

Standing Committee on Copyright and Related Rights

Thirty-Ninth Session
Geneva, October 21 to 25, 2019

REPORT

adopted by the Standing Committee

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the “Committee”, or the “SCCR”) held its thirty-ninth session in Geneva, from October 21 to 25, 2019.
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: Albania, Algeria, Angola, Antigua And Barbuda, Argentina, Australia, Austria, Azerbaijan, Bahamas, Bangladesh, Barbados, Belarus, Bolivia (Plurinational State of), Botswana, Brazil, Brunei Darussalam, Burkina Faso, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Cook Islands, Costa Rica, Côte D’Ivoire, Croatia, Czech Republic, Denmark, Djibouti, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Holy See, Honduras, Hungary, Iceland, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Japan, Jordan, Kenya, Kuwait, Latvia, Lebanon, Lesotho, Liberia, Lithuania, Malawi, Malaysia, Malta, Mexico, Monaco, Mongolia, Morocco, Nepal, Niger, Nigeria, Pakistan, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saint Kitts and Nevis, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, Solomon Islands, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad, and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom United States of America, Viet Nam and Yemen (112).
3. The European Union (EU) participated in the meeting in a member capacity.
4. The following Intergovernmental Organizations (IGOs) took part in the meeting in an observer capacity: African Intellectual Property Organization (OAPI), African Regional Intellectual Property Organization (ARIPO), African Union (AU), South Centre (SC), Telecommunication Union (ITU) and World Trade Organization (WTO) (6).
5. The following non-governmental organizations (NGOs) took part in the meeting in an observer capacity: Alianza de Radiodifusores Iberoamericanos para la Propiedad Intelectual (ARIPI), Asia-Pacific Broadcasting Union (ABU), Association of American Publishers, Inc. (AAP), Association of Commercial Television in Europe (ACT), Association of European Performers’ Organizations (AEPO-ARTIS), Authors Alliance, Brazilian Association of Intellectual Property (ABPI), British Copyright Council (BCC), Canadian Copyright Institute (CCI), Canadian Federation of Library Associations (CFLA), Central and Eastern European Copyright Alliance (CEECA), Civil Society Coalition (CSC), Coalición por el Acceso Legal a la Cultura (CALC), Communia, Confederation of Rightholders’ Societies of Europe and Asia (CRSEA), Copyright Research and Information Center (CRIC), Corporación Latinoamericana de Investigación de la Propiedad Intelectual para el Desarrollo (Corporación Innovarte), Creative Commons, Corporation, DAISY Forum of India (DFI), Design and Artists Copyright Society (DACS), Education International (EI), Electronic Information for Librarians (eIFL.net), European Broadcasting Union (EBU), European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA), European Publishers Council (EPC), European Visual Artists (EVA), European Writers’ Council (EWC), Health and Environment Program (HEP), Ibero-Latin-American Federation of Performers (FILAIIE), Instituto de Derecho de Autor (Instituto Autor), Inter-American Copyright Institute (IIDA), International Association for the Protection of Intellectual Property (AIPPI), International Association of Broadcasting (IAB), International Association of Scientific Technical and Medical Publishers (STM), International Authors Forum (IAF), International Confederation of Music Publishers (ICMP), International Confederation of Societies of Authors and Composers (CISAC), International Council of Museums (ICOM), International Council on Archives (ICA), International Federation of Computer Law Associations (IFCLA), International Federation of Library Associations and

Institutions (IFLA), International Federation of Musicians (FIM), International Federation of Reproduction Rights Organizations (IFRRO), International Federation of the Phonographic Industry (IFPI), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), International Society for the Development of Intellectual Property (ADALPI), International Trademark Association (INTA), International Video Federation (IVF), Karisma Foundation, Knowledge Ecology International, Inc. (KEI), Latín Artis, Library Copyright Alliance (LCA), Max Planck Institute for Innovation and Competition (MPI), Motion Picture Association (MPA), National Library of Sweden (NLS), North American Broadcasters Association (NABA), PLR International (PLRI), Program on Information Justice and Intellectual Property - American University Washington College of Law, Radyo Televizyon Yayincilari Meslek Birliđi (RATEM), School of Information Studies, University of Wisconsin – Milwaukee (SOIS), Society of American Archivists (SAA), Software and Information Industry Association (SIIA), The Confederation of European Business (BusinessEurope), The Japan Commercial Broadcasters Association (JBA), Union for the Public Domain (UPD), Union Network International - Media and Entertainment (UNI-MEI) and World Association of Newspapers (WAN) (69).

AGENDA ITEM 1: OPENING OF THE SESSION

6. The Chair welcomed all stakeholders and invited the Deputy Director General to share her opening remarks on behalf of the Director General.

7. The Deputy Director General welcomed all stakeholders to the thirty-ninth session of the Standing Committee on Copyright and Related Rights. She commended the Chair's efforts in steering discussions during the International Conference on copyright limitations and exceptions for libraries, archives, museums and educational and research institutions, which was held prior to the convening of thirty-ninth session. The Deputy Director General reiterated the SCCR agenda on the issue of broadcasting. Highlighting the progress made by regional groups and delegations, she pointed out the Committee's approach in dealing with pending issues. She added that the possibility of convening a diplomatic conference in the course of the 2020-2021 biennium, as indicated by the General Assembly, was subject to various factors. She acknowledged the efforts of members of the Committee for their cooperation and active involvement in the development of a robust action plan on matters regarding exceptions and limitations. The Deputy Director General was optimistic that during the thirty-ninth session, members would adopt a unified approach in finding sustainable ways to implement proposed action plans in light of the ideas expressed and proposals tabled at the international conference. She indicated that the Committee would continue discussions on its agenda with respect to other business on the following topics: analysis of copyright related to the digital environment, the resale right, and the proposal on the protection of theater directors' rights. The Deputy Director General assured members of the Secretariat's continued support towards achieving the Committee's objectives.

8. The Chair reiterated the importance of the Committee's work as it largely affected intellectual property rights across the world through content creation and distribution efforts. The Chair urged all members to review all Agenda Items in a bid to make a meaningful impact while ensuring an effective copyright system with the help of relevant stakeholders. The Chair indicated the keen interest of the Vice-Chairs from Senegal and Hungary in working with members, regional coordinators and the Secretariat, in making the session a successful one.

AGENDA ITEM 2: ADOPTION OF THE AGENDA OF THE THIRTY-NINTH SESSION

9. The Chair referred to Agenda Item 2, the consideration of the draft agenda for the meeting. The Chair pointed out a slight change in order of Agenda Items. The Chair explained that in view of the international conference, which had been held prior to the thirty-ninth session, proceedings had been slightly changed in consultation with regional coordinators to allow

various stakeholders to participate in the proceedings. The Chair invited the Secretariat to elaborate on the proposed agenda for the SCCR.

10. The Secretariat presented to the Committee the proposed agenda for the SCCR, including the proposed changes.

11. The Chair indicated that the draft agenda was based on document SCCR/39/1/ Prov. The Chair requested for the Committee to adopt the draft agenda for the meeting based on the considerations presented. Without any objections, the draft agenda was adopted.

AGENDA ITEM 3: ACCREDITATION OF NEW NON-GOVERNMENTAL ORGANIZATION

12. The Chair referred to Agenda Item 3, accreditation to new non-governmental organizations, document SCCR/39/2. The Chair invited the Committee to approve the representation in sessions of the Committee of two NGOs referred to in the annex of the document, namely the International Federation of Computer Law Associations (IFCLA) and the Italian Audiovisual and Multimedia Content Protection Federation (FAPAV). In the absence of any objections, the agenda item was adopted.

AGENDA ITEM 4: ADOPTION OF THE REPORT OF THE THIRTY-EIGHTH SESSION OF THE SCCR

13. The Chair referred to Agenda Item 4 on the consideration of the report of the previous session found in document SCCR/38/11 Prov. Delegations were invited to send any comments or corrections to the English version at the usual e-mail address of copyright.mail@wipo.int. Comments and corrections were to be sent to the Secretariat by November 15, 2019 in order to allow the timely production of the final report before the following session. The Committee was moved to approve the draft report of the thirty-eighth session of the SCCR. Without any objections, the report was adopted.

14. The Chair invited the Secretariat to update members on other events and important announcements.

OPENING STATEMENTS

15. The Chair gave an overview of proceedings. Group coordinators were to present their introductory statements after which the Committee was to discuss the substantive items of the agenda. The Chair implored observers to present their statements within two minutes and refrain from taking entrenched positions. Delegations and observers were invited to send their full written statements to the Secretariat by e-mail to copyright.mail@wipo.int. The Chair also urged delegations and observers to furnish statements to interpreters in a bid to ensure that everyone understands the details of each statement.

16. The Delegation of Croatia, speaking on behalf of Central European and Baltic States (CEBS), acknowledged the efforts of the Chair, Vice-Chairs and WIPO Secretariat for their efforts in preparing the thirty-ninth meeting of the Committee on Copyright and Related Rights. The Delegation highlighted the main outcome of SCCR/38 towards the 2020-2021 diplomatic conference for the broadcasting treaty, a move which had recently been confirmed by the WIPO General Assembly. CEBS bemoaned the complexity of the issue concerning the broadcasting treaty and looked forward to constructive discussions towards finding acceptable solutions regarding definitions on object of protection, rights to be granted and other issues. The Delegation applauded the Chair for the revised consolidated text on the broadcasting treaty as discussed in document SCCR/39/4. CEBS acknowledged the technological developments of the 21st century and related challenges faced by broadcasting organizations. The Delegation

was optimistic that the focus on deliberations would aim to bridging the gap and reaching consensus on how to respond to the needs of the broadcasters. CEBS hoped that the work of the SCCR would result in a concise text that would enable a decision on convening a diplomatic conference on a meaningful broadcasting treaty in future. The Delegation looked forward to discussing limitations and exceptions for libraries, archives and museums, as well as for educational and research institutions and for persons with other disabilities; namely, the presentations of different reports regarding the different regional seminars and the international conference. CEBS underscored its position in relying on the existing international framework concerning limitations and exceptions and finding solutions which could be used to enhance national legislations, rather than preparing an international binding instrument. CEBS noted that their views were also shared by different experts during the international conference. CEBS acknowledged the Delegations of Senegal and Congo for their work related to the issue of inclusion of artists' resale rights.

17. The Delegation of Mexico, speaking on behalf of the Group of Latin America and the Caribbean (GRULAC), thanked the Secretariat for the preparatory work for the meeting. GRULAC reiterated the objective of the meeting was to hear the decision on whether there would be a diplomatic conference for adoption of the treaty of the protection of broadcasting organizations in the 2020-2021 biennium. GRULAC reiterated that the decision was dependent on Member States reaching a consensus on core issues, including the specific scope, the object of protection, and rights to be granted. GRULAC expressed that it was keen on hearing comments in relation to document SCCR/39/4, the revised consolidated text on definitions, object of protection, rights to be granted, and other issues. GRULAC was certain that the explanations and information included in the document would be very useful in understanding the issue. GRULAC maintained that it was imperative to reach negotiations through constructive dialogue in order to be reach consensus. The Delegation highlighted the importance of the activities included in the action plan with respect to limitations and exceptions for libraries, archives, and educational and research institutions, which were adopted by the Committee in 2018. GRULAC believed that the studies undertaken in preparation for the regional seminars and the international conference would be useful, as they would offer an understanding on the challenges faced by Member States. The goal was to achieve and maintain balanced harmonization, which was a mechanism to promote innovation, creation and to protect access to information and public interest. GRULAC added that constructive discussions on issues pertaining to limitations and expectations had been held in Santo Domingo regional seminar. GRULAC expressed that it was looking forward to the status report on the seminars and the international conference and was ready to share its position in due course. The Delegation expressed that it was interested in updates on the studies of global music services produced by the Secretariat and updates on the task force on resale rights and information with regard to theater directors. GRULAC emphasized its commitment towards progress while taking positive steps in the work of the SCCR.

18. The Delegation of Singapore, speaking on behalf of the Asia and Pacific Group (APG), expressed that the Chair's leadership and diligence would achieve desired results and help the Committee reach a mutual understanding on outstanding issues. The Delegation stressed its support on the agenda and program of the SCCR session, which signified a balanced treatment of all issues facing the Committee. APG observed that intellectual property was a delicate developmental issue that required careful balancing. APG noted that most members of its Group were keen to see the finalization of a balanced treaty on the protection of broadcasting organizations, based on the mandate of the 2007 General Assembly to provide protection on signal-based approach for cablecasting and broadcasting organizations in the traditional sense. APG pointed out that some members of the group might have a different position based on the national policies. APG acknowledged the mandate conferred on the SCCR by the General Assembly to continue its work towards convening a diplomatic conference through the Chair's leadership in achieving consensus on fundamental issues. APG underscored that limitations

and exceptions for libraries, archives, museums, educational and research institutions as well as persons with disabilities were of critical importance to individuals and collective development of societies. APG commended the Secretariat and experts involved in making the international conference on copyright, limitations and exceptions for libraries, archives, museums and educational and research institutions, which had taken place on October 18 and 19, 2019. APG welcomed the completion of activities regarding the action plans on limitations and exceptions and looked forward to build upon the considerations and prospects gathered from discussions of the international conference. The Delegation recognized the emergence of new and important issues, copyright and digital environment and theater directors' rights and looked forward to extensive discussions on such issues.

19. The Delegation of China presented its position with regards to agenda items on two issues. The Delegation stated that it was fully aware of the efforts made to protect broadcasting organizations and of the challenges faced by the Committee since 1998. Although consensus had not been made on some important issues as stakeholders held different positions, the Delegation proposed that under the framework of WIPO, efforts should be made towards either a convening of a diplomatic conference that would conclude the treaty. The Delegation hoped that detailed discussions would be held about the treaty during that session. With regard to the item on limitations and exceptions, the Delegation noted that it was conducive to safeguarding the balance of rights, promoting knowledge in the education sector, as well as safeguarding other public interests. As such, the Delegation called for the need to prioritize relevant items in discussions. The Delegation hoped for a practical and feasible work plan to guide Member States in studying the critical related issues. The Delegation looked forward to fruitful proceedings.

20. The Delegation of Canada, speaking on behalf of Group B, underscored the importance of negotiating a treaty on the protection of broadcasting organizations. Group B added that to ensure the treaty's relevance, a broad range of stakeholders' views and stakeholder developments in relevant fields ought to be considered. Group B noted that appropriate protection was imperative. Group B held that Member States must work towards a practical and meaningful solution which accords with the overall broadcasting environment. Group B stressed the importance of remaining faithful, which conditioned the convening of a diplomatic conference upon the SCCR reaching agreement on the objectives, specific scope and object of protection of a treaty for the protection of traditional broadcasting organizations. Group B welcomed the discussions held at SCCR/38 in April 2019 on the basis of document SCCR/37/8 as well as on proposals by the Delegations of Argentina and the United States of America. Those discussions helped clarify a number of technical issues and promoted enhanced understanding of positions of Member States. Group B believed that Members would maintain its focus towards clarifying the various technical issues and gaining a deeper understanding and further agreement on the complex substantive issues to maximize the chances of a successful outcome. On exceptions and limitations, Group B welcomed the discussions held at SCCR/38 on the action plan on libraries, archives and museums and the associated work on typologies and studies on museums. Group B recognized that the action plans and implementation sought to enhance the Committee's understanding of underlying issues and looked forward to further engagement on such issues. Group B stressed its commitment in contributing to constructive engagement toward the work of the Committee.

21. The Delegation of Uganda, speaking on behalf of the African Group, emphasized the key role of the work of the SCCR while serving as an advocate for advancing the balanced international system of copyright and related rights. The Group noted that a balanced copyright system was essential for the promotion of culture, science and education and achieving sustainable development. On the topic of limitations and exceptions, the African Group reiterated that such issues were a key concern to the Group. The African Group noted that the rapid development of digital infrastructures and technology had influenced changes in the

creation, storage, dissemination, accessibility and consumption of IP assets. Consequently, the social and economic expectations of users and rightsholders also kept evolving. Therefore, the appropriate balance and harmonization on an international level was to account for all Member States to participate in the opportunities of the digital economy. Therefore, some form of international harmonization in some critical areas affecting Member States was necessary. The Group was happy that through the three core areas of studies, regional seminars and the international conference on limitations and exceptions, some progress was being made since those projects were aimed at assisting WIPO Member States to determine what action should be taken on limitations and exceptions at the international level in accordance with the decision of the 2012 WIPO General Assembly. The African Group looked forward to the presentations and discussions of the reports of the regional seminars and the report of the international conference on limitations and exceptions. The African Group was pleased that, from the reports from the regional seminars and international conference, consensus was emerging on topics of which international action could be taken. On the issue of protection of broadcasting organizations, the African Group underscored its commitment to the negotiation of rights of traditional broadcasting and cablecasting organizations and signal base approach. The African Group affirmed its support for a broadcast treaty which guaranteed the rights of broadcasters without creating a new layer of rights on the subject of culture, education and reuse of broadcast materials that were already in the public domain. Concerning other issues on the SCCR agenda, the Africa Group was pleased with the ongoing work of the task force on the artist's resale right and looked forward to further updates on the subject matter. The African Group emphasized its position for the inclusion of the topic as a standing agenda item on the future work of the Committee. The Delegation acknowledged the Secretariat's work conducted with respect to the analysis of copyright related to the digital environment on the introduction to the global digital music market. On matters concerning the strengthening and protection of theater director's rights at an international level, the African Group welcomed the update on that study. The African Group reiterated its full commitment to constructive discussions on all agenda items to achieve mutually agreed outcomes.

22. The Delegation of the European Union noted that discussions on the treaty for the protection of broadcasting organizations continued to be of great importance for the European Union. The European Union reaffirmed its commitment to advance those complex discussions constructively with a view to ensuring further progress during the session. The European Union hoped that discussions during the session would provide a basis of understanding between delegations on definitions, object of protection, rights to be granted and other issues consolidated by the Chair in document SCCR/39/4 prior to the session. The European Union called for a broad consensus on the extent of the protection to be granted in order for the treaty to provide broadcasting organizations with appropriate protection. The European Union indicated that it was crucial for the treaty to account for technological realities of the 21st century and the corresponding current and future needs of broadcasting organizations. On that premise, the European Union underscored continued commitment towards progressing to conclusion of a worthwhile treaty. The European Union was pleased with the General Assembly's endorsement of the recommendation originating from SCCR/38 for that Committee to continue its work towards convening a diplomatic conference aiming for the 2020-2021 biennium and subject to certain conditions. The European Union was optimistic that the Committee would reach the necessary consensus and that a text would reach a level of maturity that would allow the Committee to meet the time frame envisaged in the recommendation. The European Union believed that the work carried out under the Committee's action plans on limitations and exceptions through SCCR/39 contained in document SCCR/36/7 provided a good basis for deepening understanding of challenges faced by libraries, archives, museums as well as educational and research institutions and persons with other disabilities. The international conference on copyright limitations and exceptions for libraries, archives and museums and educational and research institutions, held prior to the session, helped members to develop their knowledge. The European Union thanked the Secretariat for its smooth

organization and the panelists for the numerous and practical contributions. The European Union acknowledged the support that emerged for further work at national and regional levels and reflections. The European Union referred to the existing international copyright framework that already empowers Member States to introduce and maintain updates to exceptions that can respond to local needs and traditions continuing to ensure that the objective of the copyright system should be to encourage and reward creativity. The European Union suggested that against the background of the results of the conference prior to the session, the work of the Committee should aim at providing further guidance on how the different existing solutions and flexibilities in the framework of the international treaties could be implemented in national laws. The European Union pointed out that there was no need for any new and additional legally binding instrument in that regard. On other matters, the European Union looked forward to status reports. The European Union also endorsed the proposals from the Delegations of Singapore and Congo.

AGENDA ITEM 5: LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

AGENDA ITEM 6: LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND FOR PERSONS WITH OTHER DISABILITIES

23. The Chair opened the floor for discussions on Agenda Items 5 and 6, on limitations and exceptions. The Chair stated that under Agenda Item 5, discussions would focus on libraries and archives and Agenda Item 6 would focus on limitations and exceptions relating to educational and research institutions and persons with other disabilities. The discussions included consideration of documents SCCR/39/5 titled "Archives Copyright Exceptions: Typology Analysis", and SCCR 39/6 titled "Report on Practices and Challenges in Relation to Online Distance Education and Research Activities". Proceedings would be as follows: opening statements on the subject of limitations and exceptions by regional coordinators to be followed by Member States and observers. As in the previous Committee meetings, those statements could cover both or just one of those agenda items. Specific elements of the plans were to be considered after which Professor Xalabarder and Ms. Torres were to present the study on education and research. Reports on regional seminars and the international conference, including the summary of the work done under the action plans, were also to be reviewed. Observers were requested to keep statements to two minutes. Delegations and members were welcome to provide the full statements to the Secretariat and provide statements in advance to the Secretariat to facilitate interpretation.

24. The Delegation of Croatia, speaking on behalf of the Central European and Baltic States (CEBS), reiterated its position on the importance of library, archives and museums, as well as research and educational institutions, to the social and cultural development of societies. CEBS proposed that global infrastructure would ensure access for the persons with disabilities in both analog and digital frameworks. CEBS was keen on hearing presentations of the report of the study on online distance education and research activities by Professor Xalabarder and Ms. Torres, as well as the report on regional seminars held in Singapore, Nairobi and Santo Domingo. CEBS explained that the existing international legal framework related to limitations and exceptions provided enough flexibility for adequate protection. CEBS suggested that the focus on the Committee's work had to be on exploring the already existing solutions, which ensured the implementation of the existing international instruments in national contexts supported by the exchange of best practices without the need for an international binding instrument.

25. The Delegation of Canada, speaking on behalf of Group B, noted that libraries, archives and museums played an important role in cultural and social development. The Delegation added that several Member States had already established national limitations and exceptions regimes as regards libraries and archives. The Group was certain that such regimes could work

well and respond to national interests in accordance with the current international framework. The Group welcomed activities conducted under the action plan on libraries, archives and museums and looked forward to hearing the reports on regional meetings on the international conference on copyright, limitations and exceptions for libraries, archives, museums and education and research institutions held the previous week. The Delegation acknowledged the Committee's effort on the subject matter. It noted that there was no consistency for that normative work on limitations and exceptions for libraries, archives and museums and pledged its commitment to continue substantive discussions. On educational and research institutions and persons with other disabilities, Group B continued to welcome the exchange of experiences of the Committee with regard to limitations and exceptions for educational and research institutions, while noting that the studies discussed in previous sessions of that Committee reported that several Member States had already implemented domestic limitations and exceptions regimes for educational and research institutions that worked well and reflected both national context as well as the current international legal framework. Group B believed that work on that issue should reflect the existence of well-functioning modes, not regimes. With regards to limitations and exceptions for libraries, archives and museums, Group B noted a lack of consensus in the Committee around normative work. Nevertheless, Group B looked forward to hearing the reports on the regional seminars as well as the report on international conference on copyright, limitations and exceptions for libraries, archives, museums and educational and research institutions and exploring possible common ground.

26. The Delegation of Uganda, speaking on behalf of the African Group, underlined the importance of copyright and limitations and exceptions as an integral part of the international copyright system for as long as it had existed. Limitations and exceptions played an important role of balancing rights. The balanced international copyright system assured progress and sustainable development of societies by incentivizing, creating and promoting public welfare through dissemination of knowledge, culture and science. The African Group revealed that limitations and exceptions benefitted everyone including rightsholders and users in both developed and developing countries. Authors, researchers and publishers needed an appropriate level of access to copyrighted works for their ongoing activities. The African Group believed that the copyright system had reasonably accommodated the creators and public interest in order to promote progress. The African Group noted that cross-border access and sharing of copyrighted materials had increasingly become difficult for all players including libraries, archives, museums as well as educational and research institutions, and persons with other disabilities due to the disparity and unpredictable treatment of limitations and exceptions at the national level. Though the digital evolution had created new opportunities for access and use of copyrighted works, it had posed additional challenges to access transfer and otherwise exploitation of copyrighted works. The African Group explained that that had ratified the balance existed in the analog era. The Delegation noted that it was imperative to discuss and ratify that balance in an inclusive manner for all Member States and societies at large in order for the copyright system to incentivize creative innovation and development rather than being a barrier. The African Group strongly believed that the proposed international instrument or instruments whether model law, joint recommendation, treaty, and all other forms of limitations and exceptions for libraries and archives, educational and research institutions, gives a new impetus to find global solutions to address challenges posed by the digital era. The Group acknowledged the success of the Committee on the conclusion of the Marrakesh Treaty which illustrated the collaborative efforts of Member States and political will to address an area of great public interest. The outcome of the work plans led to an opportunity for the SCCR to identify specific areas for consideration at the international level. Initial reports from the expert studies as well as reports from regional seminars indicated that in the area of libraries, archives and museums, consensus was emerging which could form a basis for international action. The African Group called for further discussions on the full reports of the seminars and other issues that may be identified. Member States and stakeholders participating in the international conference on limitations and exceptions also highlighted the need for solutions and a number

of other important issues that should be advanced by the Committee, such as research and online education, especially relating to cross-border uses and digital technology. The Delegation looked forward to hearing the full report of the conference and discussions on the report. Recognizing that the previous work of that Committee including text-based proposals and studies highlighted a range of issues in accordance with the 2012 mandate of the General Assembly and in the spirit of flexibility, the Africa Group invited the Committee to consider advancing its work in a manner taking into account maturity and priority of stakeholders as may be appropriately agreed by the Committee.

