA), International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM), International Chamber of Commerce (ICC), International Communications Round Table (ICRT), International Confederation of Free Trade Unions (ICFTU), International Confederation of Music Publishers (ICMP), International Confederation of Professional and Intellectual Workers (CITI), International Confederation of Societies of Authors and Composers (CISAC), International Copyright Society (INTERGU), International Council of Graphic Design Associations (ICOGRADA), International Council of Scientific Unions (ICSU), International Council on Archives (ICA), International Dance Council (IDC), International DOI Foundation (IDF), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Commercial Arbitration Institutions (IFCAI), International Federation of Computer Law Associations (IFCLA), International Federation of Film Producers Associations (FIAPF), International Federation of Horseracing Authorities (IFHA), International Federation of Journalists (IFJ), International Federation of Library Associations and Institutions (IFLA), International Federation of Musicians (FIM), International Federation of Press Clipping and Media Monitor Bureaus (FIBEP), International Federation of Reproduction Rights Organizations (IFRRO), International Federation of the Periodical Press (FIPP), International Federation of the Phonographic Industry (IFPI), International Federation of Translators (FIT), International Group of Scientific, Technical and Medical Publishers (STM), International Hotel Association (IHA), International Institute of Communications (IIC), International Intellectual Property Alliance (IIPA), International League of Competition Law (LIDC), International Literary and Artistic Association (ALAI), International Music Managers Forum (IMMF), International Organization of Hotel and Restaurant Associations (HoReCa), International Organization of Journalists (IOJ), International Organization of Performing Artists (GIART), International Poetry for Peace Association (IPPA), International Publishers Association (IPA), International Union against Cancer (UNCC), International Union of Cinemas (UNIC), International Video Federation (IVF), International Writers Guild (IWG), Internet Alliance (IA), Latin American Federation of Music Publishers (FLADEM), Latin

American Institute for Advanced Technology, Computer Science and Law (ILATID), Law Association for Asia and the Pacific (LAWASIA), Max-Planck Institute for Intellectual Property, Competition and Tax Law, North American National Broadcasters Association (NANBA), *Organisation ibéro-américaine des droits d'auteur-Latinautor Inc.*, Performing Arts Employers Associations League Europe (PEARLE), *Secretaría de Integración Económica Centroamericana* (SIECA), *Sistema Económico Latinoamericano* (SELA), *Sistema de Integración Económica Centroamericana* (SICA), Software & Information Industry Association (SIIA), Southern African Broadcasting Association (SABA), Union for the Public Domain, Union internationale des cinémas (UNIC), Union Network International – Media and Entertainment (UNI-MEI), Union of African Journalists (UAJ), Union of Industrial and Employers' Confederations of Europe (UNICE), Union of National Radio and Television Organizations of Africa (URTNA), World Association for Small & Medium Enterprises (WASME), World Association of Newspapers (WAN), World Blind Union (WBU), World Federation for Culture Collections (WFCC) and World Union of Professions (WUP) (136 organizations), and such organizations as the Director General may invite.

National Non-Governmental Organizations

Alfa-Redi, American Bar Association (ABA), American Intellectual Property Law Association (AIPLA), *Association nationale des artistes interprètes* (ANDI), *Associação Brasileira da Propriedade Intelectual* (ABPI), *Associação Paulista da Propriedade Intelectual* (ASPI), *Association brésilienne des émetteurs de radio et de télévision* (ABERT), *Association Bouregreg* (BOUREGREG), British Copyright Council, Canadian Bar Association (CBA), Canadian Cable Television Association (CCTA), Copyright Research and Information Center (CRIC), Creators' Rights Alliance (CRA), Electronic Frontier Foundation, Geidankyo Center for Performers' Rights Administration (CPRA), Information Technology Association of America (ITAA), Japan Electronics and Information Technology Industries Association (JEITA), National Association of Broadcasters (NAB), National Association of Commercial Broadcasters in Japan (NAB -Japan), *Sociedade Portuguesa de Autores* (SPA) and Software Information Center (SOFTIC) (21 organizations), and such organizations as the Director General may invite.

Draft of the Invitation Proposed to be addressed to each Observer Organization

[date]

Madam,

Sir,

I have the pleasure to invite your organization to be represented in an observer capacity at the Diplomatic Conference on the Protection of Broadcasting Organizations.

The Diplomatic Conference will take place in Geneva, [venue], from [date], and will open at 10 a.m. on the first day. Participants may register at the Headquarters of WIPO as from 3 p.m. on [date].

Simultaneous interpretation will be provided in English, Arabic, Chinese, French, Russian and Spanish.

The draft Agenda of the Diplomatic Conference, the Draft Rules of Procedure of the Diplomatic Conference and the draft of the Basic Proposal (substantive, administrative and final clauses) of the WIPO Treaty on the Protection of Broadcasting Organizations, as mentioned in Rule 29(1)(a) of the Draft Rules of Procedure, are enclosed with this Note.

The draft of the substantive clauses and the draft of the administrative and final clauses together constitute the “Basic Proposal.”

Your attention is drawn to the fact that your representatives will need to be provided with letters of appointment (see Rule 7 of the Draft Rules of Procedure of the Diplomatic Conference, document ...). The said letters of appointment should be signed by the Executive Head of your organization.

I would appreciate it if the names and titles of the persons who will represent your organization could be communicated to me by [date].

Sincerely yours,

Kamil Idris
Director General

Enclosures: ...

[Annex IV follows]

DRAFT AGENDA OF THE DIPLOMATIC CONFERENCE

Agenda of the Diplomatic Conference

1. It is proposed that the draft agenda of the Diplomatic Conference be as set out below.
2. The draft is based on the draft Rules of Procedure of the Diplomatic Conference, contained in Annex II and the agendas of earlier diplomatic conferences held under the auspices of WIPO.

Draft Agenda

1. Opening of the Conference by the Director General of WIPO
2. Consideration and adoption of the Rules of Procedure
3. Election of the President of the Conference
4. Consideration and adoption of the agenda
5. Election of the Vice-Presidents of the Conference
6. Election of the members of the Credentials Committee
7. Election of the members of the Drafting Committee
8. Election of the Officers of the Credentials Committee, the Main Committees and Drafting Committee
9. Consideration of the first report of the Credentials Committee
10. Opening declarations by Delegations and by representatives of Observer Organizations
11. Consideration of the texts proposed by the Main Committees
12. Consideration of the second report of the Credentials Committee
13. Adoption of the Treaty
14. Adoption of any recommendation, resolution, agreed statement or final act
15. Closing declarations by Delegations and by representatives of Observer Organizations
16. Closing of the Conference by the President.*

[End of Annex IV and of document]

* Immediately after the closing of the Conference, the Final Act, if any, and the Instrument will be open for signature.