27. The Delegation of Mexico, speaking on behalf of GRULAC, underscored the importance of the activities contained in the action plans adopted by the Committee in 2018. GRULAC observed that the studies carried out, regional seminars and the international conference had been useful in helping to better understand the topics and have more tools to achieve the goals set by Member States as well as to achieve the balance and harmony which should exist between copyright as an instrument for promoting innovation and creativity, access to information and other types of public interest. GRULAC underscored its interest to focus on the aspects related to exceptions and limitations. .

28. The Delegation of Singapore affirmed that limitations and exceptions for libraries, archives, museums and educational and research institutions, as well as for persons with other disabilities were of critical importance to individuals and to the collective development of societies. In order to advance and promote culture, science, innovation and education, the Delegation noted that it believed in a balanced copyright system that not only took into account the commercial interest of copyright and rightsholders but the larger public benefits by enhancing access to those works. Noting the importance of limitations and exceptions in the access of knowledge and education, the Delegation looked forward to the presentations by Professor Kenneth Crews on typologies on archives and the reports of the regional seminars held in Singapore, Nairobi and Santo Domingo. The Delegation hoped that all members could engage constructively in that session to ensure progress.

29. The Delegation of China stressed the essence of archives, libraries and educational institutions in providing public information and the subject of limitations and exceptions being a pivotal pillar towards their activities as it was very conducive to the public interests, and the balance between the public interest and the rightsholders. The Delegation thanked the Chair and Secretariat for the work on such issues and reaffirmed its support for the Chair and the Secretariat. The Delegation added that within the framework of the SCCR, it was necessary to carry out open and sincere discussions. The Delegation hoped that the Committee would work towards holding substantive discussions on those items to share more reports and information.

30. The European Union stated that limitations and exceptions played a crucial role in the dissemination of the knowledge, information and culture. The European Union also attached importance to the support of education and research institutions and for people with disabilities both in the analog and digital worlds within the existing international copyright framework. The European Union acknowledged the merit in the work carried out by the Committee as set out in the action plans on limitations and exceptions throughout SCCR/39 contained in document SCCR/36/7. The European Union called for updates and progress reports foreseen under the agenda items and subsequent discussions. The Delegation stated that during the international conference, it had listened with interest to the fact-finding foreseen in the limitations and exceptions action plans and looked forward to the presentation on the issues identified during the three regional seminars on limitations and exceptions that had been held in Singapore, Nairobi and Santo Domingo. The European Union revealed that broad support had emerged from the briefings as regards the regional seminar as well as in the conference itself to focus further work on capacity building and improving legislation at the national and regional levels. The Delegation believed that there was value in reflecting further on how WIPO could best

provide assistance in that regard. On a general note, the European Union was ready to engage constructively in discussions under those agenda items. The European Union indicated its support to the Committee's approach and efforts in finding ways through which limitations and exceptions could function efficiently within the framework of the existing international treaties while being mindful of the important role that licensing played in Member States. It proposed that a meaningful way forward would be to focus on thorough and systematic understanding of problems faced by libraries and archives and persons with other disabilities with regard to those needs. That also implied giving full consideration to the solutions already available to WIPO Member States including those provided by the innovation and relevant markets and those available under the current international framework. Based on that premise, the Delegation indicated that though it could not support work towards legally binding instruments at the international level or any preparations in that regard. Against the background of the recently concluded conference, it believed that a possible outcome of the discussions under that agenda item could be an exchange of best practices and guidance regarding the manner in which the international treaties were implemented in national laws.

31. The Delegation of Ecuador aligned itself with the statement made by the Delegation of Mexico on behalf of GRULAC. The Delegation supported the continuation of a balanced work program, which would include discussions on exceptions and limitations for libraries and archives and limitations and exceptions for the educational institutions and for persons with other disabilities. The Delegation highlighted the importance of having a copyright system which was linked to exceptions and limitations and having the same importance attached to that as the rights to which they were applied. The Delegation proposed for a proper balance between the rights of users and those of rightsholders. The Delegation commended the inputs made during the regional seminars and the conclusions of the international conference. It hoped they would be helpful to the Committee in getting further with the building of a consolidated document for text-based negotiations so as to protect private rights and support those groups who needed access to and use of works. That, it believed, would promote knowledge, research and education. The Delegation hoped that the Committee would be able to make a contribution to achieving Sustainable Development Goal 4, supporting vulnerable groups and ensuring that educational and research institutions were able to carry out their work efficiently and help address the digital divide between and within countries.

32. The Delegation of Brazil believed that, through the Chair's leadership, stakeholders would be able to take key decisions, which would enable the Committee to build on the understandings from the previous session of the General Assembly. The Delegation welcomed the efforts made and results achieved by discussions on the issues of exceptions and limitations, as successful outcomes were necessary to ensure balance. The remuneration of authors and creators for their creations and the promotion of the interests of businesses and the wider public in having access to science, technology and culture were important. The Delegation indicated that the regional seminars had been an excellent opportunity for an exchange of opinions and national experiences, and the international conference on exceptions and limitations to copyright for libraries, archives, museums and educational institutions and research institutions had been very insightful. Brazil was represented at all three regional seminars. Bearing in mind the deliberations which were held on those issues, and the statements made in the SCCR by Member States, Brazil was eager to discuss with others the form the instrument would take. The Delegation revealed that it was in the process of completing the process for implementation of the Marrakesh Treaty. The Delegation also noted that Brazil was amending its copyright legislation and hoped for continued discussions on various topics that had helped Brazil further deepen their knowledge and expertise on those various issues. The Delegation believed that it would be able to participate in a constructive debate and substantial progress would be made with respect to the issues for consideration on the agenda. The Delegation of Indonesia aligned itself with the statement delivered by the Delegation of Singapore on behalf of the Asia and Pacific Group. Speaking on the agenda

items on limitations and exceptions for libraries, archives and museums, the Delegation commended Member States and the Secretariat for the implementation of the action plans that had been agreed on in early 2018, and the convening of an international conference on copyright and limitations and exceptions. The Delegation looked forward to the reports of activities relating to the implementation of the agreed action plan. The Delegation shared the view that one of the objectives of the copyright system was to encourage and reward creativity not necessarily for mediators but most importantly, for creators and authors. It was important to have a constant reminder that another objective for the copyright system was for the knowledge and cultural advancement through access to the public for public interest purposes and important for institutions with activities to those objectives which included libraries, archives and museums and research institutions. For any system of proprietary and exclusive rights in order for regimes to be acceptable for societies, the Delegation stated that the Committee needed to justify the granting of exclusive rights and added that Member States needed a constant reminder that the exclusive rights granted to copyright owners were not without certain restrictions. There were several exceptions to the copyright owner's exclusive scattered throughout the copyright acts, laws and regulations in all jurisdictions. Borrowing the Director General's remarks, limitations and exceptions for copyright laid in the very balance of the copyright system, the whole purpose of having the copyright system in respect of the competing interest that surrounded innovation and creativity. The Delegation hoped that the SCCR would agree on a concrete way forward, possible areas for international cooperation in the area of limitations and exceptions within the framework of that Committee and organization. The Delegation noted that the interpretation of treaties on flexibilities in different copyright treaties and copyright law was one of the problems that had different capacities of each government with regard to interpreting flexibilities in the copyright system. In view of that, it proposed that corrective measures needed to be made. Noting some delegations' opinions, that there was broad support on capacity building and legislative assistance, the Delegation stressed that the Committee needed to exercise precaution if it intended to focus on capacity building and legislative assistance to curb the potential problem. Member States and all stakeholders needed to be aware of the options and make suitable choices. The Delegation indicated that the Committee needed correct asymmetrical information on copyright and limitations and exceptions among stakeholders within and between countries. Referring to the successes of the Marrakesh Treaty, it emphasized that the Secretariat and organizations were working tirelessly to ensure its implementation. The Delegation noted that if accepted, it would be widely accessible for everyone, known by all stakeholders and Member States and also mainstreamed in the organization's work. The Delegation added that the Committee could do a high-level declaration so that high-level principles were maintained. The Delegation concluded by reiterating Indonesia's commitment in rendering the success of that SCCR session.

33. The Delegation of Zimbabwe aligned itself to the statement delivered by the Delegation of Uganda on behalf of the African group. Recalling the decision of the 2012 WIPO General Assembly on the subject of limitations and exceptions, the Delegation commended the Secretariat for convening the regional seminars on libraries, archives, museums, educational and research institutions in the field of copyright in Nairobi, Kenya and the recent conference held on October 18 and 19, 2019, noting that those seminars helped the Delegation to gain a thorough understanding on various issues. The Delegation revealed that on September 12, 2019, the Government of Zimbabwe had deposited an instrument of ratification to the Marrakesh Treaty to facilitate access to published works for persons who are blind, visually impaired or otherwise print disabled. The Delegation also noted that it had begun the process of amending its copyright and neighboring rights Act. In conclusion, the Delegation hoped that the session of the SCCR should work on a program that concretized a future action plan that gave further clarity on a balanced framework of exceptions and limitations. The Delegation stated that it looked forward to hearing the reports on the regional seminars and the international conference.

34. The Delegation of the Republic of Korea believed that the WIPO SCCR had played a leading role in the development and enhancement of international copyright norms. The Delegation expressed sincere appreciation to the Chair and the WIPO Secretariat for their hard work in fulfilling and strengthening the role of the SCCR. The Delegation was of the view that, during the international conference on copyright limitations and exceptions, Member States had been given opportunities to share their experiences in the promotion of use of copyrighted works and in the formulation of relevant policies. The Delegation also expressed gratitude to the WIPO Secretariat and experts for their successful organization and extensive contribution to the conference and the relevant studies. It also proposed that a range of studies to promote use of copyrighted works could continue to be conducted by WIPO for the benefits of all Member States.

35. The Delegation of Iran (Islamic Republic of) commended the Secretariat and Member States for its successful organization of the regional seminar. The Delegation suggested that striking an adequate balance between copyright protections and promoting dissemination of public works in a form of international legal instrument constituted the basis for the SCCR mandate by the General Assembly on those two agenda items. The importance of a balance of interests in the copyright system was reaffirmed by Article 7 of the TRIPS Agreement which stipulated the need to maintain a balance between the rights of authors and the large public interest, particularly education, research and access to information. Differences in national legislation with regard to the exceptions and limitations in copyright system were bound to block the flow of knowledge and to overcome that international framework to harmonize national legislation was a requirement. The Delegation stated that norm setting was the only way to ensure that WIPO Member States provided a basic level of modernized legislation on exceptions and limitations for all institutions. The Delegation proposed for a thorough review and assessment based on the 2012 General Assembly mandate. After all the preparatory work done by the Committee in previous years, the Delegation called for a break in the closed circle of studies and discussion on limitations and exceptions so that the Committee could engage constructively in the discussion to advance the work in accordance with the Committee mandate. The Delegation expected discussions on the agenda item to happen in an open transparent, fair and professional manner, based on the principle of equal treatment and prominence for all agenda items. The Delegation looked forward to the presentation and discussion under those two agenda items, particularly on the report of regional seminars and international conference, as well as informal consultation on the way forward for those two agenda items.

36. The Delegation of Malawi aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group and stressed the importance of limitations and exceptions in ensuring a balanced copyright system. For that reason, the Delegation of Malawi commended the Secretariat for the implementation of the action plan on limitations and exceptions including organizing three successful regional seminars and the international conference on limitations and exceptions. The regional seminar provided Malawi with the opportunity to thoroughly understand limitations and exceptions and critically analyze the legal landscape of their country with regards to limitations and exceptions which among others revealed that limitations and exceptions do exist in its national law. That analysis helped them identify various inadequacies and move for national copyright reforms. Some of the issues that were hindering the effective implementation of limitations and exceptions largely resulted from national challenges among others inadequate awareness on the existence of such and lack of capacity to use limitations and exceptions, which required proactive decisions in addressing those challenges. The Delegation also observed that the international conference had been a good forum for sharing experiences with other Delegates and had provided a basis for reforming its domestic copyright arena to effectively implement the limitations and exceptions. The Delegation indicated that it remained committed to engaging with other Member States on

issues at hand with an intention of achieving a balanced and effective copyright international system that benefited the rights holders and the general public.

37. The Delegation of United States of America was pleased to participate as an observer in all three regional seminars and commended the Secretariat and host nations for the inputs made. The Delegation was certain that the seminars fulfilled their principal objective advancing the understanding of copyright exceptions and limitations by drawing on local expertise. Based on proceedings, the Delegation observed that there was a strong support for future work at the national and regional level on exceptions and limitations but only limited support for international norm-setting. Building on the deliberations at the regional seminars, the Delegation indicated that the conference provided additional insights for the SCCR to consider with respect to its work on exceptions and limitations and looked forward to those discussions. The Delegation believed that the best approach to the subject matter of limitations and exceptions for both sets of issues was to focus on high-level objectives and principles as presented in documents SCCR/26/8 and SCCR/27/8. That approach, it believed, took into account the aspiration of harmonizing important goals for limitations and exceptions while at the same time preserving Member States abilities to tailor domestic limitations and exceptions to their own cultural and socioeconomic circumstances. The Delegation believed that the United States of America principles and objectives documents would be a helpful point of departure for developing objectives and principles, best practices, and/or toolkits at the international level. The Delegation also indicated that it was quite open to consider a variety of approaches to the format. The Delegation was convinced that the non-normative approach was the surest way for the SCCR to make a constructive contribution for national policymakers.

38. The Delegation of Botswana aligned itself with the statement made by the Delegation of Uganda, on behalf of the African Group, and applauded the SCCR and the WIPO Secretariat for the adoption and implementation of the action plans for limitations and exceptions, libraries, archives and museums and education and research institutions. The Delegation pointed out that through the studies, regional seminars and international conference the discussions of the topic of limitations and exceptions had given the Member States an opportunity to have in-depth appreciation of the subject in their national environment, and also appreciated the disparities that existed in legislation and implementation of limitations and exceptions among WIPO Member States. The Delegation added that the action plans had availed a wealth of information that could be used at national levels to improve the complexion of the limitations and exceptions, educational and research institutions. The Delegation emphasized the need for capacity building to be prioritized to enable Member States to immediately benefit from the information that was already available. The Delegation indicated that it continued to emphasize the importance of a copyright system that was balanced, that protected the interests of the rightsholders while taking into account the public interest. The Delegation looked forward to the reports on the regional seminars and international conference and stated its readiness to engage constructively in the way forward for the SCCR on that matter.

39. The Delegation of South Africa aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group and reaffirmed its commitment to the critical work of that Committee. However, the Delegation expressed concern that the slow pace in the finalization of core agenda items coupled with the rapid advancement of the digital economy would seriously compromise the Committee's ability to achieve the creation of a truly appropriate balance between the interests of rights holders and users of protected works through an effective international copyright, limitations and exceptions framework. Notwithstanding, the Delegation was impressed with the progress made pursuant to the 2012 General Assembly mandate, including the implementation of the action plans. The Delegation recognized that copyright laws should be effective in promoting and encouraging the creation of an investment in creative works. The Delegation believed that the creation of new knowledge in a competitive economy was dependent to a significant extent on the protection of intellectual property and on

the development of an international legal instrument in whatever form on balanced limitations and exceptions for libraries, archives, museums and educational and research institutions and for persons with other disabilities. In an era where the IP ecosystem was changing as users were becoming creators, the Delegation noted that an appropriate balance and harmonization on an international level needed to occur in order for all Member States to participate in the opportunities of a digital economy. The Delegation recalled that in 2012, WIPO in collaboration with the South African Government had published a study on copyright based studies. The study quoted that "the South African copyright regime does not include limitations and exceptions for visually impaired or the benefit of any other people with a disability, for example, dyslexics as well as protection measures such as encryption of protected material and electronic rights management such as digital identifiers". The study went on to conclude that "as exceptions have the potential to create value, we suggest that the South African Department of Trade and Industry should review the Copyright Act in order to introduce limitations in accordance with the Berne Convention, the three-step test and fair use provisions, and to clarify clauses as necessary." The Delegation revealed that South Africa had presented two bills to government and indicated that, if passed, it would make key advancements in amendments to a rather outdated copyright and related rights legislative framework. The Delegation added that the copyright amendment bills recognized that balanced copyright regimes created immense value in addressing the following issues: exceptions and limitations for libraries and archives and museums and education and research institutions, not limited to visually impaired people, artists resale royalty right regulated collective management and rights for audiovisual performers. The Delegation indicated that those statutes were covered in its amendment. The Delegation stated that it was committed to engage in discussions on all agenda items and hoped that with the constructive engagement of all members and full utilization of mechanisms and support of SCCR, the Committee would achieve mutually acceptable outcomes.

40. The Delegation of Kenya aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group on all substantive agenda items. The Delegation endorsed and reiterated the resolutions of the regional seminar held in June 2019 on limitations and exceptions. The Delegation noted that Kenya would constructively engage with other Delegations. Based on the regional seminar held in Nairobi and the international conference for exceptions and limitations, the Delegation observed that developing countries, particularly in Africa, were suffering under the weight of irrelevant exceptions generally or specifically designed to enhance development in the cultural sectors. Those sectors were considered most efficient in high dependency and could not wait for drawn out negotiations revolving around diplomacy. They needed quick fixes in order to address the specific needs that compound the operations and activities. In view of that, the Delegation gave some recommendations. First, the need for updating the specific copyright laws for Member States. More particularly, relating to exceptions and limitations, by including modern specific exceptions and limitations that could respond to the challenges posed by modern technology and the modern way of doing things. The second proposition the Delegation made was that developing countries mostly in Africa should engage in digitization of works that were found in those cultural institutions so that they can be protected from digitalization as that enhanced the communication and exploitation of those works. The Delegation also suggested the preservation in all forms including preservation based on cultural means of preservation of all the cultural objects that were found in those cultural institutions. Thirdly, the funding of CMOs or creating somewhere they did not exist so they can contribute towards the licensing of those works. The Delegation also recommended the provision of a toolkit by WIPO or by any other specialized agency that would assist Member States to both update or improve the operations in those creative institutions and also guide and assist on the cross-border use and lending of cultural goods. The Delegation stressed that the problems faced by those cultural institutions in Africa were such that they could not rely on interventions by long grown organizations that led to an international instrument. The Delegation noted that if developed countries had achieved that without an international instrument, developing countries in Africa could also achieve that.

41. The Delegation of Trinidad and Tobago pledged support for the continuing efforts of the SCCR as issues arising from the deliberations in that important Committee continue to inform Trinidad and Tobago's legislative agenda in respect of laws of copyright and related rights. The Delegation informed the Committee of their accession to two WIPO copyright and related rights treaties, namely the Marrakesh Treaty and the Beijing Treaty. The Delegation noted that it remained committed to multilateralism with regard to copyright and related rights. The Delegation also revealed that the 2019 copyright amendment bill, prepared in consultation with WIPO, had been vetted and was in the final stages of approval and was expected to be in Parliament before the end of 2019. The Delegation also noted that the Trinidad and Tobago IP Office had sought technical assistance from WIPO on the regulation of collective management organizations. On that premise, the Trinidad and Tobago IP Office, in cooperation with WIPO had hosted the regional heads meeting on copyright in January 2019 to discuss that issue among other copyright issues in the region. The Delegation looked forward to the continuing work of the Committee, especially in the areas of limitations and exceptions and broadcasting as it sought to guide Member States along their developmental parts. The Delegation added that the work of the Committee especially towards a broadcasting treaty was of paramount importance. The Delegation acknowledged WIPO for its assistance in developing and preparing the draft copyright legislation. The Delegation looked forward to working together with other Member States regarding the operations and also aligned itself with statement made by Mexico on behalf of GRULAC.

42. The Delegation of Bolivia endorsed the statement made by the Delegation of Mexico, on behalf of GRULAC. As to exceptions and limitations as far as libraries, archives, museums, research institutions and persons with other disabilities, the Delegation noted that one should not lose sight of the social nature that intellectual property should have. There was need to find an effective balance between the protection of copyright and the promotion of innovation, as also accessibility for all and the guarantee of such access to information and social and cultural development. For that reason, the Delegation believed that including exceptions and limitations was of fundamental importance in order to maintain a balanced international system. Along the same lines, it was worth pointing out that many countries, Contracting Parties had acceded to the Marrakesh Treaty for a more balanced accessibility to knowledge, particularly for the most vulnerable groups. The Delegation also showed interest in hearing the results of regional seminars and conferences held. The Delegation expressed readiness to contribute to a constructive discussion in order to make substantive progress reflected in specific results based on the work already carried out by the Committee.

43. The Delegation of Argentina aligned itself with the statement made by the Delegation of Mexico on behalf of GRULAC. The Delegation expressed that it awaited with interest the reports, presentations and discussions that would take place on that agenda item. The Delegation added that it supported balanced work carried out within the framework of the Committee for exceptions and limitations to copyright and related rights for libraries, archives, teaching establishments, research institutions and persons with other disabilities. As could be confirmed amongst the activities carried out within the framework of the action plans on limitations and exceptions, even when a large number of solutions were ready, through updates and national legislation and the implementation of good practices, the Delegation noted that that posed challenges at cross-border level thereby creating difficulties and harmonizing the needs of rightholders and users, particularly in a digitized global environment.

44. The Delegation of Chile aligned itself with the statement made by the Delegation of Mexico on behalf of GRULAC. The Delegation noted that the work of the Committee had led to the compilation of important information concerning exceptions and limitations for libraries, archives, museums, research and educational establishments and other persons with disabilities. In the exchange of views held on that matter, the Delegation found various

challenges faced by countries. The Delegation said it considered the SCCR as the only multilateral forum that dealt with international challenges concerning copyright and related rights. In that connection, the Delegation proposed that the Committee should consider all possible tools available to it, including the possibility of agreeing on an international instrument or instruments to cope with those challenges. During the international conference, the Delegation acknowledged that there were various types of challenges for libraries, archives, museums, teaching institutions, research establishments, and that national experiences of members were an important source of knowledge that should continue to be disseminated to members of that committee. The Delegation also acknowledged the existence of shared challenges, which could be dealt with through international coordination. That exercise, it believed, should take place in that Committee as a means of granting greater certainty to those involved and in that way facilitating access to knowledge, as also to cope with the challenges of new technological changes.

45. The Delegation of India aligned itself with the statement made by the Delegation of Singapore on behalf of the Asia and Pacific Group. The Delegation noted that limitations and exceptions were critical elements of effective copyright system. Limitations and exceptions were crucial in the attainment of education and access to knowledge, for the advancement of culture, science and education. Limitations and exceptions were necessary to facilitate the work of libraries and archives and for educational and research institutions and for persons with other disabilities. The Delegation acknowledged the progress made on the discussions on all the topics of the exceptions and limitations for libraries, museums, and archives, and educational and research institutions. The Delegation acknowledged the successful organization of three regional seminars on limitations and exceptions in the recent months. Based on the proceedings of the international conference, the Delegation looked forward to further activities in the coming months as a part of the implementation of the action plans on limitations and exceptions. The Delegation indicated that it would continue to contribute constructively in the deliberations of the Committee and was positive that that Committee would be able to resolve all the pending issues in the spirit of multilateral cooperation.

46. The Delegation of Nigeria renewed their unwavering commitment to advancing the work of the Committee in realizing its mandates. The Delegation also referred to the excellent background work done by the Secretariat, which helped members in dealing with the issues. The Delegation also noted that the regional seminar helped with the understanding of the experiences amongst the Member States. The Delegation of Nigeria aligned itself with the statement delivered by the Delegation of Uganda on behalf of the African Group. The Delegation informed the Committee that blind and visually impaired people in Nigerian schools had begun receiving books in accessible formats, thanks to an ongoing WIPO ABC project. That was one of the immediate outcomes of the Marrakesh Treaty, which Nigeria had ratified in October of 2017. The Delegation indicated that it demonstrated the importance of an international framework as a catalyst for achieving concrete deliverables and the increasing use of the copyright system in the development of the global economy. The Delegation added that Nigeria wanted a balanced copyright system that not only benefited rightsholders but also more importantly promoted the holistic and sustainable development of other sectors of the society, in light of the promotion of national heritage, education, and access to knowledge. The Delegation noted that while the Committee worked on the excellent studies that have been done on limitations and exceptions for education and research institutions, that remained the linchpin of today's international copyright system. The Delegation confirmed the need for an international framework that addressed the new issues being thrown up by emerging digital realities and the flow of knowledge and information due to differing positions of members. Though Nigeria subscribed to the notion of balance, achieving balance may not always be possible via equal treatment. The field of play in today's knowledge and information society was skewed against the developing world, hence, the need for radical intervention in the prevailing international legal landscape. The Delegation looked forward to concrete outcomes in discussions.

47. The Delegation of Jordan highlighted the importance of human legacy on the issue of limitations and exceptions. The Delegation stressed that that was a responsibility to be handed on future generations, which must have access to the knowledge and the wealth of their grandparent's civilization. The Delegation opined that it was important for such knowledge to be accessible without violating intellectual property rights or the rights of right holders. The Delegation believed that the Committee needed to facilitate access to information because the right to information was a universal right. The Delegation suggested that it was imperative to look at the common points around which the Committee could rally to preserve the rights of all stakeholders and rightsholders. That would enable those very important institutions such as libraries and archives, educational institutions do their work in such a way that would make it easier to follow current digital developments. The Delegation added that the interaction between and amongst participants on that subject was very important. The Delegation concluded by commending the Secretariat for the excellent preparatory work conducted and facilitating the participation of all stakeholders present. The Delegation also commended the Secretariat for efforts towards organizing the first world conference on intellectual property to be held in Jordan during the first half of 2020. The Delegation also noted that Jordan was the third country to have acceded to the Marrakesh Treaty.

48. The Delegation of Colombia endorsed the statement made by the Delegation of Mexico speaking on behalf of GRULAC and welcomed the improvements made and the action plan. The Delegation of Colombia noted that the regional seminars and international conference had provided a basis for measures to be taken in the future. The Delegation noted that prior to that, there had not been such in-depth, technical and academic exploration of the definition of the problems noted in the various beneficiary sectors relating to library, archives, museums, educational and research institutions. Through those discussions of the action plan, the Delegation noted that the Committee had been able to clearly identify the difficulties that have to be settled and also some proposed solutions. During the debates, all of the participants highlighted the importance of limitations and exceptions to copyright with the goal of achieving balance and giving satisfaction to the leads of society. The Delegation added that access to culture, education and information were imperative and also necessary for countries to make the most of the flexibilities and the intellectual property system, including limitations and exceptions to copyright, always bearing in mind that any initiative in that connection should respect the existing legal order pursuant to existing treaties. The Delegation noted that there were many opportunities and hence imperative for WIPO to contribute by providing technical assistance to countries for their work, such as providing guidelines for applicable solutions in each of the beneficiary sectors and finding out best practices and in some of the member countries also by promoting access by the public at large, thanks to an acknowledgment of limitations and exceptions and also to understand the need for licensing -- appropriate licensing when that is deemed appropriate. The Delegation indicated that Colombia was committed to promoting the balance of rightsholders and the public at large. The Delegation revealed that Colombia had begun the ratification procedure for the Marrakesh Treaty and hoped to present its instrument of ratification in due course. The Delegation looked forward to the submission of the studies announced and to the report on the last conference.

49. The Delegation of Guatemala was pleased with the outcome of the regional seminars which were carried out in Nairobi, Singapore and Santo Domingo. The Delegation shared its experience about updating its legal framework for the observance of a copyright, and the issue of exceptions and limitations with respect to the Marrakesh Treaty. The Delegation recognized the importance of the work being done by that Committee, in order to agree on further elements which could consolidate progress on exceptions and limitations for libraries, museums, archives, educational and research institutions.

50. The Delegation of Pakistan endorsed the statement made by the Delegation of Mexico, speaking on behalf of GRULAC, for the common objective in the formulation of an international instrument on copyright limitations and exception for libraries, archives, museums and educational and research institutions. That, the Delegation believed, would certainly be a great legislative assistance and an umbrella guideline for the Member States to revise and redraft their statutes in line with the international instrument. The Delegation proposed that international instrument be well thought out with special consideration with reference to all the groups from LDCs, developing countries and developed countries.

51. The Delegation of Malaysia believed that through the session, the Committee had implemented all the activities listed in the action plan that was adopted at SCCR 36. The Delegation was pleased to have participated in the regional seminar in Singapore in which the ASEAN Group was the first group to carry out the active discussions and fact finding followed by other groups, as well as the international conference which provided a very useful platform to discuss and exchange best practices and divergence of that issue. The Delegation believed that through continued engagement, the international conference, which highlighted the challenges different members face with the cross-border exchange, internet and online learning could facilitate the work to promote balance of the limitations and exceptions and access to knowledge. The Delegation revealed that that was very important for Malaysia while it was in the process of reviewing its copyright law as many gaps remained in national legislation, making access to materials difficult, all leading to complete disregard of copyright. The Delegation noted the need for international harmonization of exceptions and limitations. Moving forward, the Delegation believed the SCCR could take stock of the activities under the action plan and that the Committee should further consider the need for harmonization. The activities of the action plan implemented over the three SCCR sessions helped to compound many ideas which the Delegation hoped would transform into concrete actions by the Committee. The Delegation hoped the constructive spirit of all Member States would further promote the progress and harmonization of exceptions and limitations for the areas of research institutions, archives, museums and for persons with other disabilities. The success of developing a knowledge-based society that promoted exclusive education and ensured accessible materials for all could not be undertaken by any one party alone, but required the contributions of all stakeholders from authors, publishers and policymakers and beneficiaries.

52. The Delegation of the Dominican Republic noted that the issue of exceptions and limitations to copyright of relevance to all countries particularly because of the digital era. Limitations and exceptions were a natural part of any balanced copyright system. The Delegation pointed out that copyright should not be seen as an obstacle in the way of doing something, but an avenue to make things easier. The Delegation stressed that that created room for non-remunerated dues, to remunerated dues and for systems for issuing licenses. The Delegation indicated that there was need to achieve a balance, a balance between the rights of creators and access to the cultural heritage of countries, particularly across borders.

53. The Delegation of Singapore aligned itself with the statement that it made on behalf of the Asia and Pacific Group and expressed gratitude in hosting one of the three regional seminars on limitations and exceptions. It revealed that on April 2019, Singapore set up a robust digital age. The Delegation indicated that it looked forward to working to build a copyright system for all.

54. The Delegation of Algeria believed that exceptions and limitations worked to increase access to copyrighted works and create a balanced copyright system, which would benefit creators on one hand, and educators to access education and knowledge on the other. International cooperation was the best way of having a framework within which to govern and implement exceptions and limitations. The Delegation believed that exceptions and limitations

which already existed in national legislation should be used and while considering appropriate mechanisms for countries to use that they can learn internationally from other countries, particularly with the rapid spread of digital technology. The Delegation believed that it was essential to have optimum use made of the results and conclusions of the recent regional seminars and of the international conference. That would help to determine the approach to take with respect to exceptions and limitations. The Delegation urged the Committee to continue with its work, to develop one or more appropriate legislative instruments on exceptions and limitations in accordance with the decision taken by the 2012 General Assembly. That means compromise, while preserving the interests of sources and the wider interest of the public when it comes to having access to knowledge and culture.

55. The Chair gave observers the opportunity to make their submissions.

56. The Representative of Communia thanked WIPO on advancing the action plans and for the regional and international events. The Representative noted that though they would have wanted provision to be made for more practitioners to share their concerns in order to ensure a better representation of all stakeholders, Communia was pleased to see that there was wide agreement, as to the need to have exceptions to support public interest and activities. The Representative indicated that some Member States believed those exceptions would be designed solely at a national level. Referring to events that took place in 2019, the Representative noted that there was not always a chance for the participants to engage in discussions of international solutions and that might be misunderstood as a lack of real work towards such solutions. The Representative noted that many countries did not want WIPO to act. The Representative cautioned that individual solutions could not provide an adequate framework for uses that take place online, and across borders. Without an international solution, educators, researchers, and other practitioners would continue facing obstacles when working together in various countries. The Representative agreed that exceptions and licensing solutions should coexist. The Representative believed that a balanced copyright system was able to protect fundamental needs to exceptions while leaving room for rightsholders to license users that would go beyond those needs. One does not replace the other. Rightsholders and civil society members seem to agree on that basic principle, despite their divergences. The Representative called for Member States to reassure those groups that it was possible to protect both of those groups without nullifying licenses and exempting uses that would have an unjustified market impact. The Representative urged the Committee to continue discussions towards a binding international solution.

57. The Representative of the African Intellectual Property Organization (OAPI) noted the items on the draft agenda of the thirty-ninth session of the Standing Committee on Copyright and Related Rights, especially those dealing with the technical issues. The Representative also noted exceptions and limitations for libraries, archives, and education and research institutions as well as for persons with other disabilities, and the inclusion of the issue of the draft treaty on protection of broadcasting organizations. The Representative congratulated WIPO for the initiative taken to address those important issues and to have done so through studies, which had been discussed at the regional meetings held recently. The Representative was pleased with the recently concluded international conference and the discussions there. The Representative noted that the legal provisions applicable should be looked at in the light of the laws in the center, and from the combination of those texts, it was clear that from a purely technical point of view, legal provisions on the questions under discussion were already complete in the OAPI region and there was the need to mobilize internal resources in order to enhance implementation. However, the Representative insisted that decisions on the choice of the form in which Member States wanted OAPI to intervene were at their own discretion. Regarding the broadcasting treaty, the Representative welcomed the progress made on the draft. The Representative believed that the clarifications provided were positive, particularly in respect of the protection of rights, the place of the future treaty vis-a-vis the Rome Convention

and offered their support to the continuation of the process which it hope would lead to the adoption of a treaty for the protection on broadcasting organizations.

58. The Representative of Corporación Innovarte noted that the work done on exceptions and limitations, which included studies and proposals, seminars and conferences made it clear that most of the exceptions for libraries, archives and museums and for educational and research institutions are crucial throughout the world, especially in the digital and the cross-border area. They proved that technical assistance provided to developing countries in reforming their legislation was present but did not properly take into account those countries' needs with respect to those areas, especially educational institutions and libraries. Due to that, the Delegation indicated that it was difficult for such countries to adapt to the digital environment. The Representative believed that it was fundamental for WIPO to continue with its work on the development of a legally binding instrument which would provide at least a minimum level of exceptions and limitations to copyright so as to promote distance education worldwide and guarantee access to the Marrakesh Treaty. The Representative hoped therefore, that WIPO would continue to make information and technical assistance available to those countries who needed it. Any provisions to be adopted should have options, which enabled countries to take into account or have taken into account their level of development and their cultural traditions. The Representative suggested that legislation on exceptions should be brought to the Committee for consideration at one of its following sessions and as soon as possible.

59. The Representative of the International Federation of Library Associations and Institutions (IFLA) thanked the Secretariat for helping advance SCCR's action plans, by organizing the recently held conference on limitations and exceptions. The panels with experts from every region and diverse points of view helped everyone better understand the challenges and opportunities facing libraries, archives, museums, and educational institutions, at the local, national and international levels. The Representative pointed out two highlights, which were synonymous with the work of the Committee. The first was the clear reminder that exceptions and limitations, the focus of the Conference were integral to copyright and essential element in maintaining the balance between rightsholders that was fundamental and not incidental. That was why exceptions and limitations were critical to the Committee's agenda. The second important takeaway was Professor Crew's presentation about the preservation of cultural heritage at the Conference. Preservation was mentioned in every panel with examples of natural disaster, as such highlighting the immediacy and urgency of addressing it at the international level. The Representative indicated its readiness to working with Member States on ways of addressing that pressing issue.

60. The Representative of International of Reproductive Rights Organization (IFRRO) noted that it attended the international conference on copyright limitations and exceptions for libraries, archives, museums and educational research institutions organized by WIPO and also participated in all three regional seminars in Singapore, Nairobi and Santo Domingo. The Representative observed the quality of the discussions, the amount of information shared and the common understanding that emerged from the debates across all Member States. The issue of exceptions and limitations was thoroughly discussed and the importance as a part of the copyright framework was acknowledged. The Representative opined that copyright law was not the main hindrance to the well-functioning of schools, universities, libraries and other institutions. Rather, it is the lack of capacity and infrastructure and the non-implementation of already existing international copyright instruments. As IFRRO had always believed, the Representative noted that appropriate exceptions and limitations can be introduced in national legislation, under current international legal instruments and legislators can use the current copyright system to meet their needs. Based on the discussions at the three regional seminars and the international conference, the Representative stated that IFRRO favored an outcome from the SCCR discussions on exceptions and limitations which included the exchange of

information and practices, the offering of a demand-driven WIPO led technical assistance program for which it would ensure contribution and government cooperation.

61. The Representative of the International Council of Museums (ICOM) which was the only global organization of museum and museum professionals represented in 136 countries and with more than 144,000 members thanked WIPO and the Secretariat for the organization of the regional meetings and international conference. The Representative pointed out that WIPO and ICOM have been working together in the spirit of cooperation. The Representative was convinced that that cooperation was more than crucial in the present time. Indeed, the previous year due to a lack of means, a tragic fire destroyed 90% of the collection of the national museum of Brazil. That day, in Iraq, Syria, Libya, Yemen and elsewhere, thousands of objects were being destroyed and looted due to armed conflicts. Entire collections were at risk of disappearing due to climate change. The Representative noted that the life, history and identity not only of a community, but also of mankind was threatened to disappear. Though the 21st century would exacerbate that threat, it would also provide digital tools that can ensure that preservation of cultural heritage and facilitating access to knowledge and research. The Representative reminded the SCCR that those are the core missions of thousands of museums whether it be museums in visual art, human rights, natural history. The regional seminars highlighted museums where the least equipped in terms of effective and adequate copyright legislation. A legal void, a lack of clarity or concern, made it impossible for museums to fulfill their mission of public interest to preserve our common heritage. With that in mind, the Representative drew the attention of Member States to SDG 11-4 which called for strengthening efforts to protect and safeguard the works of cultural and natural heritage. The Representative believed that could only be done at the international level with an international instrument that ensured a balanced copyright system, and minimum standards for all.

62. The International Publishers Association (IPA) indicated that the purpose of institutions of teaching, education, research, national and public libraries and natural cultural heritage should be based on existing international norms which permitted tailoring of exceptions of national and regional context and which were consistent with international obligations. Apart from publishers and other rightsholders originating and disseminating content locally, as well as offering direct and individual licensing solutions, there were also a great variety of licensing available through the network of collective management organizations, such as RROs which complemented publishers' offers. Particularly, primary and secondary education required local and tailor-made content to respond to national curriculum needs, local languages and cultures. Educational publishing is a crucial part of its industry. In Africa, for example, educational publishing comprised an average of 80% of the local industry. For higher and further education, it was also imperative that authors and researchers from all regions of the world retain a local publishing sector that offered publishing opportunities for content of national and international interest. A thriving local publishing industry relied on a strong copyright framework. As was noted during the WIPO international conference on exceptions and limitations, during which IPA was honored to participate, when it came to all sectors of education, one size did not fit all.

63. The Representative of the European Writers' Council (EWC) indicated that he has been a professional writer and novelist since he was 27 years. The Representative noted that the Committee's work sought to debate the scope of free decision, while seeking to find a fair and sustainable answer for the needs of libraries, the needs of the society as well as fulfilling the mandate of education and culture, but most importantly the answers for the sources, the authors, on which all of those values depended on. The Representative noted that authors, publishers, booksellers, libraries, archives and museums were all part of a sensitive ecosystem, and although in different national frameworks, authors were world-wide, the source and the heartbeat of that ecosystem. The basis for supporting those sources, the authors, to be very, very cautious with further restrictions of author's rights and the second basis of support to promote and to protect sustainable systems of remuneration for every exploitation of the works.

For example, without any install private label rights system for print books, authors and publishers were, in fact, already paying for the mandate of education and culture of libraries, that should not be the ideal. The Representative indicated that the EWC recommended exploring the existing licensing solutions and exchange of best practices with the national frameworks, which also already fulfilled the needs of libraries and the audiences and will also in the digital environment. The EWC supported the Marrakesh Treaty and did not recommend further exceptions and limitations in the form of a legal and binding international approach like a treaty, model law or soft law.

64. The Representative of the Charisma Foundation noted that it was interested in all of the activities being carried out as part of action plans and welcomed the measures taken to implement those plans. The Representative noted that it had taken note of the huge disparities amongst states and was concerned that during the international conference, the discussion on education lacked the necessary balance for all the possible solutions facing educational and research establishments. The Representative stated that the forthcoming discussions would take account of the need to promote and strengthen a balanced copyright law, and also would take account of the public interest to have access to education, such as issues relating to rights holders. The Representative also observed that the regional seminars and the international conference clearly identified some problems, and believed that the Committee was in the position to go into greater depth on issues such as preservation and conservation where there was a lot of consensus on how to continue. The Representative also believed there was consensus on some major issues, which involved major issues such as online access and trans-boundary transfers. The Representative revealed that many factors were involved and many dimensions, however, WIPO ought to do its part to contribute to goal number four of Agenda 2030. The Representative called for standard setting bodies and the work in that Committee to achieve the SDGs.

65. The Representative of the Society of American Archivists (SAA) commended the Secretariat for all of their work on studies, seminars and conferences to advance the work on the action plan. That, the Representative indicated, had enabled significant discussions on archive matters over the past year. Libraries, archives and museums were the stewards of the world's knowledge. Preservation and access to that knowledge was essential to global heritage and learning. Today's network environment requires consistent copyright exceptions because national differences in peak preservation and access to heritage and economic development. The Representative noted that the world faced two threats to knowledge and cultural heritage, growing climate crisis and technological obsolescence. How can libraries, archives and museums preserve and protect knowledge in the face of floods, wildfires and obsolescence, while our hands were tied by exclusive rights. Some countries' funds were so limited that they could not afford an archival photocopier. For them, fee-based licenses seemed absurd, especially when the vast majority of archival holdings were never in the marketplace. The Representative observed that the creators were mostly non-penal. The question remained, who would receive the license revenue? The patience of the communities served by the SAA had waned due to WIPO's delay. The Representative noted its readiness to do right by copyright, but ever-expanding exclusive rights threatened the archivist's mission. The Representative proposed that WIPO must provide a global policy that eliminated copyright's current borders on knowledge and enabled archivists to fulfill their societal mission. The opponents of exceptions said that no WIPO action was needed because the international system provided efficient flexibility. The Representative saw that as absurd as WIPO was to provide international policy guidance. The Representative cautioned that if WIPO did not provide an international framework for communication and the preservation of knowledge, there would just be chaos.

66. The Representative of the International Council on Archives (ICA) called for an exception for preservation of the materials held by libraries, archives and museums. The Representative noted that collections were the raw materials for all manners of new work, but if those archival

materials were not preserved, they would not be available for research, education, and inspiration. The Representative indicated that though the Committee needed to move forward on an exception for preservation, working at the national level was not enough. The Representative called for an international instrument that provided a standard, consistent exception and cross border solutions, an intervention that needed to be spearheaded by WIPO.

67. The Representative of the Knowledge Ecology International (KEI) noted that the discussions on limitations and exceptions by WIPO, revealed that many countries were yet to enact exceptions in important areas such as but not limited to libraries, education and preservation and archiving as there were also different legal traditions. If for example one observed a lack of adequate protection for authors, WIPO would press for some concrete actions. The Representative noted that a lack of adequate exceptions seemed to elicit a laissez-faire attitude particularly with the European Union. Where appropriate, options for countries with different legal traditions as reflected in the 1996 copyright law for developing countries were needed. It was clear that WIPO could move forward with a narrow instrument on preservation and archiving, an area where there was greater harmonization of exceptions and where many countries lacked any exception at all and the cross-border infringement was increasing. The Representative stressed that KEI continued to oppose the treaty for broadcasting organizations, if such a treaty gave broadcasters post fixation rights they did not create, own, license or pay for it.

68. The International Authors Forum (IAF) made reference to Article 27 of the Universal Declaration of Human Rights which ensures that everyone has the right to freely participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits and that everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which they are the author. Ultimately, it was authors' works that were being discussed and considered by the Committee. There were individual authors whose rights were involved in all countries. Those rights had to be given primary consideration to ensure the continued creation of culture. Authors had to be rewarded for their contribution to society and maintain rights to control how their work was used. Authors wanted the widest possible lawful access to their works as such authors welcomed libraries, archives and educational institutions as vital points of access to author's works, but there had to be a balance of access and reward to ensure that authors could continue to create the works that were to be enjoyed. The Representative noted that it was important to preserve the diversity of culture around the world, and the opportunity for authors to contribute their voice. That was one of the reasons that the IAF strongly supported remuneration measures such as public lending rights and artists' resale right, as it would help to maintain indigenous arts, literature and culture.

69. The Representative of Program on Information Justice and Intellectual Property (PIJIP) stated that it had observed several major areas of consensus, and among them, an acute failure around the world to apply education and research exceptions to all kind of work which were necessary because of the online and digital environment. The Representative also noted the failure to address the cross-border sharing of research and educational materials. Even though they were lawfully created in one country, they faced uncertainty for their use in other countries. There was a broad consensus for the need to address other issues such as liability for non-profit users and technical and contractual barriers. The Representative made reference to the issue of preservation which emerged as a priority in the library, archives and museum sectors and stated that it supported it. There were international problems that demanded international solutions. The Representative called on deliberations during the session over what kinds of solutions would be appropriate given the level of consensus and stated that a treaty may be appropriate for preservation uses. The Representative urged for the Committee to begin discussions on terms for an international instrument, including declaration and resolution without prejudice to the form of the ultimate document.

70. The Representative of Creative Commons spoke on two high-level concerns regarding limitations and exceptions. The Representative urged the Committee not to accept any premise that licensing was the best or an exclusive solution to or could ever serve as an adequate replacement for limitations and exceptions. Limitations and exceptions to copyright were essential to a free and democratic world. Depending on collective rights management organizations, as the sole or dominant means for accessing and using creative works, denied the public the ability to provide critical analysis and build upon those works and ideas. Licenses, even open licenses would never fill that vital function. The Representative noted that to rely solely on CC, CMOs or statutory licensing was short sighted. Secondly, as related to the broadcasting treaty, the Representative emphasized that the creation of new, additional rights, which sat atop copyright such as broadcast rights, was dangerous, and should be avoided all together. The Representative noted that those rights complicated the freedom to exercise rights granted by law or via public licenses on the underlying creative works and stated that it continued to object as a matter of principle to the creation of new rights that sat atop copyright. The Representative proposed that if the broadcasting treaty was pursued, it was essential that at least those exceptions and limitations that coincided with copyright were included so that the underlying works did not become tangled in such rights. The Representative urged the Committee to conduct a healthy and full debate that would take place amongst all stakeholders in order to better understand the complications that may ensue as a result of those new rights and for proper, fair, and balanced limitations and exceptions.

71. The Delegation of the Syrian Arab Republic called for preservation of cultural heritage, which still faced systemic destruction. Considering that it was the property of all humanity and not the ownership of a sole individual, the looting of cultural heritage that was taking place in Damascus, Syria, which was one of the oldest inhabited cities in the world, with an ongoing war that has destroyed many artefacts, the Representative stated the importance of limitations and exceptions which were important for libraries, archives, and institutions of education. The Delegation supported the call by the Delegation of Jordan who first called for an international conference in the field of intellectual property.

72. The Representative of the Library Copyright Alliance (LCA) pointed out that an exception for preservation provided, perhaps, the clearest example of how copyright exceptions could benefit authors. First, an exception for preservation ensured that libraries, archives and museums could preserve an author's work for future generations. Unless, the work is preserved, no one in the future would know of the author's creations. The author and her achievements would be forgotten. That fading into obscurity was every author's worst fear. Second, the fact that libraries, archives and museums had employed exceptions in the past to preserve works enabled authors today to draw inspiration from those earlier works as every author knows, there was nothing new under the sun. Every work is based on the works that came before. Thus, authors were major beneficiaries of exceptions of preservation by libraries, archives and museums. For that reason, any delegations that supported options should support authors for preservation and it should support the SCCR for doing everything in its power to promote preservation worldwide.

73. The Representative of Education International (EI) stressed that exceptions for education and research were key to the achievement of education as a human right. The Representative believed that WIPO could make a difference. The Representative commended all stakeholders for advancing the work around the action plans and revealed that governments urgently needed to reform their laws to include the use of digital works and find international solutions for cross-border challenges and preservation. The Representative appreciated the support of many governments during the regional seminars and remained concerned about how substantial discussions on actual solutions were avoided or simply not reported. The Representative noted that at the international conference, despite the mandate to discuss various national solutions,

discussions were around the national averages. The Representative pointed out that the conference had commercial actors who had an interest to discuss licenses, only a few voices with the expertise or interest to discuss education and research exceptions were invited to be part of that panel. That, it believed was unacceptable and a loss of opportunity. During the Asia Pacific seminar, there were good discussions with strong recommendations for strong normative work. The tone shifted in the following seminars and it was difficult for our NGO representatives to contribute. Nevertheless, different countries spoke in favor of the international and national level reform. EI hoped that that would be reflected in their reports. As had been discussed in the committee by expert academics, beneficiaries and an increasing number of governments, they all agreed that WIPO can and should take action. The Representative urged the Member States to start working on text-based solutions to promote national level reform and address cross-border issues and preservation.

74. The Representative of Electronic Information for Libraries (EIFL.net) indicated that as Zimbabwe had ratified the Marrakesh Treaty, the law would be amended for the benefit of people who were blind and visually impaired. The Representative was pleased about that feat because without the existence of the Marrakesh Treaty, there would not have been an opportunity to talk about blind people in Zimbabwe. The Treaty made the issue a priority among all the competing issues that the government was facing, for example, dealing with the economy and food issues. In many countries where EIFL.net was present, since the implementation of the Marrakesh Treaty, it had witnessed progress on exceptions for people with print disabilities, and much less progress on exceptions for libraries. At the WIPO regional seminar for the African Group in Nairobi, Member States agreed that exceptions in Africa lagged far behind the rest of the world, and that copyright barriers to the preservation of cultural heritage should be eliminated. The Representative stated that the problem had to be resolved at the international level in an effective and timely way for libraries in Africa.

75. The Representative of the European Visual Artists (EVA) pointed out that the regional meetings and the international conference showed that additional exceptions and limitations for museums, libraries, archives, educational and research institutions were not necessary because international instruments currently in place already covered the needs. For additional purposes, solutions that were based on collective licensing, remunerated exception or a combination of both were the best, because there was a fair balance. In Europe, the recent copyright directive had preservation and online access of public collections, as well as for teaching and research. It prioritized licensing mechanisms and thus safeguarding rights while providing the legal certainty all users need. That copyright directive did not introduce specific use for museums or noncommercial and archival uses. CMOs for visual arts had developed licenses providing legal certainty with extension to non-members. The example from the Netherlands included remuneration for the use of their works. The Representative added that the EVA issued thousands of licenses every day covering their international partners thus enabling the cross border exchange of works in a huge repertoire.

76. The Representative of the Authors Alliance noted that the limitations and exceptions for libraries, archives and museums promoted the long-term interests of authors, ensuring that their creative and intellectual legacies lived on through the preservation of the assets of those cultural stewards. Those efforts also enhanced the discoverability of authors' work, improving the chances that those works would reach audiences for which they were intended. Educational limitations and exceptions to copyright likewise benefitted authors and limitations and exceptions could help them reach wider audiences as well as engagement with works that users would otherwise forgo due to the cost, difficulty, or even the impossibility of licensing thereby allowing authors to reach new readers without interfering for the newer mark for their works. Secondly, educational limitations and exceptions helped authors build reputational capital because the uses they enabled, such as the use of exceptions of work in a classroom, signaled that the author had made significant contributions to the field. Those benefits were

especially profound for academic authors whose scholarly representations were enhanced when their works were prescribed as classroom reading. Finally, educational limitations and exceptions could reinforce the incentives to create. They amplified the ability to contribute to the advancement of knowledge by allowing readers to more readily discover, make use of and build on their works. Those were particularly motivating to academic authors who often created works in order to share their knowledge, insights and ideas with a new generation of learners. Limitations and exceptions were central to a vibrant, creative ecosystem, and the Representative commended the Committee for its continued work on that topic.

77. The Representative of the International Confederation of Societies of Authors and Composers (CISAC) commended the Secretariat of WIPO for the implementation of the ambitious action plans for libraries, archives, museums, and research and educational institutions. The Representative could not speak about limitations and exceptions without speaking of creators who were preserving culture and disseminating culture. The Representative indicated that there was the need to strike a balance between exceptions and limitations and copyright, allowing authors to live using their profession. Moreover, the current system for the management of copyright, even if it could not be improved did offer appropriate solutions to the needs of museums, archives, educational and research institutions and libraries, be it contractual solutions or not, they had to take into account the needs of users. The majority of collective management cases facilitated this. Therefore, the systems needed to be strengthened in specific areas, especially for cross-border use. The Representative stated that WIPO had always played a pivotal role. An international framework for limitations and exceptions already existed and as such the Committee had to adopt the best possible solution with regard to the best way to make headway on that agenda item. The Representative supported the proposal which entailed continuing exchange of information by coming up with the kind of manual of good practice that would allow members to come up with appropriate solutions for their own circumstances.

78. The Chair opened the floor to Professor Kenneth Crews for a presentation on the typology analysis for archives that is available in document SCCR/39/5. The presentation was followed by a Q & A session.

Professor Crews made a presentation on the typology analysis for archives which is contained in document SCCR/39/5 and which can be found at **(Monday, October 21 2019 Afternoon Session):** <http://webcast.wipo.int/>

79. The Chair urged members to reflect on the presentation in view of the Q & A session. The Chair welcomed members and observers to present their comments.

80. The Representative of the International Council on Archives (ICA) observed that the typology captured a wide variety of issues that archives faced at the intersection of copyright and the range of works in archival collections. The Representative wondered how the typology would be useful to the work of the SCCR, in moving the Committee forward on exceptions for archives.

81. Professor Crews noted that the main and most important use of that typology would be to use it as a resource for assuring that Member States have identified and considered the many different details that could ultimately be a part of the domestic law of their country, and any other countries. Considering that those variables were necessary, what was important to think about was the scope of the work and the scope of users in the case of preservation. What must be the condition of the work before the preservation copy? That was a tool to make sure that priority issues were identified either as an instrument from WIPO, or for the domestic legislation of the country. Professor Crews noted that if we could ascertain that those issues were reviewed, then there would be more exceptions and limitations that were effective.

82. The Delegation of Jordan reiterated the importance of the study, indicating that it was a roadmap, which could be used by each Member State, depending on its context and national legislation. The Delegation underscored the fact in some cases, in the absence of archives, the national library assumed both tasks. The Delegation noted that sometimes the national library took on archives, classifying documents and important books belonging to the nation. As indicated in the study, there were some public and private archives. According to his presentation, Professor Crews had stressed that there was not a precise definition of libraries in the United Nations. Furthermore, UNESCO defined a library as being a cultural, educational and social institution, the mission of which was to collect all sources of information and all forms in order to classify it and to provide access to the public at a reasonable or reduced price. The Delegation called for consensus in order to preserve heritage. The Delegation referred to the loss of the heritage of some ancient civilizations, citing Greece as an example. The Delegation also noted that factors such as climate change had contributed to the deterioration of the cultural heritage of the Hellenic civilization and that several libraries, as institutions, had been destroyed during the Iraq invasion. The Delegation called for a consensus to have exceptions for national libraries. The Delegation added that national libraries should be the focus of attention and should enjoy certain exceptions, because they constituted the memory of a nation.

83. Professor Crews responded that though in many countries the national library took a leading role in the preservation of heritage, it was not entirely so. He noted that in several countries, libraries as well as archives had other collections, which constituted heritage. Professor Crews stated that those archives and libraries also had to proceed with their work, as their real purpose was the advancement of knowledge, the protection and the expansion of culture and the learning of other cultures. Professor Crews stressed that the Committee had to see that copyright encouraged the creation and the dissemination of that intellectual base which was the fundamental purpose. Though he indicated that people make money doing it, the real purpose was the promotion, protection and the access to knowledge.

84. The Representative of the Canadian Federation of Library Associations (CFLA) was pleased that WIPO had convened the regional meetings and that it had hosted the special conference on limitations and exceptions for libraries, archives, museums and educational and research institutions. The Representative reiterated that limitations and exceptions were an integral part of the balance of copyright. The Representative stated that Professor Crews typology was an effective approach to those topics and preservation as cited by Professor Crews was one of the most common exceptions. The Representative suggested that the way forward was to consider the topic of preservation for libraries, archives and museums. There was a broad consensus among Member States that preservation was an important national and international issue. Many countries had legislation to ensure that their cultural and historical record was preserved. The Representative noted that those national laws lacked an essential cross border component that acknowledged the global nature of digital information. Where it existed, national legislation was a firm first step. Citing the success of the Marrakesh Treaty, the Representative noted that an international instrument could be a catalyst for new national laws with an international component. An international instrument for libraries, archives and museums that was specific and limited to preservation, would allow each country's cultural heritage institutions to fulfill their mandate. The Representative expressed that it was ready to move forward with that. Though the typologies were a good framework to use to approach preservation and the work of archives, it could be seen as an appropriate framework to consider licenses where appropriate keeping in mind that other instruments would be more effective.

85. Professor Crews indicated that the process of drafting a license could benefit from having those details to ensure that there was an assurance that the license was in fact effective and desirable. He noted that there had been constant discussions about the role of licensing and the relationship to exceptions and limitations. He added that licensing could play a role where it

ultimately served the function that libraries and archives were seeking to achieve in their social mission. So if the statutes or any other mechanism were to refer to license, that would start to open up some pretty heavy complications because that license could then become a viable part of the equation but only if the license really provided a viable, effective, and affordable means. Reflecting on the discussions held during the Conference, Professor Crews stated that the discussion around licenses left him wondering what could a license provide. If a license was going to work, should the license allow the library and the archive to really do what it needs to do, or would it be a tighter, more confined structure? Would the license be more effective and efficient? The Delegations had shared concerns about the process of negotiations, and whether the licenses would be affordable or not keeping in mind that what was affordable was probably different in all the Member States. The licenses described during the Conference would be subsidized by different allocations from national governments, as they would be worked into the calculation and the economy of the structure of education, libraries, and publishing. Those licenses would not be duplicated in another environment and going back to some of those standards, there is hope for effective licensing.

86. The Representative of the Society of American Archivists (SAA) referred to column two of the preservation table where there was reference to licensing and implications. The Representative noted that there were a lot of licensing considerations that came up in a variety of environments. Direct licenses were the most effective tool because those were done one-on-one with the copyright holder. In archives, the challenge was that there were a large quantity of virtually anonymous works, where the person was essentially untraceable for the long duration of copyright. The Representative indicated that collective management did not seem to be a vehicle for dealing with that, as such, in thinking about the applications to which that typology might use, what would be its applicability to the different types of archival collections or different types of archives. The Representative referenced Dr. Sutton's study, which emphasized that the Committee should be thinking in terms of archival collections, rather than archival institutions.

87. Professor Crews noted that archival collections, included a tremendous diversity of works, types of works, origin of works, the circumstance of the work and the copyright duration of those works, which was not an easy discussion. In dealing with individual transactions and that was largely because given the nature of the complication of archival collections, a broad based license did not realistically address the tremendous variety of copyright challenges that one faced within the confines of any one archive.

88. The Delegation of Iran (Islamic Republic of) posed a question in respect to the licensing and relation with NLAs. The Delegation noted that the typology was very useful and informative because it compiled all the relevant information. Regarding the diversity amongst stakeholders, the Delegation noted the need to consider the commonalties and the convergences among all the stakeholders because those divergences could be a basis for future work and the commonalties could constitute the basis for the future program on that agenda item.

89. Professor Crews reiterated the need to consider commonalties.

90. The Representative of the Knowledge Ecology International (KEI) proposed that the Committee reflect on the approach taken in the 1976 Tunis model on copyright for developing countries in several areas. First, to what extent would model provisions which were published by UNESCO and WIPO in 1976 benefit from some update given the turn of events since then. And secondly, the approach of the issue of alternative provisions in some sections but not all sections of the model law, and whether or not having a model law that had one proposal for some issues but perhaps more than one proposal for other issues would be a good way forward if there was any further work on model laws. Finally, on licensing, the Representative noted that they spent a fair amount of money on licenses. Giving up privacy relating to those licensing

issues gave a lot of people concern because it is unclear what happens to the data when working under a license. How data was used was an area that many people thought needed to be discussed more. The issue of pricing, particularly for the legal information used, was another area that needed further discussion. One thing that bothered many was restrictions and licenses on reuse of public domain. Contractual provision could take the public domain works and put them on a web page and that was an area that was uncomfortable to deal with.

91. Professor Crews indicated that in the negotiation of licenses, data was being created with respect to uses of works, and the privacy of that data. He also referred to the materials in the public domain and stated that calculation and determination of the public domain was often a very difficult task, but then there were certain things that were either old enough or there were certain types of governmental works that very clearly were public domain. However, he revealed that many of the licenses did not make that distinction. He indicated that with a license for the reproduction of pages, there was no regard for what was on that page under many licenses. Professor Crews indicated that there was no need to revisit the Tunis Act, but maybe a way forward with exceptions and limitations was to go to the typology, identify the major themes, the what, who, when, where, how types of questions and identify a modest number of alternatives for how a country may address those. That could then provide an efficient framework that would enable a country to consider the major issues, make the choices that were right for that country and craft legislation that would have the potential of being thoughtful, helpful, and productive, as the legislation served its purpose of advancing knowledge and in the case of preservation, protecting cultural heritage.

92. The Representative of the Library Copyright Alliance (LCA) noted that with those three typologies contained the major elements of the toolkit that people looked for. The Representative also added that if a couple of model law options were considered, it would go a long way to providing the immediate concrete guidance and the quick fixes that the Delegation of Kenya was looking for. The Representative noted that the Committee was very close to providing those quick fixes, which could be supplemented by text-based work on an instrument relating to preservation.

93. Professor Crews noted that it was an excellent proposal, which needed to be considered by the Committee as they would provide a means of moving forward.

94. The Representative of Corporación Innovarte stated that the elements related to exceptions were important for harmonization. There were some exceptions which have to be brought into line with specific realities in each country and that in some cases, there was a considerable transnational importance. The Representative enquired which elements, for the purposes of harmonization, should the Committee focus its attention on.

95. Professor Crews noted that one of the main objectives of international copyright agreements was to affect the harmonization of the laws across countries. Professor Crews made reference to the different copyright agreements and treaties, which lacked perfect harmonization. Some of those agreements were approximately harmonized on major points, however there were places where countries could choose to be a little bit different. He noted that generally, that created a predictability and an easier means of doing business with one another particularly on cross-border issues. He indicated that the Committee needed to recognize that in the process, there were certain provisions that were better suited for an international agreement to be harmonious. One of those was clearing the way for the cross-border transfers. If that could be done and combined with the support of any type that led towards the creation of exceptions and limitations, then that predictability and usability of works would be achieved as they did move across national borders.

96. The Chair thanked Professor Crews for his time and invited Professor Xalabarder and

Monica Torres to report on practices and challenges in relation to online distance education and research activities.

97. Professor Raquel Xalabarder and Monica Torres made a presentation on Report on Practices and Challenges in Relation to Online Distance Education and Research Activities, document SCCR/39/6, which can be found at **(Tuesday, October 22, 2019 Afternoon Session):** <http://webcast.wipo.int/>

98. The Representative of Communia cited Professor Xalabarder's report stating that exceptions were the best tool to secure fundamental teaching and research needs as they protected public interests. However, Member States were not really making use of the policy space that was available under the Berne Convention and therefore, many Member States did not have exceptions for education and research especially in the digital and online environment. The Representative also stated that as per the report, an international intervention directed at mandating Member States to have those exceptions, while also giving Member States the freedom to design the scope of those national exceptions. The Representative requested that there be an elaboration on that. The Representative asked the professors how they proposed to solve the issue of cross-border uses. Frameworks alone could not deal with the international territory in the online environment because of cross-border issues. Though Professor Xalabarder had mentioned that an international convention would be required to deal with that issue, the Representative indicated that there was no reference to it in the study and wanted some clarification on that. The Representative made a correction in Professor Xalabarder's presentation. The table with countries with a certain type of exceptions was quite high. Referring to Professor Seng's study that had the number of provisions versus the number of countries, there were only 132 countries that had exceptions for quotations and not 183 as was indicated in the table.

99. Professor Xalabarder noted the point referencing Professor Seng's work. Professor Xalabarder stated that there were more exceptions for quotations, and that more work at national level could have been done. Normative considerations and next steps or conclusions were not very much the purpose of that report. What needed to be done at the national level, the national legislature was to look at the specific needs and circumstances of every country. There were a lot of actions that could be taken at an international level and exceptions and limitations to address the needs of teaching and research online was something that could be fostered, sponsored and prompted at the international level. That should be something that was morally mandatory. It was the responsibility of each Member States to take action at that level, with WIPO helping and providing solutions to develop those national solutions. Some things needed to be done at the national level, other things could be done at the international level, to resolve the issue of cross-border that needed to be addressed at the international level.

100. The Representative of the Knowledge Ecology International (KEI) referring to the three-step test noted that in reviewing the records of the 1967 Stockholm Convention, where the three-step test was first introduced, that was limited in its application in that, the other exceptions that were called exceptions were not subject to the three-step test, at least in the Berne Convention. The Representative pointed out that when Professor Ricketson discussed that issue, he reached the same conclusions. Limitations on the remedies for infringement were not constrained by the three-step test in the same way that a limitation on the right was, and that for most people, the controlling issue would be Article 44 and Article 45 of the TRIPS agreement on injunctions and damages. Since the US Copyright Office put out a paper several years ago for the fair works program, which stated that they wanted to avoid the three-step test all together in that area, there had been renewed interest in that area. The Representative noted that sometimes, there was an unfortunate tendency to reference the three-step test, which came out of ancient text, which had become a circular reference. However, the origin of the three-step test suggests there were some limits as to where it could be applied.

101. Professor Xalabarder affirmed that in the history of the Berne Convention, the three-step test came out at a later time. However, Articles 10, 11 and 12 when discussing exceptions did not refer to the three-step test but to fair practice. She believed that the point of agreement was to identify that fair practice in Article 10 and the three-step test very much led to the same place. Regarding the limitations on liability, she noted that that could be an interesting way to look into the future with respect to good faith infringements. How could that be addressed in terms of liability, whether an exception or a reduction of damages, or that could also help with online cross-border issues.

102. The Delegation of Argentina noted that in the overview, universities and educational research institutions using licenses had to reveal what works they had used. The Delegation queried about the requirements that were in place for the extended licensing system. The Delegation believed it would facilitate work with regard to all the holdings. The Delegation also asked if the reciprocity idea was also included to see if that would facilitate the use of works in a remunerated fashion.

103. Ms. Torres indicated that universities were obliged to report the use of works. That, she revealed, was a very complicated issue for universities in general. However, it was also the case that CMOs were currently implementing services to make that easier for users through a number of online systems, platforms which in an electronic way, made that a lot easier to do. She noted that that certainly made it easier in terms of providing the license and when the license was provided, that platform automatically generated a report of the use of that work. The idea was to facilitate the rather arduous job for universities. She pointed out that one of the requirements of extended collective licensing was that the CMO had to sufficiently represent their sector. That means, for example, in the libraries, they needed to be sufficiently representative and that was normally in countries where the system had already been implemented. That was because CMOs were normally organized into organizations representing an entire sector as they were not normally made up of direct individuals. Usually, the member of those CMOs were organizations representing authors and editors in the different sectors, and in the case of public sector image. Due to that structural organization, it allowed them to be properly represent and that meant that the law, when it was sufficiently representative could provide a license not just for authors who have directly provided permission, but also for others, for those who were not members of the organization. That represented all holdings. The law specifically designated the CMOs which were in charge of that management. In some countries, there were nuanced versions of that, with regard to the granting of those licenses. Some of the holders who were not representative or had not directly given a mandate to the CMO had the option to withdraw from that system. In other national contexts, that was not permitted. Having solid holdings, which represented the majority of a given sector, gave users certainty that they were doing the right thing with regard to using the works and of course, reduced the risk of infringement of copyright in that case.

104. The Representative of Corporación Innovarte explained that it was very necessary for an international instrument to resolve some of the points linked to cross-border issues. With regard to licenses, the Representative asked if it was possible considering the current territorial issue, for example, in Chile a license for online distance education at a global level and whether a Chilean CMO had a license at that level. The Representative noted that that was not possible as there was the need for an international license like those used in the European Union where they looked at it in a cross-border way. The Representative asked whether there could be the possibility of a global licensing system for a national CMO without the need for an international instrument, the same with regard to exceptions. The Representative noted that it was very difficult or not impossible to have cross-border use, except for maybe educational use especially given that the scope of exception was different in every national context. There would be a need for some sort of cross-border issue or solution as witnessed in the European Union. The

Representative asked whether it was possible that the solutions for that could be achieved without an international instrument.

105. Ms. Torres observed that solutions which were provided by CMOs were most effective. She proposed for more solid bases, particularly in regions which shared the same language and organized themselves in such a way that various *reportoires* could be represented by one single organization that could provide licenses to all holdings represented by that organization. She mentioned that that had been achieved in other sectors, for example, music, where the same problem occurred. She indicated that in those sectors, there were reciprocal agreements to produce a representative organization, which then provided licenses for the sector that they represented. She pointed out that solutions of that type were more efficient and faster.

106. Professor Xalabarder noted that the European solution was possible, however, only one particular law was considered; which was the law of the country where the educational institution was based. That was based on an open an obligatory limit, which was a very uniform solution. Independent of the single law that would be applied within the European Union single market, the solutions would therefore be quite uniform. To export that at an international level could have very differing effects in different regions, particularly bearing in mind other practices. Not all national laws had the same degree of limitations and exceptions within their national context. As such, it could be a possibility that the result would not be a true reflection. However, considering only limitations in the use of online education might be interesting and possibly licensing. For a Chilean CMO to add licenses at a global level would be dependent on the authority of that CMO, and the rights or powers those authors given their CMO. Normally, a CMO had a certain authority to manage the holdings within a given country. However, CMOs were expanding in order to have powers beyond the country where they were registered. As such, a Chilean or indeed an Argentinian CMO, if they had been given the powers by their authors, might be able to act beyond their legal territory. Though certainly not the standard at that moment, certain practices of that sort could arise. Currently CMOs acted on a national basis.

107. The Delegation of Colombia made reference to the study which stated that only 25 WIPO Member States had an open clause on fair use or fair dealing. The Delegation also referred to another difficulty they were posed with in relation to the lack of certainty or clarity in the scope of some of the limits and exceptions which were looked at. In other typologies, or in different user types, there were few limitations and exceptions for some kinds of beneficiaries or users, particularly in countries where those open clauses existed. In addition, Professor Seng noted that the fair use case could only be used as a defense, which increased further legal uncertainty for users or beneficiaries of those exceptions. In line with that, and acknowledging that there was no perfect system, the Delegation asked what options there could be to reduce that lack of certainty or that lack of legal security in different systems.

108. Professor Xalabarder indicated that they had analyzed Professor Seng's figures, the information obtained in regional meetings and the study on national legislation. However, she indicated that the figures may not be quite right. She added that very often, the same legal provision could be interpreted in quite contrasting ways in different countries and fair use was one of them for example how fair use was interpreted in India, with regard to educational compilation texts. On the other hand, the United States of America, with the defense of fair use policy, was a very different situation. The idea of compilation of educational text would be allowed in India and not in the United States of America. What was evident in many countries were guidelines for fair use, which were written with the agreement of different stakeholders, rightsholders, universities and others, which sought to set out greater legal security. However, it was also true that fair use was used in systems where there was a certain legal precedent, which set out the laws that did not exist in other countries. Specific context was being looked at, for example, in common law countries. She indicated that that may not work in countries

such as Spain.

109. The Delegation of Jordan stated that in an era of a lot of the information and data that was being produced internationally, published electronically and could be found in databases at some institutions who were not the producers of that information, there was a lot of compiling information so as to repackage them and to relicense them for different uses. One example of such a happening is international databases. In Jordan, some had to purchase licenses and at times those are purchased internationally. Considering that, there was no need for legislation, whether nationally or internationally, for remunerated subscriptions. Rather, what the Committee needed to do was look at the licensing of information to see what was available in limited scope and limited compilations. In the matter of ethics of information, there were no legislations or international instruments that limited infringement. There was a need to be able to share knowledge without infringement on the rights of others with regard to authors or publishers. The Delegation emphasized that as much as an author had rights, readers and researchers had rights as well. Therefore, if that were sorted out, it would lead to the solution for a huge number of issues. The access to information also pertained to the rights of users. The Delegation referred to the issue of subscription to databases, which did not produce data themselves, but they were only compiling the information and relicensing them. Cooperation agreements between institutions who produce information could lead to such solutions.

110. Professor Xalabarder noted that there was need for careful balancing of fundamental interests. Access to information and to knowledge, protection, and enforcement of copyright. She agreed that a careful and difficult balancing needed to be achieved.

111. The Chair welcomed representatives and Member States to personally engage Professor Crews, Professor Xalabarder and Ms. Torres on further questions. The Chair announced the presentation of a reports on the regional meetings and the international conference.

112. The Secretariat presented a brief version of what was discussed with the participants of the international conference to the Committee. The three regional seminars that were included in the action plans, approved in 2018, were held in Singapore, Nairobi and Santo Domingo in April, June, and July 2019. Although the meetings took place in different regions of the world, they followed the same methodology. The work was divided among working groups, sub regions and by language. All the work developed by those working groups was reported in plenaries, which were documented, with the help of chairs and reports. Six experts were present, four of them were part of the Committee and would take part in the conference, and as main tools, the working groups worked on the different topics covered by the conference, libraries, archives, museums, educational and research institutions. That work was done with the help of a simple matrix, which looked at activities, such as, preservation, reproduction, access, and cross-border matters. Regarding the regional meeting in Singapore, 32 Member States made it to that meeting and 15 organizations participated in that seminar. Representatives from other regions such as Australia, Brazil, France, the United States of America and the European Union also attended the discussions. There were more than 100 people including experts, WIPO staff and IPO delegates. In Nairobi, 47 Member States participated and 37 professional organizations were amongst the participants. Countries from other regions, such as Brazil, the United States of America and the European Union also took part in that seminar. There were more than 150 people including experts and WIPO staff. In Santo Domingo, 29 professional organizations and the United States of America took part in the seminar. There were more than 180 people including delegates from the copyright office of the Dominican Republic plus WIPO staff and experts. The Secretariat indicated that working group chairs wanted to report on the findings and observations of those regional seminars.

113. The Chair invited the working group chairs of the regional seminars to make their

presentations.

114. The Delegation of Malawi stated that it was privileged to have had excellent presentations by experts on the provisions and exceptions and limitations in the national laws of Member States as they related to the issues under discussion. In addition to the presentation by experts, observers also provided very useful information and shared practical experiences. Focused on digital discussions, the discussions on issues were carried out by Member States in three clusters, two for English and Portuguese speaking and one for the French speaking. The group discussions allowed participants to share country experiences and engage in in-depth analysis of the issues raised at the plenary. Group discussions centered mainly on the analysis of the national legislations in relation to the challenges and opportunities for education and research institutions, libraries, museums and archives. The discussions reviewed areas of minimum disagreement and some others that required further elaboration, including preservation and cross-border exchange of copyright works in the digital era. The need to update existing national laws to respond to digital challenges and facilitate effective implementation of limitations and exceptions at national and international level were discussed. The Delegation thanked the WIPO Secretariat for the excellent organization of the regional seminar, which not only provided members with the opportunity to assess their domestic copyright landscape, but also to appreciate the challenges and libraries of archives, museums, education, and research institutions. Issues of access to copyright works, especially in the digital environment, as well as the important role of rightsholders of providers of creative content were better understood. The Delegation also thanked experts for their engaging presentations. The Delegation welcomed the input of NGOs and observers and for providing alternative viewpoints on issues under consideration. The Delegation also thanked the Government of Kenya for the wonderful hospitality and for facilitating the regional seminar.

115. The Delegation of Singapore highlighted four points summarizing the general observations from the discussions in the Group. Firstly, the Group observed that legislative provisions and practice on copyright limitations and exceptions differ greatly from country to country. In relation to preservation of digital copies for libraries, although they were generally not explicit legislative provisions for the making of digital copies, some countries did allow for it in different ways. For example, Malaysia allowed digital preservation in accordance with library digitization policy and guidelines. While there were no specific guidelines, digital preservation was increasingly adopted in libraries in line with the general principles on fair use in the government manual on fair use for libraries and archives issued by the Department of Intellectual Property. There was also a difference of opinion on the effects of general fair-use provisions. Some Member States were of the view that general fair use gave them greater flexibility, while others were of a view that it would cause difficulties when it came to licensing. Secondly, the group observed there was a lack of understanding of copyright limitations and exceptions, which had the effects of users hesitating to avail themselves of those exceptions. Thirdly, some members of the Group also called for an international instrument which could serve as a useful guide for their domestic legislative processes. Last but not least, the Group agreed that preservation, access, and cross-border issues were common across institutions to libraries, archives, educational institutions and museums. For example, exceptions applying to one institution could equally apply to another institution or activity. The Delegation thanked the Secretariat for organizing the seminar for its region, the Asia Pacific, and also for the participation of all the experts and observers and hoped that those observations could contribute to the larger discussion on the way forward on that important topic on limitations and exceptions for copyright.

116. The Delegation of the Cook Islands thanked the Chair for giving the Pacific Group a place in the meeting and most importantly in the forum. The Delegation indicated that it accepted the limitations of copyright and other rights as demonstrated in the Berne Convention and various other copyright treaties. The Delegation indicated that what was more important at that stage

were the following, capacity building for the users, creators and administrators of copyright so they were aware of how to operate in that complex and unfamiliar arena. The Delegation pointed out that culture dictates that individual rights, licensing of works and work accruing to one person was a foreign concept and that was something it was trying to understand and apply in its island nations. That was a concept, which they had accepted and wanted to understand it as much as possible. The Delegation explained that they needed all actors in that area to understand their rights, how they could be protected, the benefits to them and how they could exploit copyright to their advantage. The second issue that came up in the Pacific Group was legislative review, and that was very important to them. The derivatives of the colonial masters as countries of the Pacific were self-governing and independent states and not a lot of focus was on copyright. Practice had run ahead leaving legislation behind that meant that many countries' acts were out of date. There was a dire need to review those legislations with a view to making them more relevant to the current environment and international best practices. The last issue that was discussed was climate change. The Representative mentioned that that issue had become more important to the Pacific Region as it looked for ways to survive. At the heart of that matter however was the need for information and best practices that could facilitate survival in that region.

117. The Delegation of Antigua and Barbuda explained that in Santo Domingo, although a relatively small sub-region, many of its jurisdictions shared not only a common language but also courts and currency. With that being said, the issues with reference to limitations and exceptions or legislation varied and had inconsistencies and divergences. Though Association of Caribbean States (ACS) countries, Barbados, Jamaica and Trinidad had similarities with reference to their legislation, they were however in various states of modernity and very few speak to the digitalization cross-border issues and orphan works. Legislative reform was therefore necessary to give preservation institutions the ability to undertake comprehensive digital preservation prior to the material being threatened, lost, or damaged, which in that region was almost an annual threat with the advent of climate change, given that natural disasters had become not only more intense but more frequent. In the words of Professor Crews, digitalization and cross-border exchange should be the new normal. That was especially so in the context of all regions where most of the published works were important. It was further recognized that orphan works had to be specifically addressed. In both cases, the Delegation noted that its legislation was extremely lacking. None of the territories of Trinidad and Tobago also addressed copyright issues to museums and that had to be remedied. The takeaway from the Delegations' participation was the realization that there was a need for commonality, harmonization, and some minimum standards to be established and recognized whether on a regional scale, if not on an international one. Such regional reforms, however, would require careful balancing of competing interests. While it was important that preservation institutions had copyright exceptions sufficient to enable digital preservation of cultural heritage, and for educational institutions to have access to learning and research material, it was critical to retain the provisions necessary to protect rightsholders. The three-step test set out in the Berne Convention and in the WIPO Internet Treaties allowed for that while ensuring such things did not conflict with the normal exploitation of works. That worked in the circumstances where there was an existing licensing scheme but not in places where the requisite CMOs did not exist. CAROSA aided in that respect in as far as establishing a regional licensing scheme; however, thus far, that only applied to the territories, the main tertiary institution of the University of West Indies, Trinidad, and Tobago and most recently in Antigua. The other institutions and archivists and simple country school teachers have been left out in the cold despite warm climates. Therefore, as the way forward, its sub region saw the need for an international instrument in whatever form that established minimum standards, obligations, and responsibilities. The Delegation requested for WIPO guidance and information with regard to best practices and for capacity building.

118. The Delegation of Burkina Faso presented a report of the French speaking group within

the seminar. The Delegation highlighted certain results of the exchanges within the work of the French speaking group. The Delegation was pleased that that meeting helped in making headway in the request to strike a balance between limitations and exceptions and copyright. Having said that, as noted by the experts with regard to museums, archives and libraries, the French-speaking countries recognized the important role played by those instruments in society and they indicated that there was need to have the exceptional mechanisms in order to take advantage of them. However, also from the exchanges, certain laws provided for those exceptions and limitations. Moreover, concerning the sector of teaching and research, all of the countries represented confirmed the existence in their national laws of exceptions and limitations, however at varying degrees. Indeed, certain laws provided for limitations and exceptions whereas others did not. By way of recommendation, the Delegation invited the countries that did not provide for exceptions and limitations for libraries, museums, and archives, to review their legal frameworks in order to transpose in them regional texts. Regional agreements provided for exceptions and for limitations for the aforementioned institutions with regard to preservation. The countries that had not yet ratified the Marrakesh Treaty were invited to do so without further ado. The group also recommended that in addition to the need for preservation or the exceptional uses authorized, that needed to be backed up with compensation in favor of the rightsholders. It was also vital the management of that remuneration be conferred to CMOs of the rights protected. As for cross-border exchanges, the Delegation invited Member States to look at those nationally and suggested collective licensing, like was the case in the European Union and English-speaking countries. Finally, the Delegation suggested that the studies within the framework on the studies of exceptions and limitations take into account laws that existed at the national level. The Delegation expressed gratitude to the Secretariat of WIPO for taking into account those recommendations within the context of the international conference, as specific communication on copyright and related regimes developed by the professor, contributed to and enriched greatly the exchanges during the conference. The issues raised in the majority of cases were also mentioned during the international conference, and they essentially concerned cross-border exchanges.

119. The Delegation of Colombia noted that Colombia was responsible for chairing one of the Spanish-speaking groups in Santo Domingo. The Delegation noted that one of the most outstanding aspects of the seminar in Santo Domingo was that there was a group of countries from the Caribbean with different legal systems. There were countries from the Anglo-Saxon Common Law System and Latin American countries who used Roman Law. The Delegation indicated that that had to be considered when the expert studies submitted were reviewed. Per the analysis, there were a lot of exceptions and limitations in the law, particularly, in the countries who followed the Roman Law or Continental European Law System. There was the need for national work to be done because apart from the fact that there were some regional agreements, there was also the Andean Community Agreement and the Caribbean Common Market as well. The Delegation stressed that countries needed to do their own national work to help establish limitations and exceptions. On the issue of museums, the Delegation observed that some countries were contemplating exceptions and limitations for preservation which would benefit libraries and archives but not necessarily. As such, the Delegation called for further work to be done to ensure that museums could also benefit from the possibility of engaging in preservation-related activities. The Delegation looked at the issue of good practices in the course of the seminar, and thought that developing guides, formats, and model contracts for licensing, focusing on museums, would also be helpful. Turning to orphan works, generally speaking, it was felt that there were very few laws covering those works. In Latin America at that moment, there were only two countries which actually had provisions in their law that stipulated the conditions and the particular circumstances in which it was possible to use those works. Moving on to cross-border use, although there were some experiences in some Member States where cross-border access was guaranteed for certain libraries, which already had a great deal of their material in digital form, there were no consensus yet among Member States as to whether or not a proposal, an international proposal, was necessary in order to

more specifically tackle the problems with respect to that issue. There was also the question of the implementation of the Marrakesh Treaty because several countries from Latin America had already ratified the Treaty and therefore had been working on its implementation, including with regards to cross-border use. On private copying, there was different treatment given in Latin American countries. The Delegation noted that there were some exemptions that made it possible to do private copying without any remuneration being involved, and only if those two countries in Latin America was remuneration actually provided for private copying. In one of those, oddly enough, there was no collective management organization responsible for that right, but there was a request that the right be made effective, and that was somewhat difficult when you did not have any collective management organization available.

120. The Delegation of Kenya congratulated the Secretariat for having chosen Kenya as the host of the just concluded regional workshop. The Delegation believed that Kenya hosted that particular event and also showcased what Kenya could offer in other areas, other than hosting the event. As the host country, Kenya was one of the rapporteur for the English speaking groups that were present amongst others including Nigeria, Gambia, Ghana, Burkina Faso, Uganda, Zambia, and Zimbabwe. The Delegation noted that the Delegate from Malawi had perfectly amplified the overall resolutions and recommendations that emanated from that particular regional consultation meeting. The Delegation made additional comments in respect of the Delegation of Malawi's statement. It noted that most copyright laws had not been adequately updated in line with technology and the changing modes of work. Therefore, there was a need to review the existing copyright exceptions and limitations in response to those changes, thereby creating flexibilities as may be necessary for libraries, education, research, museums and archive institutions. Such flexibilities would include effective exceptions on preservation of all collections in that culture and making of private copies for education and research purposes. In the case of orphan works, copying may be subject to finding an author, as such the reproduction being subject to either the CMOs or any other competent authority. Exceptions on cross-border use, preservation or lending of materials may also be incorporated in such intended modifications to the copyright legislations. Effective exceptions for online use, change of format of works, adaptations for whatever use and preservation or use for education and research proposals, had to be provided for. The Delegation recommended that those regulations be established in countries where there were nonexistent and that the existing ones be strengthened to enable them to license the use of the works in the old and new platforms. The terms of accessing preserved material may be determined based on the terms of access of the original material. The Delegation recommended that a statistician campaign be mounted within the region in order to create awareness of the exceptions and limitations. The Delegation noted that most of those cultures did not use all the exceptions and limitations because they were not aware of such exceptions and limitations. It was clear that the outcome of the Nairobi regional consultation meeting would inform the African position in Geneva.

121. The Delegation of the Dominican Republic thanked WIPO for having selected the Dominican Republic to host the meetings on exceptions and limitations. The Delegation noted that in the course of the seminar, they were able to involve both government departments and collective management organizations, some of which were already up and running quite efficiently, whilst others were waiting for accreditation. Contributions from the government and from the collective management organizations indicated positive results. The Delegation believed that their example could be offered to other countries in the region because getting the collective management organizations and government working together meant one could achieve quite a bit within a short time and in a fully harmonious and trouble-free manner. In the course of the seminar, they brought together groups to talk about all the issues that they were working on. Through that, they were able to reach conclusions both in the working groups, the roundtables, and the plenary session where other groups also submitted conclusions. The Delegation thanked WIPO for their immense support and involvement.

122. The Chair requested that the Secretariat present the report on the international conference.

123. The Secretariat reported that there were more than 200 participants at the conference, which took place on October 18 and 19, 2019. There were also more than 40 panelists who participated in four thematic panels, that were included in the program, namely on archives, museums, libraries and educational and research institutions. Twenty-one chairs and rapporteurs from the regional seminars participated in the conference. There were four experts who helped with the presentation and moderation of the panels. There were more than 45 countries represented and apart from the informal discussions, there were more than 12 hours of formal discussions. The Secretariat noted that there were four thematic panels with the last panel being an overview of all discussions. That involved Member States who participated in the regional seminars, those who were not able to participate in the regional seminars because they were not Member States in one of the regions covered, and also experts who attended the conference. There was an enormous amount of debate at the conference and an enormous amount of information was provided and discussed. Due to that, the Secretariat noted that detailed results of the conference would be ready in a few weeks time. The Secretariat noted some of the salient threads from the conference. As a way forward, it was important to recall the essential role of copyright in supporting and rewarding creativity. Creators had an indispensable role in what would become cultural heritage as well as what was at the core of education and research. Cultural heritage was an invaluable and vulnerable common good. A multi-layered approach, including technical and legal solution for its preservation had to be put in place. Libraries, archives, and museums had a major role to play in the development and implementation of solutions to achieve that objective. Facilitating access to knowledge was fundamental to achieving the goals of quality education and research. Educational and research institutions had a major role to play in the development and implementation of solutions to achieve those objectives. The topic of limitations and exceptions to copyright was an issue shared by all countries as limitations and exceptions were a natural part of any balanced copyright system. Copyright should not be seen as an obstacle but as a facilitator. One should not mix freedom of access with access for free. There was room for remunerated subject and uses subject to remuneration and uses subject to licensing schemes. In addition to the ongoing work on limitations and exceptions, other solutions, including contractual agreements and licensing-based solutions, could be considered as part of a holistic approach. Collective management organizations had a major role to play in the copyright system, in particular in facilitating cross-border activities. Capacity building had to be available to support countries that did not have appropriate limitations and exceptions in demanding their national legal frameworks. A range of tools and guidance, including experience, professional practices, could be developed for their purpose. A buffet of options could be available for Member States. The Berne Convention offered Member States implementation of the provision and limitations and exceptions were guided by the three-step test. Concerns about the liability of different stakeholders among the cultural and educational institutions, as well as the creation of safe harbors, had to be considered. In that perspective, alternative dispute resolution mechanism could also be explored. The search for solutions could be at national, sub regional, regional, and international levels and consideration could be given to developing instruments appropriate at those levels. Mirroring the three original seminars, expert groups might be set up to address different issues, taking into account the dynamic of the regional meetings, especially the linguistic dimensions to address specific challenges and issues. An incremental methodology could be put in place with a precise timeline and result-oriented approach. The Secretariat noted that Member States had a major part to play in developing a national balanced copyright system. Member States were encouraged to take full advantage of the scope of limitations and exceptions and the Berne Convention to fulfill policy objectives. Member States had to address the need to strengthen technical and institutional infrastructure when necessary. WIPO's work on that topic had to continue in the holistic and forward-looking way. WIPO had to ensure the provision of legislative and technical assistance and enhance the legislative capacity of Member

States, in particular, for cross-border uses and the establishment of balanced copyright laws. WIPO had to develop a range of tools such as models, recommendations, guidance, handbooks, and toolkits, among others, containing information on licensing options as well as on limitation and exceptions.

124. The Chair urged member Member States to share their views and comments with the Secretariat especially on its reports and from the chairs who were involved in the regional seminars. The Chair pointed out the work ahead and the reason the Committee agreed on the plan for limitations and exceptions. On the basis of those action plans, the Secretariat had worked hard and had pulled resources to organize different events so that the views of Committee members could be heard. The Chair thanked everyone who has been involved in that process. The Chair noted that there had been a tremendous amount of work involved within the parameters of the action plans. The Chair called for a next step of action as the actions plans were going to expire in 2019. The Chair asked what had to be the following steps and what policies would be needed to serve as a guide on limitations and exceptions for the next biennium. The Chair believed that through the analyses shared and conversations around the preliminary thoughts, relevant discussions could be had in informal context, which would be in the usual format of regional coordinators plus six countries.

AGENDA ITEM 7: PROTECTION OF BROADCASTING ORGANIZATIONS

125. The Chair referred to ongoing discussions on limitations and exceptions and stated that the informal sessions would continue in order to arrive at a consensus. The Chair indicated that discussions would continue on the agenda items, and in particular on Agenda Item 7, which was the protection of broadcasting organizations. One of the developments since the previous round was a document SCCR/39/4 which was the Chairs revised consolidated text on definitions, object protections, rights to be granted and other issues. The Chair explained that an introduction to the document would be made after submission of statements. One of the other developments that was significant was that at the previous just concluded General Assembly, the Committee received a mandate from the General Assembly to continue making progress towards convening a diplomatic conference on that issue during the 2020 to 2021 biennium. The General Assembly invited the Committee to continue to work towards convening a diplomatic conference toward the adoption of a treaty on the protection of broadcasting organizations subject to Member States reaching consensus in the SCCR on the fundamental issues, including specific scope, object of protection and rights to be granted.

126. The Delegation of Croatia speaking on behalf of the Group of Central European and Baltic States (CEBS) believed that the topic of the broadcasting treaty was an important topic for the Committee. The Delegation thanked the Chair for the revised text contained in document SCCR/39/4. The Delegation noted that CEBS was fully aware of the complexity of the issue concerning the broadcasting treaty and believed that transmissions of traditional broadcasting organizations over computer networks such as simultaneous transmissions had to enjoy international protection from acts of piracy in order to find acceptable solutions regarding definitions, object of protection, rights to be granted, and other issues. Given the latest technological developments as well as challenges faced by broadcasters and need to be protected by possible acts of piracy, the Delegation looked forward to additional conversations in order to advance toward a possible meaningful broadcasting treaty.

127. The Delegation of Mexico, speaking on behalf of GRULAC, welcomed the decision adopted by the WIPO General Assembly for the Committee to continue the work toward convening a diplomatic conference for the adoption of a treaty on broadcasting organizations to be concluded in the biennium 2020-2021, subject to a consensus being reached by Member States on fundamental issues in that committee, including specific scope, object of protection, and rights to be granted. GRULAC noted it was keen to hear the Chair's comments with regard

to document SCCR/39/4. The Delegation believed it would find the Chair's explanations very useful in order to properly approach the text. As it had been previously indicated, it was important for GRULAC to make progress on negotiations on that issue through constructive dialogue and GRULAC believed that that would allow the Committee to reach a necessary consensus.

128. The Delegation of Singapore, speaking on behalf of the Asia Pacific Group, reiterated that the modality in intellectual property rights should apply as that was a delicate issue that required careful balancing. Most members of the Group would like to see the finalization of a balanced treaty and the protection of broadcasting organizations based on the mandate of the 2007 General Assembly to provide protection of the single-based approach to cable casting and broadcasting organizations in the traditional sense. However, some members of the Group held different positions based on their national policies. The Group acknowledged the mandate given by the recently concluded General Assembly for the SCCR to continue its work toward convening a diplomatic conference. The Delegation thanked the Chair for the revised text on the broadcasting treaty.

129. The Delegation of Canada, speaking on behalf of Group B, reiterated the importance of updating the international legal framework for the effective protection of broadcasting organizations with a need to better reflecting the current reality faced by broadcasting organizations. The Delegation stressed the importance of reaching mutual agreements on the objectives, specific scope, and object protection of the treaty upon which the 2007 General Assembly's mandate conditions the convening of a diplomatic conference on a treaty for the protection of traditional broadcasting organizations. The Delegation welcomed the discussions held at the previous session of the SCCR on those issues. The Delegation remained committed and looked forward to engaging in further discussions to enhance and consolidate mutual understanding of the various technical elements of the text contained in document SCCR/39/4. It stressed that mutual technical understanding of the reality faced by broadcasting organizations and related issues was crucial in order to agree on how best to address the issues through a meaningful, relevant, treaty text. The Delegation remained committed to contributing to discussions relating to the broadcasting of organizations and indeed toward a meaningful outcome.

130. The Delegation of Uganda, speaking on behalf of the African Group, thanked the Chair for the revised text to be used as a basis for a treaty for the protection of broadcasting organizations. The Delegation believed that it would provide a good basis for further discussions. It remained committed to the negotiations on the protection of traditional broadcasting organizations on a single-based approach. The Delegation stressed the importance of remaining faithful to the mandate of the 2007 General Assembly reiterated by the 2019 General Assembly, which conditions the convening of a diplomatic conference for the adoption of a treaty on the SCCR reaching agreement on the objectives, scope of protection, and rights to be granted. Regarding the text where substantive comments or views were to be made during in-depth negotiations, the Delegation noted that the text was clearer and reflected a clear understanding of the divergent views of Member States. However, there were still significant divergences in positions requiring more concerted efforts from all players. As stated in previous sessions, the Delegation noted that it supported a treaty which carefully balanced the interests of all parties, the broadcasters and the public. A careful balance had to be reflected in where elaborated provisions were and limitations and exceptions to the rights to be granted. The African Group held the firm view that the treaty should also not create a new layer of rights, which would create unnecessary barriers to access to information, culture, education, and the reuse of broadcasting material that was already in the public domain. It should also not create additional costs to the public, in particular, those in the remotest parts of the world. The Delegation noted that it was committed to engaging discussions with full commitment and pragmatism to arrive at beneficial outcomes.

131. The Delegation of China believed that because of technology development in the audio-visual performance, bearing in mind the rights of the rightsholders, it was necessary to protect the rights of the broadcasting organizations. The Delegation welcomed the decision of the General Assembly to hold a diplomatic conference during between 2020 and 2021 and showed support for efforts towards a final treaty. The Delegation hoped that after the meeting, the Committee would carry out full discussions on the text. The Delegation reiterated that as long as the Committee could finally reach a treaty, it would adopt a flexible and active attitude towards the discussion.

132. The Delegation of the European Union noted that the treaty on the protection of broadcasting organizations remained a high priority for the European Union. The Delegation expressed that it was strongly committed to advancing work on the agenda item. The Delegation believed that progress was made at SCCR 38, which allowed members to understand better the positions of various delegations and which was now reflected in document SCCR/39/4. The European Union hoped that further progress could be made during the session, which would enable the Committee to reach consensus on the main elements of a possible future treaty, possibly leading to the convening of a diplomatic conference in the near future. The European Union noted that it was ready for in-depth discussion on the text as consolidated by the Chair and documented in SCCR/39/4 and for exploring possible ways forward on that basis. As mentioned on several occasions, it considered that the Committee's work should be resolved in a meaningful treaty that reflected technological developments of the 21st Century. The Delegation believed that the transmission of traditional broadcasting organizations of a computer networks, such as simultaneous transmissions catch-up transmissions, warranted international protections from acts of piracy. The European Union attached great importance toward a catalog of rights to allow the necessary protection for broadcasting organizations against acts of piracy whether they occurred simultaneously with protected transmissions or after the transmissions had taken place. With regards to the other issues that were contained in the Chair's text, the Delegation held a strong conviction that the examples set by recent treaties in that area, such as for example the Beijing Treaty should surface a template to guide the work of the Committee. The Delegation recalled the need for a broad consensus as to the extent of the protection to be granted so a future treaty could provide broadcasting organizations in an increasingly complex technological world with appropriate protection. The Delegation hoped that the considerable efforts that were made during previous sessions could culminate in finding solutions on the main elements of the treaty and lead to a successful outcome.

133. The Delegation of Qatar attached great importance to the negotiations. The Delegation affirmed its support for members to reach consensus regarding an international treaty. The Delegation bemoaned that Qatar struggled greatly with piracy, therefore, it appreciated losses encountered by other broadcasting organizations suffering piracy and as mentioned earlier, the price of that piracy was not suffered by broadcasting organizations, but those were actually collective losses. Acts of piracy led to content devaluation and broadcasting organizations suffered commensurate losses for future broadcast. The producers were also affected because of their reliance on licensing fees granted to broadcasting organizations. The Delegation noted that that affected consumers and those producers had to abstain from financing productions. To sum up, the Delegation noted that broadcasting organizations and piracy harmed everyone. The Delegation noted that the consideration of a treaty was an impactful first step. The Delegation pointed out the mandate given to the Committee by the General Assembly namely to pursue its work toward the convening of a diplomatic conference. The Delegation looked forward to working with all members to seek consensus regarding the main issues. The Delegation called on members to adopt a flexible attitude to conclude those negotiations for a multilateral agreement which would provide international guarantees for the protection of broadcasting organizations. The Delegation also looked forward to hosting a diplomatic

conference for the signing of the treaty. The Delegation also noted that Qatar would provide support to Member States efforts regarding the Committee's work on limitations and exceptions.

134. The Delegation of Mexico, speaking on behalf of GRULAC, noted Mexico's feasibility in negotiations of a broadcasting treaty based on single-based approach, which illustrated the relevance given to intellectual property by the residing government. GRULAC agreed to the objective of combating signal piracy due to the significant economic losses it entails. The Delegation noted that it was absolutely necessary to update the Rome Convention in light of recent developments given that technology had evolved to include a multitude of possibilities regarding transmissions. The Delegation looked forward to seeing some progress in the current negotiations regarding the theme during the session, and with that in mind, they welcomed the General Assembly's invitation to continue the work toward reaching consensus on the fundamental issues on the protection of broadcasting organizations and convening a diplomatic conference aiming for the 2020-2021 biennium.

135. The Delegation of Ecuador aligned itself with the statements made by the Delegation of Mexico on behalf of GRULAC, and stated that it recognized the related rights of broadcasting organizations, which were considered in Chapter 4 of its national legislation, the Organic Code of the Social Economy of Knowledge, Creativity and Innovation. The Delegation welcomed the document SCCR/39/4 containing the consolidated revised text on definitions, objective protection, and rights to be granted in other matters. The Delegation agreed that the Committee should stick to the 2007 General Assembly mandate though the Committee still needed to cover other technical issues such as scope.

136. The Delegation of Malawi aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group. The Delegation thanked the Chair for providing a revised text, which would form the basis for discussions on the protection of broadcasting organizations. The Delegation noted that progress was made during the previous SCCR 38 Session and therefore looked forward to concrete negotiations on the remaining issues of object of protection, rights to be granted, and scope of protection in order to reach an early agreement on those issues with a view to convening a diplomatic conference aiming for the 2020-2021 biennium as was mandated by the General Assembly.

137. The Delegation of India stated that it supported the early finalization of a balanced treaty for the protection of broadcasting organizations. The Delegation believed that the Committee would work toward factoring its concern in the interest of all the members on the key issues, namely, definition, scope, object of protection, and rights to be granted to the broadcasting organizations to make the draft text balanced and acceptable. The Delegation of India noted that it would continue to contribute constructively in the deliberations of the Committee and was positive that the Committee would be able to resolve all the pending issues in the spirit of multilateral cooperation.

138. The Delegation of Iran (Islamic Republic of) expressed gratitude for productive work in preparing the revised consolidated text in a new format. The Delegation noted that the Committee had a unique opportunity to adopt a treaty that would satisfy all parties and stakeholders in society. The Delegation explained that the Committee should not restrict society's free access to knowledge in order to create the treaty for the benefit of rights holders. The Delegation added that traditional broadcasting remained a central mechanism for access to information, knowledge, and culture in many countries. Therefore, the Committee should avoid granting stronger or additional rights, which would create additional costs for the public and affect access to broadcasted content. The mandate of the General Assembly was confined only to broadcasting organizations in the traditional sense. Therefore, the definition of broadcasting should be limited to the traditional definition and the type of the transmission exploited by traditional broadcasters. Based on the deliberations during the previous sessions, the re were

divergent views among Member States with regard to the scope of the treaty as they were referenced to the extension of the scope of the treaty to apply to Internet originated content and thus by that extension, Internet transmissions. The Delegation maintained that the definition contained in the instrument should ensure legal certainty and should be drafted in such a way to prevent different interpretations and diverse understandings in the future. For instance, the term transmission over computer networks required more clarification, maybe in the form of the agreed statement to assist the common understanding among Member States. While noting the fact that there were some issues, it required more discussion around Member States. The Delegation looked forward to developing an adequate and effective instrument on single-based approach. The Delegation also looked forward to hearing the Chair's views on the revised consolidated text and its differences from document SCCR/38/10 and more comments will be left for informal consultation.

139. The Delegation of Canada agreed broadcast right was important in order to combat piracy and looked forward to working with international partners to find a mutual workable treaty solution. In hopes of advancing the work by clarifying what common ground Member States might share, the Delegation explained Canada's overarching perspective on the draft treaty. Canadian law provides single protection and prevents piracy in numerous ways that nevertheless do not require broadcaster's authorization for certain retransmissions of their signals. That model of protection was developed out of the need to facilitate the wide distribution of certain broadcasts across its large territory, which included many remote areas. That helped their country maintain the national identity, diverse cultural and linguistic heritage and access to important information. The limited retransmission right was supplemented by a number of other protections by broadcasters including other exclusive rights in respect of their signals, numerous antipiracy prohibitions and robust licensing system for re-transmitters and full suite of copyright protection in respect of content and broadcast signals compilations of broadcasters broadcast days and broadcast productions of live events, including live sporting events. Those various measures were implemented across multiple statutes, including but not limited to the national copyright legislation. In light of those national priorities and aspects of the system, and in anticipation of other Member States having similar experiences, Canada believed that the contracting parties to an eventually broadcasting treaty should have the flexibility to maintain domestic broadcasting regimes that ensured the same safeguards, including the flexibility to choose the appropriate domestic policy instruments and measures by which to implement signal protection. The Delegation looked forward to the discussion of those and related issues during the session and hoped for mutual understanding as well as identifying compromises where necessary in order to accommodate Member States' various broadcasting regimes that had similarly developed in response to cultural and practical concerns.

140. The Delegation of Kenya endorsed the statement made by the Delegation of Uganda on behalf of the African Group. The Delegation noted that Kenya was among the first countries to submit to the WIPO Secretariat in 2003, a proposal and treaty language with a view toward contributing toward and facilitating the possible adoption of an updated treaty on broadcasting organizations. The Delegation recognized the Chair's new text contained in document SCCR/39/4, which had enriched and amplified by the inclusion of the proposals made by most delegates as well as those proposals notably made by the Delegations of Argentina and the United States of America, which rightly addressed the scope of protection. The Delegation noted that the Chair's text required more enrichment, more focus in the areas relating to neutrality in definitions, national treatment, and other areas where consensus had not been achieved. It was notable that some of the suggested proposals from Kenya would be in alliance on the tradition set by WIPO in norm making, especially applying some of the tested provisions of the WPPT as well as the Beijing Treaty on audiovisual performances. The Delegation noted that there was substantial amount of consensus on some of the areas that related to the object of protection. The Delegation indicated that that had instilled sufficient convergence. On the rights to be granted, the Delegation noted that there was a general consensus that a single

exclusive right resolving around the transmission had sufficient consensus; however, the only area where there was a lack of consensus and therefore which Kenya would urge members to focus on was to evolve consensus on the scope of protection. The Delegation proposed that reliance upon the proposals made by the Delegations of the United States of America and Argentina would give a good basis upon which progress could be made during that SCCR meeting. The Delegation noted that it would constructively participate and contribute towards the realization of the current mandate of the General Assembly. The ultimate instrument should be modern and forward looking and taking into account of the new forms of signal delivery and platforms of use by traditional broadcasters. Therefore, the Delegation recommended that the SCCR should work towards clarifying those areas where there was little convergence with the view of convening a diplomatic conference sooner than later and taking into account that broadcasting was a matter that had been pending for well over 20 years. The Delegation felt that the broadcasters were of the view that justice had been delayed.

141. The Delegation of Argentina supported the statement made by the Delegation of Mexico on behalf of GRULAC. The Delegation pointed out that a consolidated text for the international instrument would allow for the co-existence with other rightsholders with their own regime, although it was part of a single value chain. In that, the holders of contents depended on the activity of the broadcaster. The Delegation observed that the producers and the CMOs, and about half of the CMO's income, was garnered by broadcasters in Argentina, and for many broadcasters, that was their main income, without which they would not be viable. Without broadcasting, there would be no sponsors. Cultural diversity also benefitted from broadcasting and the recommendation of that, thanks to broadcasters. The Delegation noted that the public benefitted the most from broadcasting, as they had the possibility of listening to the contents at any time, through online transmission. The Delegation added that the public required the broadcasters to be interactive and if exclusive catch-up services were not provided by the broadcaster, they would consider other options because the public needed access to that information. Those interests were protected in that document. While the benefits were clear, the question was who was benefiting from the lack of protection or improper protection? Improper protection would only benefit piracy, which meant there was an urgent need for a diplomatic conference on that. The Delegation noted the consolidation of two legal cultures, the protection of copyright and related rights under the Rome Convention and another the rights to the signal and fixation. The Delegation explained that a solution was needed for the signals that were not protected by copyright. Broadcasters needed an independent right so that it could benefit from all ways of retransmission of its own signal, which would lead to a consensus text on the object and scope of protection.

142. The Delegation of Japan indicated that the submission of the copyrighted work, had been diversified with the development of network technology, as the streaming services were conducted by not only broadcasting organizations but also webcasters and those services were becoming popular worldwide. The Delegation believed that the broadcast conducted by promotional broadcasting organizations would have an important role for the dissemination of works. In addition, broadcast was related in several ways because of its public aspect and thereby fundamental public roles for the public to access various works and the information. The international protection for broadcast was not considered for a long while. In light of that, international protection of broadcast had to be achievable immediately. The Delegation hoped that the discussion would be done on the protection of broadcast protected by the traditional broadcasting organization and based on the 2007 General Assembly mandate for the purpose of the earliest adoption of the treaty. The object of protection and right to be granted were ongoing. The Delegation called for extensive discussion on the object of protection, especially in developing a mission. There were some cases in which traditional broadcasting organizations and webcasters developed the same program by the Internet on-demand services. Based on the similarities of both on-demand services by traditional broadcasting organizations and by webcasters, the Delegation suggested that the Committee have

discussions on whether there was a rationale to treat differently between the traditional broadcasting organizations and the webcasters under the new treaty. To resolve that issue adequately, it was essential that broadcast was protected together with the related rights. The Delegation noted that the current protection of the traditional broadcasting organization was mainly based on the fact that it had the linear broadcasting signal and therefore the broadcasting organizations were responsible for its contents and programming carried on the linear broadcasting. Regarding the differences of the regulation system, the differences of the copyright system, and differences of the current services provided by broadcasting organizations among the Member States, the Delegation proposed that providing a flexible approach for the protection of broadcasting organizations was favorable to conclude the longstanding agenda and to make the treaty universal. The Delegation expressed that it was ready to engage in further discussions in a constructive manner.

143. The Delegation of Burkina Faso aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group and supported all declarations on a balanced rights granting process. The Delegation welcomed the mention of the three-step process in the text, which would avoid potential exploitation. The Delegation recognized the related rights for broadcasting organizations and called for a consensus which would be beneficial for all stakeholders, and eventually a diplomatic conference to approve a treaty.

144. The Delegation of the United States of America continued to support updating protection for broadcasting organizations under the terms of the 2006-2007 WIPO General Assembly mandate, which called for a signal-based approach to provide protection for the activities of broadcasting organizations in the traditional sense. Consistent with that mandate, the Delegation believed that such protection should be narrowly focused. The Delegation proposed a focus on unauthorized retransmission of the broadcast signal to the public over all platforms, including over the Internet as one of the most significant problems facing broadcasting organizations today. At the same time, rapid technological changes taking place in the broadcasting industry as well as legal treatment at the national level presented significant challenges to establishing international norms. The Delegation noted that it had been difficult to achieve a consensus on such fundamental issues as the object of protection and rights to be granted under the treaty. The Delegation was pleased by the meaningful progress that had been made over the past several months in developing ideas that could lead to a greater consensus on the issues raised. Nonetheless, given the complexity of the issues, both legally and technologically, delegations were taking the time needed to deliberate. The Delegation anticipated that those deliberations would continue in a constructive spirit during that session and subsequent sessions. On the basis of progress made during the session and future sessions, Member States would be in a better position to evaluate a possible recommendation to the General Assembly on convening a diplomatic conference for the adoption of a treaty on the protection of broadcasting organizations.

145. The Delegation of Colombia noted that the issue of broadcasting was of major concern to Colombia. The Delegation revealed that there were significant policies in the government to encourage creative industries, and that gave an important role to broadcasting organizations in the transmission of works protected by related rights, access to information, and product architectures of cultural diversity, which was very vital to Colombia. Thus, the discussion on the protection of broadcasting organizations' rights was important one and in line with the mandate of the Committee. The Delegation underscored that it was very important to address the technical issues to achieve common understanding on definitions, object of protection, and other rights. The Delegation thanked the Chair for the progress made in discussions based on the consolidated text on rights to be granted with other issues in document SCCR/39/4 which reflected some very important items and would prove useful for the Committee's discussions. The Delegation stressed the support for the consolidated legally binding instrument on the protection of broadcasting organizations and stated that the Committee had to continue to work

on a common text that would allow the convening of the diplomatic conference in the 2020-2021 biennium to adopt a treaty on the protection of broadcasting organizations in line with the mandate given. The Delegation noted that it would support the negotiation of potential international instrument, which would be binding and in line with existing international treaties, particularly the TRIPS Agreement and the Rome Convention.

146. The Representative of the Knowledge Ecology International (KEI) referred to the issue of piracy and noted that there may be provisions that were necessary to do a better job of addressing piracy issues, while considering the fact that there were also some gaps in protection under copyright, for example, in particular for sports broadcasting. The Representative expressed worry about the treaty's proposed 50 years of protection following every retransmission of content, defined even broader than copyright under the treaty, even in cases where the broadcasting entity didn't create, own, license, or even pay for the content. The Representative found it extraordinary for broadcasters to gain longer protection for things they did not create or own or license than for copyright owners or creators themselves. That posed more restrictive limitations and exceptions under the treaty. The notion that that was just for traditional broadcasting. The Representative pointed out that the streaming services, which were competing against traditional broadcasting without any of those rights were very successful. The Representative pointed out that streaming sites like Spotify and Netflix would find legal means to get the protection which they did not require but customers preferred those paid for streaming services who protected themselves through encryption. The Representative suggested that if the treaty was narrowed as per the suggestion by the Delegation of the United States of America, on the basis of gaps in protection and some short-term piracy enforcement issues, it would be just a much more manageable and sensible instrument.

147. The Representative of Communia noted that the current proposal of the broadcasting treaty was not subject to copyright and content that was subject to non-exclusive free licenses such as creative commons licenses and we find that extremely problematic for users. Additionally, the proposal for exceptions in the Chair's text provided narrow exceptions to protect users that existed for copyrighted works. The draft text stated that countries may extend the same exceptions that existed for copyright, but obviously countries could choose not to do that. The Representative indicated that that posed new international law restrictions on the adoption of limitations and exceptions for parties to the Rome Convention and that was more restrictive than the Berne Convention, which was mandatory exceptions for the use of the day and quotations and permissive exceptions for educational and other uses. The exceptions provisions in the broadcasting treaty were particularly important and different from the issues covered in the WPPT and Beijing Treaty because they could add a layer of rights clearance of copyrighted content. In order to avoid creating new obstacles to access to culture, knowledge, and information, mandatory exceptions and limitations were to be adopted. In addition, no rights were to be placed on the works that were in the public domain or openly licensed.

148. The Representative of the Japan Commercial Broadcasters Association (JBA) appreciated the Chair's effort to improve the revised consolidated text into treaty format, which were contained in document SCCR/39/4 and noted that the document would be helpful for the constructive discussion. The General Assembly adopted the recommendation of a diplomatic conference earlier but there was one more step to go before going to a diplomatic conference, which was to reach consensus on the fundamental issues, including specific scope, object of protection, and rights to be granted. The Representative recalled that the principle of the international treaty was to set the minimum standard and was a product of harmonization. Based on that principle, the JBA pointed out two issues on object and rights to be granted, which were focal points of the discussion by taking into account the current situation in SCCR where Member States were not been able to reach consensus due to the different domestic situations. As the object, the protection of deferred transmissions could be optional to overcome the difference of opinion. As to rights, it would be preferable to make room for the

discretion of each country as to what kind of measures had to be provided, as long as they would fight against piracy, which was the main purpose of the treaty. The Representative also suggested holding a special session aimed for further acceleration of discussion toward the adoption of the treaty.

149. The Representative of the Karisma Foundation elaborated on the dangers citing the instance of recording a football match. The Representative noted that videos of only a couple of seconds that were recorded in the stadium or off television sets were continually withdrawn from those platforms, supposedly because they were infractions of copyright. That happened automatically without any review on whether it was categorized under fair use, limitations and exceptions and it seemed that people taking some of those videos were not the only ones affected. Others included artists who also found themselves in infringement of copyright on those platforms. Particularly, when those were in reference to original works from those artists. The Representative hoped that by pointing out some of the dangers that could arise out of the debate, the Committee would be able to find new ways to implement copyright, but it needed a balance in terms of the enjoyment of fundamental rights. The Representative urged members to consider public interest as well as fundamental rights.

150. The Representative of Alianza de Radiodifusores Iberoamericanos para la Propiedad Intelectual (ARIP) noted that the treaty was very essential for broadcasting organizations and television broadcasting organizations around the world, and requested for the scope to be in line with other rightsholders. The Representative cited the Rome Convention where artists, performers, and phonogram producers had a certain number of rights. After 1996, there were a number of international treaties produced and as works on broadcasting treaty continued, the Committee was convinced that a new treaty would be formed soon but in Latin America, a certain relationship with Europe via Spain, was witnessed and that was important because there could be a minimum-standards treaty. In Europe, certain rights were recognized and there was a greater and lesser degree of protection in a number of countries. ARIP noted that it was very concerned to see certain rights of copyright and related rights not being properly represented. For example, in related rights, that was a major concern. Artists and producers needed to be protected through the provision of a legitimate treaty. The Representative called for a treaty that was in line with previous treaties. The Representative noted that its cause had always been not for profit, and some broadcasting organizations that had been around for more than 100 years held that position, and noted that it would be unfortunate to have continued free access as a lack of recognition for the work of the creators.

151. The Representative of Copyright Research and Information Centre (CRIC) urged members to make the most of the opportunity to deepen the discussion further to reach consensus on the fundamental issues based on SCCR/39/4 as the General Assembly had adopted the recommendation of SCCR 38. The Representative noted that the Internet was an important communication tool around the world, however, its social laws were different in each country or area. For broadcasting organizations, the social function of communication was noted as the most important base for their protection. Nonetheless, provision of their social function by way of what kind of measures of transmission was relative to each country's domestic situation. Given that, the Representative called for an optional solution in the area of object of protection that each country would accept. The measure of implementation for that treaty would be governed by the law of each contracting parties, such as Article 5 Paragraph 2 of the Berne Convention. The Representative noted that the domestic laws did not have to be limited to copyright laws and contracting parties could implement by combination of various rules of copyright. The Representative urged the Committee to make a working document and furthermore, draft basic proposal based on the spirit of harmonization.

152. The Representative of the EIFL.net noted that broadcast rights affected access to broadcast content and suggested that libraries had to ensure that the new right did not create

new impediments to accessing that content. The Representative pointed out two important criteria. First, exceptions to the signal had to be in line with exceptions to copyright and related rights and the term of protection for the signal should not be greater than the term of protection for the content it was carrying. The Representative indicated that the revised consolidated text, SCCR/39/4 failed on both of those issues. The article on limitations and exceptions was optional and not mandatory. It did not provide for mandatory exceptions as in other treaties such as quotation in the Berne Convention, making of accessible format copies in the Marrakesh Treaty, and laws like the European Union Digital Single Market Directive on preservation of cultural heritage. Exceptions had to be mandatory and countries should be able to introduce other exceptions according to national needs. The term of the protection for the signal was effectively longer than the term for content and by allowing post-fixation rights to apply to mere retransmissions, the term in the treaty was potentially perpetual. The Representative believed that that would worsen the orphan works issue as countries worked towards addressing the issue. The term of protection should be very short and should not apply to mere retransmissions. To ensure fair access for social, educational, and public interest regions and to protect access to content in the public domain or license under an open-content license, those issues must be addressed in the text.

153. The Representative of International Federation of Library Associations and Institutions (IFLA) reiterated the views of the Representatives of Knowledge Ecology International (KEI), COMMUNIA, Karisma Foundation and others. The Representative noted that there were many other complexities in achieving the traditional public interest role of preservation and supporting education and research. The Representative pointed out the need for simplicity and clarity, however, the work was more difficult by the addition of new rights, especially as those risks were increasing the likelihood of a work becoming orphaned. The Representative noted that adding new rights may apply for longer and may not have equal or additional exceptions. The Representative explained that though it was necessary to create new laws on certain issues, the Committee needed to assess if that was a proportionate and effective means of achieving the pursued objectives.

154. The Representative of the Asia Pacific Broadcasting Union (ABU) pointed out the challenges technology had posed to broadcasters and noted that it was necessary to adopt the broadcasting treaty. The Representative noted that the treaty needed to cover all forms of online piracy and that it was necessary to include the catch-up services in the treaty. The Representative hoped that the draft would be ready during the following session in order to present it to the diplomatic conference within the 2021 biennium instructed by the General Assembly.

155. The Representative of the North American Broadcasters Association (NABA) reiterated the importance of stronger updated protection of broadcast signals at the international level. The Representative noted that piracy posed a serious problem, damaging the interests of broadcasting organizations and all stakeholders who participate in the activity of broadcasters. The Representative explained that a new broadcasting treaty needed to be meaningful in that complex technological environment which provided easy and inexpensive ways to pirate signals and preserve the basic framework of recent WIPO treaties regarding important provisions such as limitations and exceptions, technological protection measures, and others. The treaty should be flexible to allow implementation in different ways to accommodate the differing legal systems of different Member States. The Representative was pleased with the progress made to date on the informal Chair text and hoped further progress could be made during that session.

156. The Representative of the European Broadcasting Union (EBU) acknowledged the Chair for the revised text and the WIPO Secretariat for all the progress made. The Representative was hopeful for the finalization of the treaty within the next biennium as more consensus was

being reached.

157. The Representative of the International Council on Archives (ICA) noted that when the new broadcast treaty went beyond signal protection into post-fixation rights, archives to ensure fair access to broadcast content. Many archives included fixations of the programs and newscasts of broadcasting organizations. Those works were important evidence of the social, cultural, political, and historical life of the community or the nation. The Representative noted that a new layer of rights that affected access to content was an additional barrier to access to knowledge. Archives would have to deal with an additional set of rights holders to clear rights for access, creating extra costs and complexity to the rights clearance process. Furthermore, it would add to the extensive orphan works problem for which no satisfactory legislative solution had yet been found. Therefore, the proposed broadcasting treaty must contain a robust mandatory set of exceptions that would be future proof for changes in technology and could not be nullified by contracts or technological protection measures. Such exceptions had to permit private use, reporting of current events, use by libraries and archives, use for the purposes of teaching and research, and making accessible that material for persons with disabilities.

158. The Representative of Education International (EI) noted that while new exclusive rights for broadcasters were in the process of being created, it was imperative to revive the alternative provision contained in the revised consolidated text SCCR/36/6 on definitions, objects of protection rights to be granted and other issues. The Representative proposed that the lists of exceptions in SCCR/36/6 should be mandatory and to include provisions protecting government's ability to pass further limitations and exceptions as established in other international agreements. The Representative hoped that the concerns of teachers and researchers would be heard and be taken into consideration by the delegates in the negotiation ahead.

159. The Delegation of Morocco welcomed the decision of the previous session of the WIPO assemblies, which encouraged the Committee to take a decision on the convening of a diplomatic conference on the protection of broadcasting organizations. The Delegation considered that the SCCR would work in the right direction to guarantee the protection of all copyright holders. Based on the significant progress, which had been achieved at the previous sessions of SCCR on the subject, the Delegation hoped that additional progress would be made on the basis of the revised consolidated text on definitions, object of protection, rights to be granted, and other issues prepared by the Chair and contained in document SCC/39/4. The Delegation hoped for a well-balanced treaty that provided the necessary protection for broadcasting organizations against piracy according to the SCCR's mandate, and that required a technical understanding of the problems facing broadcasting organizations themselves to decide on the most appropriate way of countering that with a treaty. It was prepared to work towards a consensus that would offer broadcasting organizations adequate international protection, mutual understanding, and the integration of the concerns and priorities of Member States were essential to make progress. Thus, it was necessary to achieve international norms that could be accepted by everyone independently of cultural and other context. The Delegation expressed that it would show sufficient flexibility to accommodate the common interest in the international arena, and take accounts of particular national positions with a view to promoting compromise. Given the technical nature of the subject, the Delegation suggested that the Chair should prepare an analytical document on the subject, as was the case in other Committees, so as to simplify the discussions and lay out the approaches without pre-judging the outcome.

160. The Delegation of Botswana aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group. The Delegation believed that the revised text would provide the basis for progressing discussions towards a treaty for the protection of broadcasting organizations. The Delegation also recognized progress made in the previous sessions of the

SCCR and hoped that the Committee would make further progress on reaching consensus on the standing fundamental issues of the treaty, mainly the specific scope of protection, and thus enabling the Committee to recommend the convening of a diplomatic conference during the 2020-2021 biennium. The Delegation expressed commitment to engage with other Member States on the subject.

161. The Delegation of Nigeria aligned itself with the statement delivered by the Delegation of Uganda on behalf of the African Group. The Delegation indicated that the revised consolidated text, SCCR/39/4, incorporated most of the concerns raised by several delegations, noting the progress made by Member States and formed a good basis for in-depth discussions and further negotiations. The Delegation looked forward to greater consensus on an instrument that would address the rights of broadcasters and the public within a balanced framework that would not create new layers of rights, and to engaging further in the same constructive manner with a view toward the work of the Committee towards an early diplomatic conference and a treaty for the protection of traditional broadcasting organizations on a single-based approach. The Delegation underscored the need to conclude work on that important agenda item which had become more urgent due to diverse cases of signal piracy. There was still work to be done in reaching consensus on some of the issues, such as the object of protection, rights to be granted, and scope of the rights to be protected. The Delegation looked forward to the discussions, particularly, on the matter with a view to finding some consensus. Regarding the exceptions and limitations to be provided in the proposed instrument, the Delegation expressed commitment to further constructive discussions against the backdrop of the other substantive issues. The Delegation also noted the need to advance the legitimate interest of society in the use of broadcast as a vehicle for the promotion of information, culture, and education in a manner that would not further jeopardize access to public domain materials.

162. The Delegation of Senegal was certain that all matters would be tackled in the same spirit of balance that prevailed in previous treaties. The Delegation urged all members to progress towards a diplomatic conference.

163. The Chair took the Committee through the revised consolidated text contained in document SCCR/39/4 and acknowledged the contributions of various Member States during the brainstorming sessions, which had helped in developing a much comprehensive document. It recalled that the previous Chair's text contained elements of the key issues, but for substantive reasons, there ought to be a preamble and provisions. Document SCCR/39/4 had been worked together with the friends of the Chair process. The content page consisted of a preamble as well as administrative and final clauses to the text. The preamble and administrative final clauses were critical elements of the text. The Chair acknowledged the efforts of the previous Chair of the SCCR, whose draft treaty on broadcasting had helped the Committee tremendously. The Chair noted that the preamble as well as the general provisions, on page 3 and 4 of the text were based on a large extent on Mr. Lieder's draft. The Chair highlighted the context of the treaty. On page 4, there were two general provisions, which were quite standard in treaties. The first provision had to do with the relation between the treaty and the other types of intellectual property rights which addressed concerns by different stakeholders and different members that that should not in any way impact on the copyright arena. The second article talked about the relation of that treaty to other treaties, including Rome. There were no notable differences with the substantive provisions from the Chair's text. Regarding the object of protection, there was a new proposal presented by one of the friends of the Chair in relation to preventing access to the program-carrying signal. The idea was to brainstorm around formulation, rather than to try to describe every form of deferred simultaneous. In the next article, rights to be granted, the Chair pointed out that the first Article 1 of alternatives were similar. There was consensus around the fact that the rights to be granted involved providing exclusive right to authorize retransmission by any means. Alternative two, was a proposal by the United States of America to address concerns raised by their jurisdiction, that parties may

through notification confine or apply the treaty only to certain retransmissions and provide adequate and effective protection. There were no significant changes to the article on beneficiaries of protection, limitations and exceptions, TPMs and RMIs. The Chair noted that for the administrative and final clauses, it considered the processes by which other treaties such as Beijing and Marrakesh were negotiated. The Chair observed that with those treaties, there were always some various standard clauses, ending clauses, assembly, international bureau, eligibility, signature, entry into force, among others. Those were left undrafted because it was best for the drafting committee to undertake that role as it moved towards a diplomatic conference, should progress be made in that direction during that biennium. The Annex included two proposals which were to be considered for discussions. However, there were all kinds of discussions and questions around that, and believed it was prudent to put them into the Annex. The first proposal in the Annex proved that the Berne Convention Protection for copyright would apply to collections if by reason of those selection enrichment of the content, they could themselves constitute intellectual creations. The Chair noted that that was a proposal from a country that attempted to protect broadcasting more towards the copyright basis rather than on the related rights basis. The second proposal was on RMIs and some language as to whether or not the watermark, used by broadcasters in their industry practice to protect and prevent piracy, could be incorporated as a concept under RMIs. The Chair thanked the Friends of the Chair for their contributions. Given the technical nature of the subject, the Chair suggested that it would be ideal to hold informals to discuss the text and share additional views.

164. The Secretariat informed members about the details of the meeting. The Secretariat noted that it would offer the opportunity for representatives of observers and Member States to remain and to hear the discussion of the Member States as well as to see the transcript on the screen. That decision was taken to ensure that all information that was conveyed during that negotiation would not be conveyed outside the proceedings. That meant that there would be no form of dissemination on social media or in any other form. The Secretariat urged all relevant parties to fully cooperate as per the system the WIPO Member States had requested in return for allowing the observation of their informal negotiations.

165. The Delegation of the United States of America observed that countries that did not have a system like the United States which allowed exclusive licensees automatically to enforce rights in court could then rely on presumptions. The presumption could apply even for either an exclusive license or nonexclusive license, depending on the particular country's legal system. The Delegation noted that it intended to give flexibility so that countries could handle that domestically as they deemed fit.

166. The Delegation of Argentina asked the Delegation of the United States of America if national treatment would be sufficient for rights holders from other countries who would have to make claims in the United States. For example, if an Argentinean broadcaster whose signal was captured and rebroadcast in the United States, if that person was operating under US law, if one were looking at sports for example, could national treatment give that person enough protection without needing to go through all those mechanisms for exclusive licensing, for example, for other provisions. The Delegation indicated that if the North American broadcaster had rights and national treatment would be implied then the foreign broadcaster should have the same rights without needing to go through those mechanisms. The Delegation proposed that foreigners whose signals might suffer infringements would have the same level of protection as a United States broadcaster.

167. The Delegation of the United States of America noted that under the treaty, national treatment would be given to foreign broadcasters.

168. The Chair pointed out a proposal presented by the Delegation of Argentina with reference

to Alternative 2, and in particular, in the notification depository provisions of Alternative 2, which was proposed by the Delegation of the United States of America

169. The Delegation of Argentina pointed out that it was looking at the rights to be granted which linked the holder of the signal to the holder of the content. That was a new situation, which made understanding difficult given the mandate of a treaty based on the signal. If there were extraordinary circumstances, the State could make a statement before the Director General and request another type of protection, but that should not be an option, an open option ordinarily used by any country who would, perhaps like to choose any option. The Committee had little control over that option. That was a possibility that could be reviewed under very particular circumstances when a country or group of countries wanted to make that kind of request and to explain the reasons to the Director General for that request and inter alia, why they should be able to resort to a regime which was not based on the signal but rather the content. In view of that, the Delegation proposed for a text that would stipulate that it was not an open and free option, but only open for certain exceptional circumstances, because given the legal regime of a particular country, that was how the choice could be justified. The Delegation advised that it was not appropriate to open up that possibility to any particular country to have recourse to that particular option.

170. The Chair asked the Delegation of Argentina to explain the language to aid in discussions as the concept restricted the parameters in which someone could provide the notification, and therefore qualify the extension of provisions of Article 1.1 on certain retransmissions.

171. The Delegation of Argentina noted that the rights of the broadcasting organizations would be subject to an authorization of the copyright holder of the content, which is not usually what happened in the context of broadcasting. If there was unprotected content for which one would enact authorization, and that was just a measure that might be requested based on prudence, there could be a solution for that type of content where the broadcasting organization under its own initiative might have recourse to that or that measure. If there was non-copyrighted content, then the program carrying signal's holder, under Paragraph 1.1, provided that they would have the necessary authorization to put in place any measures or legal measures to enforce the rights on the content, provided that they would be granted the authorization from the producers. Now, the producers could be an Olympic sports committee or any sports committee, or any other organization of a tournament or the organizers of the content, for example. That could be someone who is not given the authorization because that person was simply the owner of the place where the content took place or that could be information provided by the broadcasting organization itself. The Delegation noted that the text would give a greater margin to maneuver when there was not clearly identified content or where the content holder was not clearly identified.

172. The Chair asked if by adding what had been highlighted would replace 2 and 2bis or 2 and 2bis would carry on after that. In Alternative 2, there was the new paragraph 2 and a new paragraph 2bis. The Chair asked if 2 and 2bis would still be required?

173. The Delegation of Argentina noted that it was good enough to understand that the principle should be applied to under the text when that condition was met.

174. The Delegation of United States of America noted that the proposal addressed some of the issues about sporting events and hoped that the language could address matters relating to live events in a more narrow and targeted way. The Delegation indicated that one of major concerns about adding the language was to ensure that the content embodied in the program carrying signals was protected under copyright or related rights. The Delegation proposed for a system outlining a country's approach on protecting broadcasters, including both copyrightable material and non-copyrightable material. The Delegation underscored the

importance of having a system that recognizes that a country provides a combination of rights that covers the entirety of what's in the broadcast rather than trying to parse it and analyze which program was protectable by copyright and vice versa. The Delegation suggested that the contracting party should provide the broadcasting organization with the right set forth in Article 1.1 in the presumption that the broadcasting organizations were authorized to enforce the rights of the producers of non-copyrightable content, highlighting the concern that it was not possible to get authorization from the producers of non-copyrightable content, and so the desire to say that there would be a presumption. Certainly, signal protection, the right that was expressed in 1.1, covered signals that were used to transmit non-copyrightable content, and the definitions emphasized live events as well as fixed works, but in cases where the signal protection was limited in some way and supplemented by rights in the content, it could not be supplemented by rights in public domain content. The broadcaster should be able to protect its signal even when transmitting public domain content, but it shouldn't be able to go to court to assert rights in public domain content, because as a policy matter, that content was in the public domain. The Delegation raised concerns over the second sentence. which had to do with what happens and how the broadcaster asserted rights in an entire programming flow that includes both copyrightable and non-copyrightable content. The Delegation observed that they did not need authorization for things that were not protected by copyright, and they themselves in the system, would have copyright in the compilation of all the different elements put together in the broadcast day. The way to deal with the concerns, in particular, about live events would be to explicitly address them by adding language at the end of the paragraph, instead of what was in yellow that had been proposed by the Delegation of Argentina now, to add instead, and put the two different versions in brackets on the screen. That would be a combination of the right provided for in Article 1.1 in copyright or related rights, put in brackets, or other rights with respect to programs that consist of live events. Thus, in countries that protected live events through copyright, as in the United States, that would not be necessary whereas in countries that did not protect live events through copyright, that would be relevant. So, the total package on any limitations of the exclusive signal protection right, would include both copyrighted content and live events. The Delegation proposed a provision that would say that where in a particular contracting party, live events were not protected through copyright, the contracting party would make it possible for broadcasting organizations to protect those programs that consist of live events in the same way and in the same circumstances that they could protect copyright content or rather enforce rights and copyright content. That wording was simple without any interference into public domain content and was much more narrowly focused on live events.

175. The Delegation of Argentina noted that in the Delegation of United States of America's definition of direct transmission, that was part of public domain, and a basis of why programs rights could not be protected.

176. The Delegation of the United States of America explained that in the United States, a transmission of a live event was protected by copyright because it was simultaneously fixed. Initially, it didn't think it needed any specific reference to live events, but it realized that it was not always the case for other countries, as some live events were not protected through copyright, even when simultaneously fixed. The Delegation emphasized that in those countries, the total package of rights available to the broadcasters, should include protection for the ability to assert rights in the live events to the same extent as they were able to assert rights in copyright content. The Delegation noted that its retransmission content regime cover broadcasts of live events to the same extent as broadcasts of copyrighted works.

177. The Delegation of Canada stated that the Canadian system functioned similarly to the United States, thereby having similar concerns with the general language suggested in that paragraph and proposed for a much more targeted approach.

178. The Delegation of Singapore queried on how the system protected live events by way of copyright protection.

179. The Delegation of United States of America referred to the situation when a work is fixed simultaneously with a transmission, it was considered fixed for purposes of copyright. The Delegation pointed out that those live events contained, typically, originality in the choice of camera angles, as a broadcast included a lot of creative choices, and so therefore it was generally protected by copyright.

180. The Delegation of China commended the Delegations of Argentina and the United States of America for their inputs to help broadcasters enforce their rights in instances where there was no coverage for protection. The Delegation noted a few issues. The first issue had to do with the public domain and the existence of an independent protection of broadcasters' rights comparably similar to the WPPT with the phonogram. The Delegation pushed for broadcaster's rights. The Delegation appreciated the proposal from the United States about the importance of the protection of live events. However, the Delegation noted that for the protection of broadcaster's rights, live transmissions were not the only kind of transmission that needed protection under the treaty. The Delegation called for further explanation and find simple ways to collectively solve the problem. The Delegation proposed for a non-copyrightable protection to be described in the clause to deal with other problems like non-exclusivity.

181. The Delegation of the United States of America quoted the United States legislation on fixation. The Delegation pointed out that the exclusive right of broadcasters to authorize the retransmission to the public of the program-carrying signal remained a core part of the treaty. If a contracting party limited that right in certain ways, they needed to make up for the limitations by allowing the broadcaster to assert rights in the content being broadcast, so that is where if it was public domain content, there should not be a separate right to go to court and assert rights on the content. There was, however, a right under that first paragraph to assert rights on the signal even if the content was public domain, so there was a simple right for broadcasters that covered signals carrying any type of program, copyright protected or not. To the extent that there were some limitations on that right, there also had to be some additional protection for the content itself to which the paragraph sought to address. The Delegation pointed out that the general right, the definitions in the treaty and the article on definitions and program were defined to mean live or recorded material consisting of images, sounds, or both, or representations thereof. There was clear protection for the broadcaster in the signal that sent either live or recorded material. content. The Delegation strongly believed that additional protection could not extend to public domain material, as opposed to live events.

182. The Vice-Chair sought clarity regarding the United States of America's position to not have 2 or 2bis.

183. The Chair noted that though the question posed was very technical, it was essential, but that since there were no practical solutions, the issue would be revisited after discussions on the other areas of the text had been completed. The Chair introduced the beneficiaries of protection under other issues and asked the Secretariat to focus on Paragraph 5. The Chair noted the issue of reciprocity, where there had been different proposals and a movement of a reciprocity or national treatment type concepts. The Chair pointed out that Paragraph 5 was proposed by the Delegation of the European Union and invited opinions on the reciprocity national treatment issue.

184. The Vice-Chair noted that it was proposed regionally because that was something that was derived from the Rome Convention so it was essential to create consistency around broadcasts. In particular, for example, certain Member States that had made use of such a declaration in the context of the Rome Convention could perhaps maintain as it was.

185. The Delegation of Iran (Islamic Republic of) pointed two particular conditions, which were proposed for protection of broadcast in the paragraph. The main point was that the headquarters and transmitter both should be located in the same country, but in a case that headquarters and transmitter both were not located in the same country, then some beneficiaries would be excluded from protection. The question was, in such a situation how could the protection be proposed for such an organization that had headquarters in one country but transmitters, in particular, in border areas. There was a subdivision in countries when geography imposed that countries put transmitters in neighboring countries to project the signals to particular geographical areas.

186. The Delegation of the European Union noted that that was a more narrow view of the beneficiaries of protection, so certain broadcasters might be included in that moment. Notwithstanding, the Delegation noted the development of the online world and its influence.

187. The Delegation of Iran (Islamic Republic of) pointed out that the transmitter for some organizations had been indicated. The Delegation noted that it could be a totally different situation in the future as technology developed.

188. The Delegation of Kenya pointed out that according to Paragraph 2, referencing the alternative that headquarters of broadcast organizations could be treated in another contracting party, the organization would not need to fulfill the two requirements, just one. The Delegation noted that in the modern broadcasting system, the location of the transmitter may not be extremely relevant.

189. The Chair noted that the mandate given by the General Assembly did not require the Committee to produce a perfect text as those areas could be taken care of in the drafting committee and diplomatic conference. Nonetheless, the Chair noted that it was a good opportunity to go through the issues because that aided in clarifying some issues.

190. The Delegation of the United States of America observed that that it did not have a position on the bracketed text proposed by the Delegation of the European Union. The Delegation suggested that national treatment be dealt with in a separate article from beneficiaries of protection, as done in past treaties like the WCT and WPPT because conceptually it was a somewhat different issue which was worth putting in a placeholder article because it would be an important issue with regard to the scope of rights.

191. The Delegation of the European Union suggested that on the technical aspect of national treatment, it would be ideal to put it in a separate paragraph. However, it noted that there was existing text in brackets in Paragraph 4 on national treatment, which was evidently a very important issue to look into the national treatment clause, but that could not be elaborated on until there was clear language on the core issues.

192. The Chair invited the Delegation of Brazil to share its proposal on Paragraph 3 on TPMs.

193. The Delegation of Brazil noted that its proposal was to protect broadcasting and to curb signal piracy. The Brazilian legislation provided exclusive rights and that protection lasted for 70 years. The Delegation however cautioned members not to create a layer of rights which could cause an imbalance on other legitimate rights as well. The treaty should follow a single-based approach and was supposed to modernize the system.

194. The Delegation of Argentina noted that it was in agreement with the statement made by the Delegation of Brazil.

195. The Delegation of the United States of America noted that on the TPM language, the Delegation of Brazil's proposal was built on what was an agreed statement in the Beijing Treaty and moved into treaty text as it did not include a number of the very specific safeguards that were included in the Beijing language. The Delegation called for further discussions in that regard to ensure certainty.

196. The Delegation of Brazil thanked Argentina and United States for their submissions.

197. The Delegation of the European Union reiterated the view of the Delegation of the United States of America on the third bracketed paragraph, as that came further from the agreed statement. The Delegation stated that that was not necessarily the language that should be used, as such, further reflection would be necessary on that.

198. The Chair encouraged the parties to talk about the issue and find possible solutions to it. The Chair introduced the provisions on RMI, with a proposal from the United States of America.

199. The Delegation of the United States of America observed that in a lot of the informal conversations about the treaty, broadcasters used watermarks on their broadcasts. It seemed to be another way to protect broadcasters against piracy because their watermark showed that content was taken from their broadcast. The type of watermark technology used by broadcasters would fall within the definition of rights management information as covered by the treaty, but it might be useful to have an agreed statement that made that clear that was another tool for broadcasters. The Delegation noted that they would not propose changing the text of the article on RMI because it was standard text which was used in a lot of treaties and they did not want to start making changes that would suggest things about the lack of similar language in another treaty. The Delegation pointed out that the exact language in the agreed statement was probably a bit too broad and that it seemed to cover not just rights-management information but also possibly technological protection measures covered by the TPM article. The Delegation suggested for the deletion of "to protect or control access" because the discussions were on data that was used to identify and monitor the broadcasts. It also called for the deletion of "or is false" in the article itself to maintain the existing standard RMI language.

200. The Chair noted that that was discussed in a *Friends of the Chair* process and believed that was the result of a number of conversations around how broadcasters used watermarks to track pirated content.

201. The Delegation of the European Union underscored the need to clarify the text most importantly, on watermarks. Through discussions, it was very clear that from a practical point of view, watermarks were a very important means to be able to identify whose program it was, and obviously that entered the information at the same time was also very important so it could support an agreed statement that was also clear on the protection of watermarks. The Delegation indicated that the relations made sense but there was a need for further discussions of that text to make it the more useful for the purposes of the Committee.

202. The Delegation of China underscored the importance of program-carrying signal which was very important to protect signal. To protect and control, access should be deleted if watermark was used. The watermarks main function was to identify signal rather than protect and control access. It was important to focus on the rights management information embedded in the signal. The Delegation also proposed other ways such as block chain technology to embed management information, which it believed was more useful and functional for the future. The Delegation noted that in China, watermark was largely used in cinemas but sometimes, the broadcaster also tried to study how to use watermark to identify the right management information embedded in signals and there could be room for better protection.

203. The Chair asked the Delegation of Canada if watermark was used around the world. The Chair noted that block chain was the next phase of technology, and noted that if the treaty came into force, the Committee would be the first to use block chain in treaty language.

204. The Delegation of Kenya noted that on broadcasting activity in most parts in Africa, watermarks were not really used but rather conceptualized. However, the Delegation noted that rights information systems could be applied rather than specifically talking about watermarks.

205. The United States of America noted that it wanted to make that example about data embedded in a signal in order to identify and monitor the broadcasts, but that it gave watermarks as an example because that was a common example.

206. The Delegation of Qatar sought for clarification on legal remedies against any person. The Delegation asked if persons included entities, and if it did not, provisions be made in that regard. The Delegation also noted that there was a lot of emphasis on broadcasting organizations and pirates on one hand, but there were also intermediaries in between and there probably should be some type of language that addressed that intermediaries might facilitate or allow infringement, such as satellite operators.

207. The Chair indicated that the context included both natural and legal persons because acts of piracy would be conducted by both types of persons. In general, persons defined both and was part of the definition section. On the intermediary's part, the Chair invited comments from members.

208. The Delegation of the United States of America explained that persons included entities, noting that that understanding was essential to make the provision meaningful, as it was noteworthy to cover entities as well. Any person could be an intermediary in terms of the possibility of some sort of secondary liability for acts of another, a grey area that had been avoided in such treaties. Generally, an overview of the rights were given without questions of whose responsibility under what theory of liability. The Delegation observed that that was a difficult and controversial issue, which was dealt with differently in countries. The language was reflected in at least three other treaties, it was just difficult to make changes in it without having any unintended implications.

209. The Chair referred the Delegation of Qatar on the enforcement of rights provision, which stated that contracting parties had the flexibility to implement measures necessary in the accordance to their legal system. Therefore, the Chair noted that the issue of secondary liability was a difficult issue, without common practices, and so to put it into the text language could pose further challenges. The Chair noted that that there was quite a positive approach towards the language on the data embedded to identify and monitor broadcasts, and noted progress made and noted that it would be moved to the main text. The Chair clarified the Chair's text and noted that it reflected the language towards consensus. The Chair highlighted previous discussions on the provisions in the other issues, relating to RMIs. The Chair noted that the annex of the means of implementation in relation to other rights entailed language on the relationship between copyright and under Berne, the exclusive rights under that Treaty. The Chair called for views regarding the provision.

210. The Delegation of Argentina noted that the reason for including it was as a result of the suggestion from the Delegation of the United States of America to consider the protection of copyright for compilations. The Delegation noted that that made sense as the system separated broadcasters' rights from content and gave separate rights to the broadcaster when their claim was on piracy of the signal in its entirety and not a specific program. The Delegation called for a more definitive approach towards compilation.

211. The Chair stated that he was not sure if that reference was included in the Berne Convention, however, he hoped for an agreed statement on what compilations and collections were particularly with regard to a flowing signal. It was a reasonably new concept and that there were very few jurisprudences on previous cases on compilations with regard to signals.

212. The Delegation of the United States of America noted that it would be useful to indicate in the treaty that in many legal systems, including in the US legal system, broadcasters could have rights in a compilation of the programming as a whole. That was a very familiar concept to the Delegation that when someone selected a number of different elements, which could include copyrighted and public domain material, if there was some original selection and arrangement of those there was copyright protection in that selection and arrangement and not just in the materials themselves, but in the totality of how they were put together. As to specificity, the Delegation observed that there were some interesting questions about the beginning and end of a compilation and what that entailed. The Delegation stated that it looked forward to further discussions on that. The Delegation stated that it was not certain about the type of detail in the treaty language. Because the language of the Berne Convention did not provide more details, the Delegation believed it would be helpful to have additional conversations. However, it noted that it would be very difficult to try to give a very high level of specificity in treaty language about what constituted a compilation under Berne.

213. The Delegation of the European Union noted that compilation could be used as the elements for protection under broadcasters. There was still little clarity of how that could be in practice helpful for the Committee's purpose. One of the questions that the Delegation had was on the nature of the protection because in the typical case, in the compilation that was protected, there was the assembly or the intellectual effort in the specific assembly of the element. That did not however protect the copyright of the individual poems, and though the discussion in that Committee were a different situation, especially in the broadcasting sense, that could be useful in the protection of the program flow of the broadcasters. The signal that needed to be protected in that treaty left a lot of open questions for the Delegation and as such, it was difficult to see how that could fit in. The Delegation stated that it was happy to explore that not as a means of implementation but rather a reference. As those issues were not yet clear, that could also serve as a solution for the moment in the annex.

214. The Delegation of Colombia stated that a compilation or a database was protected in many countries showing originality. The Delegation stated that it was looking to clarify something that was already set out in other international frameworks and multilateral treaties, and that could help with discussions. There were technical and complex elements to be discussed. With regard to the Delegation of Argentina's comments as to whether the compilation or the database was changing, the Delegation noted that was an ongoing conversation.

215. The Delegation of Kenya reiterated concerns about extending the scope of protection of the treaty to compilations because it believed that compilations were not part of transmissions, unless it was clarified that those compilations were subsumed into transmission by way of scrolls on the screen. But those were compilations which existed independently of a transmission by way of literary work: The Delegation noted that it did not, feel it was not necessary. The Delegation proposed for it be expunged as it did not see the value that would be added to the document in question. In most jurisdictions, the law, jurisprudence was not very clear as to the extent to which compilations were tracked copyright or otherwise.

216. The Delegation of Indonesia noted with interest how the Berne Convention applied to collections or selections on the program or collections or anything to be tracked by copyright

infringement. The Delegation affirmed the value of that kind of provision. It would be that when program-carrying signal were protected, it did not go through or apply automatically to individual content within the program-carrying signals, so that would be very important, especially for those programs that were entirely in the public domain to make sure that they would be treated accordingly.

217. The Delegation of Iran (Islamic Republic of) followed discussions and observed other copyright conventions and how they addressed the particular article in relation to other conventions and treaties. However, the Delegation observed that there was no separation between rights and that one separate article on relation to other rights and another one on relation to other treaties. The Delegation asked why there was a proposal to separate the relation with rights and with other conventions as there was no need to have two separate articles in relation with rights and other conventions and treaties. The Delegation called for that same approach to be followed.

218. The Delegation of the United States of America reiterated the importance of the meeting to provide appropriate protection to broadcasters against the signal. Though different countries had very different approaches of doing that, the Delegation noted the unified approach to bridge the different systems and stated that the language was one attempt to bridge the two systems while providing security that there would be adequate and effective protection under either system. The Delegation noted the members had a strong single right where broadcasters had the right to authorize the retransmission to the public of their signal. There was also the flexibility provision that stated that countries had flexibility to limit that right in certain respects, if overall, they provided adequate and effective protection. The language helped assure that broadcasters had some kind of copyright protection in the creative ways that they selected and combined programming. That would be an addition to the exclusive signal protection right, which was Article 1.1. The Delegation indicated that in situations where limitations on the signal protection were being made up for by some content protection, one of the types of protection broadcasters had was the ability to, in countries that provided that, protect their compilation of content. That was a new element that the Committee had not discussed a lot before and there were still a lot of questions about how it applied and how it worked in countries that already had that concept. The Delegation stated that it was not pushing or insisting that it be included in the text at that point because there were a lot of questions which the Delegation was happy to engage in the conversation. The Delegation stated that that would be an important piece of the puzzle at some point, but that it was not in any way wedded to how it was framed or where it went. The Delegation stated that it was absolutely fine to wait before it was included in any way in the text while the Committee figured out the best way to articulate what it was and what the best placement would be.

219. The Chair called for an exploratory discussion on the proposal in question.

The Delegation of Canada noted that copyright in compilation was a very important supplement for broadcaster's protection and noted that it would support that provided it offered clarity to Member States by including a reference in the text. In terms of unpacking compilation as requested by the Delegation of Argentina, it was a matter of continuous flow of programming. Canada considered that in both ways. For example, a book of poetry, a compilation of poetry, the book itself is a compilation. There could be three-quarters of that book and insofar as there were three-quarters as many poems, then itself is a subset, but also in itself a compilation.

220. The Delegation of Botswana appreciated explanations presented by the Delegation of the United States of America and in the same manner expressed by the Delegations of Iran and Kenya. Though it noted that that was important information, it was very difficult to be moving between content and the signal because compilations had to do with what the signal was carrying. The Delegation noted that it would be helpful for the Committee to focus more on the signal and try a way of discussing whether it was a live streaming and try to focus on the signal

because in that way it would help in discussions.

221. The Vice-Chair asked if there was an intention of somehow interpreting what was already in the Berne Convention to say that the collection of the programs of the organization would, due to the selection and arrangement, qualify as an intellectual creation in any case or reflect what was in the Berne Convention. The Vice-Chair asked if it went beyond what was in the Berne to interpret it somehow, or it just restated what was already in the Berne Convention.

222. The Delegation of the United States of America pointed out that it was important to include a reference to protection for a compilation in the broadcasting treaty, and that was suggested as one way to go about it because the Berne Convention already referred to those collections of materials. The Delegation also stated that whether or not the treaty could interpret Berne in some way was another technical question to be dealt with.

223. The Delegation of Argentina noted that the recent concept could be used for interpretation of what could be considered as a compilation or a broadcasters' program. The Delegation referred to the United States position that copyright would not protect public domain broadcasts or content in a broadcast, so it was imperative to look at that with regard to infringement of signal when the content was public domain content. In public domain, protection was generally considered expired in the majority of cases, but the Delegation wanted to know if there was any other way to view that. Was there anything else in US law that would say that something was in public domain apart from that particular case? In 2bis, thinking more graphically, if it was to be a diagram in the case of signal protection, regardless of its content or programming, given that it was a signal, when the signal depends on copyright, a diagram was needed to show in some way what is excluded from protection because it's in public domain.

224. The Delegation of the United States of America noted that the signal protection in Article 1.1 would apply even if the content being transmitted was public domain content. It was just that where a country was making up for some limitations on signal protection through providing copyright and letting the broadcaster enforce copyright in the content in some circumstances, that extra type of protection that made up for some of the limit would not allow the broadcaster to assert rights in public domain content. That did not mean the signal would not be protected when it was transmitting public domain content. The signal was protected with whatever programs it was transmitting, but where there was extra protection beyond signal protection to make up a total package of adequate and effective protection, it allowed broadcasters to assert some copyright in the content but not in public domain content.

225. The Delegation of Botswana observed that that was an issue that needed some further discussion. As copyright and related rights were available to broadcasters, there was a need to provide additional explanations in that treaty; instead of focusing on a fraction because other things were addressed elsewhere.

226. The Delegation of Iran (Islamic Republic of) aligned itself with the position of the Delegation of Botswana. The Delegation pointed out the existing rights and noted that that was not the first time that the article on relation with other convention and treaties was being negotiated. In other treaties, there was a reference to the rights granted in other articles because the rights were being guaranteed in other parts of the treaties in the rights to be guaranteed. There were many examples in other copyright and related rights conventions, where only general references to that particular issue were made.

227. The Delegation of Indonesia referred to the discussion with regard to the compilations or signal carrying public domain or protected content, based on the understanding that the treaty would have a protection for signals not for the content. The other part of the understanding would be that some countries can limit that protection of the signals. That did not mean that

every country had to apply that type of copyright protection for that kind of compilations to programming signal. It could be one way if the country was actually limiting the signal protection, but that country guaranteed that broadcasters would still have adequate and effective protection. Nonetheless, if Member States did not want to prescribe what adequate and effective signal protection should entail, there was a need to agree that any limitation to the signal protection that guaranteed adequate protection in other ways, did have to refer to Berne.

228. The Delegation of the United States of America agreed with the interpretation presented by the Delegation of Indonesia. The Delegation noted that having some reference to that idea of compilation or collection protection was useful, again, as a sort of insurance, but it was probably not necessary.

229. The Chair observed that in a country where there was the combination of exclusive rights as well as copyright, language may be useful in the context. The Chair noted that the drafting process needed to be reviewed. The Chair proposed that it was best not to put it under relation to other conventions and treaties because that could prevent consensus. The Chair noted that language upon relation to conventions and other treaties followed a certain pattern and called for suggestions towards further deliberations and suitable adjustments. The Chair called for a review process on the basis of context in relation to other conventions and treaties. The Chair also pointed out the means of implementation in relation to other rights and noted that in other treaties, it was drafted under relation to conventions and called for further considerations on that. Without further comments, that was noted for further discussions at a later date. On enforcement and the entire provision on enforcement of rights in square brackets, the Chair did not see it as controversial but it was important to reflect on that matter. The Chair asked if there were any comments on that provision as a whole. The Chair pointed out that it contained some clauses that were quite important, for example, giving flexibility for parties to implement the measures in accordance to their legal systems was very standard language in treaty text. The language in Paragraph 2 ensured that the procedures were available to broadcasting organizations so that broadcasting organizations could enforce those rights by themselves.

230. The Delegation of the United States of America pointed out that the category of articles would need to be looked at after the determination of the scope of rights because that could make a difference as to the necessity for such a clause or what it entailed.

231. The Chair indicated that the general point as to whether that was even necessary was something that could be considered. The Chair highlighted the process through which the proposal would become a treaty text. The Chair informed members that there would be a drafting committee and a diplomatic conference itself, and in those procedures and those fora, there would be ample opportunities to review the entire document. The Chair highlighted the administrative and final clauses. They were drawn from many of the typical final clauses you find in treaties, on topics such as the General Assembly, the international bureau, the procedures to become being a party, signature, entry into force, effective date, how to deal with the treaty, languages of the treaty, and the depository. Those clauses were not discussed during the friends of the Chair process because they were prepared in the past and drafted only by the drafting committee or by the conference itself, so it was not in their position to exempt them but to ensure that part of a treaty was entrenched. The Chair called for submissions on the administrative and final clauses.

232. The Delegation of Iran (Islamic Republic of) asked if there was a need or whether that kind of convention did not require a clause on disputes.

233. The Chair proposed for the issue to be addressed by the drafting committee or the diplomatic conference. The Chair pointed out that that would depend on how the shape of the rights to be granted, object of protection, and what it would be composed of. The Chair called

for discussions into informal groups with the friends of the Chair to discuss two recurring issues which needed to be addressed. The first issue was the treatment for sporting events, entertainment event, like Eurovision and reality TV shows. Since there were various expertise present and members were privy to the friends of Chair process, the Chair noted that it was prudent to hold discussions about the process. Since the Delegations of the United States of America and the European Union were also present, the Chair also called for discussions on the deferred transmission issue because it remained the big policy issue which needed to be addressed. The Chair looked forward to discussing the reservations raised by the Delegation of Japan. The Chair believed that the friends of the Chair process would help in proposing various ideas and solutions which could help in creating a committee text.

234. The Chair informed delegates that the friends of the Chair consisted of the Delegations from the United States of America, the European Union, Argentina, China, Korea, and Japan. .

235. The Chair welcomed members to the plenary on the agenda item for the protection of broadcasting organizations, following discussions in informal setting. The Chair pointed out there had been detailed, technical discussions on the Chair's draft consolidated text, represented in document SCCR/39/4, and constructive informal sessions and highlighted a summary of the discussions and way forward for the topic, and the agenda item of work. Through the discussions, there was an observation that the Chair's text included provisions relating to preamble and general provisions and that the previous provisions, which related to the text substance, were captured in substantive provisions and other issues. There was also a place holder in the chair's consolidated text for administrative and final clauses. All of those were intended to shape up the Chair's text and create a document that could advance work and be noted as a possible draft treaty. In relation to the preamble and general provisions, there was not extensive discussions, except in the area of relation to other conventions and treaties, where there was some discussions as to what formulation that would take. In the substantive provisions, emphasis on areas where there were still square brackets. There was some discussion as to whether the phrase "transmissions over computer networks" should not constitute broadcasting or was not needed in definition A. There was some movement of Article 3.2 of object of protection, away from object of protection, to beneficiaries of protection, because it was felt that the beneficiaries of protection clause may fit the language a bit better than under object of protection. The rights to be granted were also discussed especially with regard to the alternative two of that proposal. Through the discussions, it was reaffirmed that in both alternatives, the language around providing broadcasting organizations with the exclusive right of authorizing the retransmission of the program-carrying signal to the public by any means was language that was clean. Under both alternatives, it was noted that broadcasting organizations should have that exclusive right, and it was necessary to reaffirm that position. A lot of time was spent discussing alternative two, which was tabled in order to address different systems amongst the community represented in WIPO. There were new proposals in alternative two, which was the subject of informal discussions. The language that was sort of brainstormed as a result of those processes, was reflected in the annex to the Chair's text. That was in relation to additional language on rights to be granted under that part, which was meant to deal with the issue, where if a member wished to notify with the Director General of WIPO, that it would only apply the exclusive right to certain retransmissions, there should be certain types to address and protect situations in which there were live events. The language sought to address that. That was highlighted in the annex, because even within the friends of chair context, progress could not be made towards consensus. However, it was agreed that was a useful discussion and reflected in the annex because the topic of live events, under the notification system for some countries needed to be addressed. There was some other language and other parties addressed it, in relation to refinements in various parts of the text. The rest of the language was assessed in relation to rights management information (RMI). The language that was tabled in the friends of the Chair process inter-sessionally, was reviewed which was in relation to the concept of watermarks or any data embedded in a program

carrying signal, that would help to identify and monitor broadcasts or the broadcasting organization. The delegations participating in the informals felt that was useful language as a placeholder because broadcasting organizations used methods like that, not just watermarks but there could be other methods to help them identify where piracy occurred. It was agreed that that could be part of the RMI provision, or at least be moved into the Chair's text. The administrative and final clauses were also discussed and place holders for those clauses were indicated. However, provisions had not been drafted because as per practice in the previous treaties, it was essential to draft those and make additions during the diplomatic conference itself, when there was a special committee that would be assembled to address and draft those sort of opening and closing clauses. Therefore, it was not essential to focus on that. In any event, the mandate from the General Assembly was to address the fundamental issues and not to produce a perfectly clean text that would be the process by which the diplomatic conference and the other processes would lead to that. The Chair noted that constructive discussions led to the progress that was reflected in the text. Discussions were held on whether or not it was right to make the Chair's text a Committee text, the pros and cons were debated in the informals. However, there was no consensus on that matter as some parties noted that it was time to make it a Committee text while others observed that making it a Committee text could reduce the flexibility and creativity which could be applied in looking at solutions towards progress. The Chair believed that as a matter of pragmatism, and at the same time knowing that the Chair's text allowed for progress, it was decided to continued the Chair's text mechanism of taking the issue forward. The importance of intersessional sessions were also discussed. The Chair thanked the Vice-Chairs and the friends of the Chair process for their support. The Chair noted that it was a very constructive process, and a safe space to brainstorm and to suggest ideas that would be challenging to do so in other more formal context. The Chair hoped to rely on that process, before the next SCCR to advance on those issues. Policy-wise, it remained a divergence that the Chair hoped to bring closer together on the issue of deferred transmission. The Chair highlighted the language tabled by Argentina by the start version, which was the legal treatment. The underlying policy issues remained a difficult issue. The Chair called for collective effort in order to advance the agenda item. The Chair informed members that the Chair's text would be circulated before the end of the SCCR. The Chair invited members to make comments on the discussions. The Chair thanked everyone for their spirit of constructivism and creativity in such technical set of conversations. The Chair acknowledged the continued efforts of members to understand the concept of broadcasting practices and industry and law and all of that. The Chair looked forward to progressing the issue with the friends of the Chair and other members while taking into account the views of all the Member States and the stakeholders.

236. The Secretariat reiterated that the regional coordinators had to meet with the Chair before the plenary session began.

237. The Chair pointed out that discussions needed to be held on how to advance limitations and exceptions with the regional coordinators. The Chair informed members that discussions would be held on other matters, which would be the copyright in the digital environment, the droit de suite and the rights of stage holders of the atrical productions.

AGENDA ITEM 8: OTHER MATTERS

238. The Chair welcomed Members States back to the SCCR. The Chair introduced Agenda Item 8, other matters and reopened Agenda Item 7, relating to broadcasting organizations and indicated that in relation to the Chair's draft text, there was a new addition of the definition of start version of the program carrying signal. That was part of the proposal by the Delegation of Argentina on the object of protection clause, alternative two, which was meant to complete the proposal by Argentina to define what was a start version of program carrying signal. The Chair asked the Delegation of Argentina to explain the definition. The Chair asked members to refer

to the version of the Chair's draft text of the treaty that was circulated.

239. The Delegation of Argentina referred to a portion of the Chair's text which stated that "stored versions of the program carrying signal" which appeared twice, both in the object of protection and in other sections. The Delegation explained what it meant by that term given that it was one of the alternatives on the table at the moment in the two major sections being discussed. A carrier of the signal, carried the format carrying system for reception by the public. In that case, what the broadcaster did was to send the same signal in a format, which could be of a different kind, but was a continuation of the program. That was then received and stored in some device, which would allow the broadcaster to hold the signal so that the user, could access the signal at any time. That was a technical measure, which involved transmission, but as was explained by the distinguished colleague from Kenya, it could also be seen as a latent signal. It was waiting for an action from the user in a pull system as opposed to linear transmission, which was a push system. So a pull system rather than a push system which was stored in the system and then the user accesses the device on which it is stored in order to access the signal, which was previously stored.

240. The Chair noted that the explanation could be found in paragraph J of the Article on Definitions. The Chair encouraged members to engage with the Delegation of Argentina inter-sessionally for further discussions. Since it was connected to language that was already part of the proposal on the Chair's text, the Chair indicated that it would insert it into definition section of the Chair's text with the appropriate square brackets around it. The Chair introduced three ongoing topics under the agenda item. The topic of copyright in the digital environment with a presentation by Ms. Susan Butler. There would also be a discussion on the resale right and a video update of the work on the rights of theater directors which was to be presented by Professors Gendreau and Sergo. Additional items could also be discussed before the agenda item was closed. The Chair invited regional coordinators, members and observers to make submissions.

Digital Environment

241. The Delegation of Croatia, speaking on behalf of CEBS, thanked Ms. Butler for the presentation on the introduction to the digital music market. CEBS believed the issue of protecting copyright in the digital environment remained a pertinent one and looked forward to the exchange of ideas among the interested delegations.

242. The Delegation of Brazil was very pleased to intervene on that agenda item. The Delegation believed that the analysis of copyright related to the digital environment was fundamental to better understand the implications for rightsholders regarding the shift from analog to digital formats in different industries. The Delegation noted that the SCCR had begun with music services and had approved similar studies to be undertaken in the area of audiovisual and literary work in the future. The Delegation was intrigued by how the digital market chain was structured and was focused on how the value of works was distributed to different actors along the chain. The Delegation recognized and affirmed the need to respect contractual freedom and privacy and noted that while respecting freedom and privacy, it was possible to identify minimum patterns and transparency gaps that would provide an insight into the structure of the market. Regarding document SCCR/37/4 Rev, in the methodology section of that document, the Delegation called for clarification on whether or not artists had been included in the report. It called for an organic, nuclear perspective on that, as it had observed that different artists, no matter how famous or successful, did not have clarity on how they were being compensated and often perceived compensation as insufficient or unilaterally defined. The Delegation suggested that other experts could also join in to con cur and to add to the results in line with the third point of the methodology section of the aforementioned document. On that note, the Delegation reminded the Secretariat of the submission of a name of a

Brazilian expert and hoped that the request would be considered. Still, regarding the methodology, the Delegation counted on the presentation by the Secretariat describing a clear schedule for the delivery of the next results. Regarding the subject matter, the Delegation noted that the current document was very far from the proposal contained in the document SCCR/37/4 Rev. In that document, which was adopted by the Committee, four main areas of concern were identified and that was an attempt to address the first of the issues raised. Although recognizing that the work was still in its initial stages, the Delegation believed that the study could have dived deeper into the value chain of the music market. The Delegation suggested that the study should address the lack of data in the market if there were any. That could confirm the need for more transparency in the value chain. Again, there the layers of transparency and contractual freedom should be respected but the market should provide opportunities for artists to earn their living and be adequately compensated for their work. Expectations regarding a study on the digital musical environment was such an endeavor that would help to gather information and enough transparency in order to empower authors and their ability to negotiate their rights in an attempt to reduce asymmetry along the economic chain. The Delegation reiterated the need to see economic data and analysis of impact of new technologies. On the second and the third points of the scope of document SCCR/ 37/4 Rev., the Delegation proposed for the role of aggregator to the stakeholders and the music creative sector, and emphasized that such a list was not exhaustive. The Delegation pointed out that based on the scope section, discussions on the accommodation of the theme of artificial intelligence, due to the strategic role it played in the economic control of mechanisms of supply and demand by means of suggesting content to users based on algorithms, were not known to authors and to the general public. The study could also assess the shift, if there was one of contractual practices, as technology had evolved from analog, to digital, and identify possible positive outcomes or distortions. The Delegation noted that that subject needed a broader treatment in the agenda of the SCCR. As the discussions on the protection of broadcasting organizations moved towards the convening of a diplomatic conference under the mandate of the General Assembly, the Delegation identified a convergence of many issues concerning broadcasts and copyrights in the digital environment. The Delegation proposed that the issue of the copyright in the digital environment should be permanently included in the Committee's agenda.

243. The Delegation of the European Union believed that the issue of copyright in the digital environment merited attention and discussion in order to ensure that copyright could be more efficiently protected and able to play its role in the digital era. The Delegation acknowledged the Delegation of Brazil for the interesting proposal for a study on digital music services, and looked forward to the update about the study during that session.

244. The Delegation of El Salvador reiterated that the point proposed by GRULAC in 2015 remained very relevant. The Delegation noted the fast speed of digital technologies development, and indicated that El Salvador moved towards industrialization and creative industries with a new approach. El Salvador had joined the digital revolution and the government would do everything possible to be part of the change, which adopted a nontraditional approach. The Delegation reiterated its support to the GRULAC proposal and hoped that the point of copyright in the digital environment would become a permanent item on the Committee's agenda. The Delegation pointed out that the change experienced in copyright and related rights imposed by new technologies was clear. The Delegation called for a deeper analysis of the nature and the implications of those changes and called for continuity in line with the proposal of the Delegation of Brazil.

245. The Delegation of Senegal emphasized on the dominant model for music on two points of interest. The remuneration of artists and the sharing of value. The Delegation observed that in the digital world, artists earned less than in the analog world. The Delegation called for the Committee to take on board their interests and their concerns, that revolved around

transparency of the models used, such as the pay-as-you-go model. Artists were oblivious to what was going on.

246. The Delegation of Uganda speaking on behalf of the African Group indicated that digitalization had created new opportunities for artists to create the value of their work and gain fair remuneration for the fruits of their ingenuity. As such, although it was easier for markets because of redefined territorial barriers, digitalization had also posed various challenges, including among other things, undermining the feasibility and the legitimacy of laws based on geographic boundaries. The Delegation noted that that affected music artists as well as other creative artists. Additionally, the Delegation observed digital tools originating from developing countries and a number of copyrighted works created in Uganda disseminated outside of jurisdictions by players, subject to other regulatory regimes. The Delegation also noted that enforcement in the digital environment was challenging. For that reason, the African Group attached great importance to the discussions and ongoing work on copyright in the digital environment and the proposal by GRULAC, which was first presented during SCCR 31. The Delegation noted that the first study described the online music market and main business models. The Delegation believed that the report would provide a firm foundation to Member States to enhance the value chains in subsequent studies. The Delegation looked forward to subsequent studies, which would enable a good basis for further discussions.

247. The Delegation of Mexico, speaking on behalf of GRULAC, thanked Ms. Butler for the report and introduction to the global digital music market. The Delegation believed that it was important to have a profound analysis, which reflected the market chain for digital music, and the value distribution through that chain. The Delegation also believed it was necessary to have a clear timeline from the Secretariat for fostering progress on that matter.

248. The Chair invited Ms. Butler to present the introduction to the global digital music market, document SCCR/39/3, which provided an overall description of the online music market, and main business models.

249. Professor Butler made a presentation on the Introduction to the Global Digital Music Market, document SCCR/39/3, which can be found at **(Friday, October 25, 2019 Afternoon Session):** <http://webcast.wipo.int/>

250. The Chair invited members to share their comments and opinions.

251. The Delegation of Brazil acknowledged the work of Ms. Butler and asked if there would be an in-depth analysis on the topics in subsequent discussions rather than a descriptive approach. The Delegation asked Ms. Butler to assist with suggestions on ways to identify minimum standards that would be necessary to guarantee a sustainable market, for authors, creators and the industry in general. The Delegation called for more discussions on concrete steps. For instance, if there were contracts that were based in the analog market, how would they apply presently. Would there be some kind of value that was being lost and who was benefiting from that? The Delegation observed that creators complained of insufficient compensation from the use of their content and that was something that needed to be addressed, for instance those kinds of distortions because analog contracts were applied to the digital market. Though technology was evolving, the contracts were not evolving in the same fashion.

252. Ms. Butler indicated that the concerns raised by the Delegation of Brazil would be addressed in the next part of the study which would provide a fair approach in addressing the issues raised.

253. The Chair thanked Professor Butler for addressing the concerns raised by the Delegation

of Brazil.

254. The Representative of the Ibero-Latin-American Federation of Performers (FILAIÉ) referred to the SCCR 37, specifically on the discussions where the Committee had approved the modalities of the study on digital music services. The Representative thanked Ms. Butler for the descriptive study. Those modalities included a basis for a report on the digital music market which should have included the following themes: the first was the general description of the business, which was very clear in the study; the second was the chain of rights licensing practices and collective management; the third was the value chain, the distribution of royalties amongst the rightsholders; and finally the mechanisms for gathering data on the usage of music and reporting the distribution of royalties. FILAIÉ believed that the report, which aimed to describe the digital media market, would be very successful in its objectives. The Representative noted that there was a lack of economic data on music consumption and on income related to right-holders, particularly artists and that meant that the report was quantitatively and qualitatively insufficient with regard to the global scope of the report. The details included in the report were well thought out and included cross-border use of music. When platforms managed intellectual property rights, there was little knowledge on how that reached artists across-border and how rights were applied across-border. When intercompany comparisons move from one country to the other, it was essential to know how the rights were distributed between the countries, as it reached the farthest parts of the world. How many musicians benefited from that system? The Representative recalled that streaming addressed rights which were not as well-structured in contracts, and artists proved to suffer the most. Therefore, the Representative called for an economic study of the market in line with that. That was the first part of a more complete study and urged WIPO and Member States to set out a schedule for the report. FILAIÉ encouraged the Committee to include copyright for artists in the digital environment as a permanent item on the agenda, despite the time pressure. The Representative called for a further study in greater depth on music distribution services online, which would focus on sources of income and the distribution of that income, and the selection of music via lists, rights and remuneration systems in the digital context. The Representative also suggested to include traditional or analog exploitation of content systems and to look at other related rights. The description and the flow of information, costs and income between platforms, phonogram producers and also between artists as well. The Representative also believed that it was necessary to have a work plan with a clear time scale, which would indicate the completion of a study and a date at which the report would be considered fully. The Representative asked Ms. Butler the sources of information that would be necessary to make sure that that economic and other information were accessible and those who could provide it.

255. Ms. Butler noted that once a plan was laid out on what was needed, then it could be decided who would be the best sources while taking into consideration everyone's viewpoints. Thus, that would be a decision to be made once it was clear what was going to be covered. She noted that it was important to be careful during the selection process to select people with relevant expertise rather than having people on copyright boards who had relatively no understanding of the timing issues and overlapping of figures in the music business. Unless there was an outline of what was needed, then it could be kind of put together on where to go for that information.

256. The Delegation of Burkina Faso noted that the issue of the digital environment was a recurring issue and represented a great opportunity for rightsholders. The Delegation stated that the statistics presented in the report with regard to the number of African artists, particularly from West Africa, visible on streaming platforms was very interesting. The Delegation noted that at the moment, collective management organizations (CMOs) in the region were faced with a particular phenomenon, music download management, including for films, which was present in many towns and cities. The Delegation asked if those uses also constituted an economic modality. CMOs were concerned in the region about such download services, because to

authorize it against an equitable remuneration, could be considered as piracy and called for any potential solutions.

257. Ms. Butler noted that piracy issues were of great concern to her as a creator and rightsholder. In some ways, for downloads, once upon a time, the original Napster and the peer-to-peer file sharing, there were still some instances where rampant piracy needed to be addressed. There were new forms of piracy such as stream ripping where people recorded what they hear being streamed. She noted that innovation created piracy in various forms. She noted that the issue of stream ripping was an ongoing process of education, with collective rights management too, which was part of the echo system of looking at the challenges facing the collective rights management entities.

258. The Delegation of Argentina noted that the presentation provided a broad overview of the music industry. With regard to the value of content in the global market, there was need to have figures regarding the income flow between artists, discographic companies and others and those are just to have a look at the major stakeholders and the value chain. The contents of contracts were private and were not subject to international regulation, however, the models used needed to be uniform for the most relevant stakeholders. It was necessary for governments to understand what was usually contained in those standard contracts with regard to the distribution of income, the major clauses and the recurring elements. There were founded suspicions that the elements of those contracts were unbalanced. The distribution of income was very much related to those clauses. The Delegation noted that it was aware of that contracts were concluded between individuals and were private, given the global nature of the business, an international solution needed to be considered for governments. The Delegation pointed out that actions to be taken in order to achieve such balance would depend on information about the situation. As circumstances continued to be repeated across the world, one government would not be able to undertake a single study for all. The Delegation noted that it was important to review latent studies, the contract analysis which would give governments an opportunity to take a decision. The Delegation requested that those pending parts of the study included an in-depth analysis of what was used in the industry. The Delegation asked Ms. Butler how she would structure or conceive a study on contracts and their major clauses and tendencies on an international level and whether they were homogenous contracts used regardless of the territory concerned.

259. Professor Butler noted that it was a WIPO decision to determine who would be involved in the study.

260. The Representative of the Latin Artists asked if the study kept in mind the clear difference between positions and negotiating power amongst artists and producers, as contractual freedom was only valid and efficient when there was a binding agreement between the Contracting Parties, thus artists and producers. The Representative noted that the difference in bargaining powers was part of the reality of majority of artists like musicians and actors. The Representative indicated that they needed to have a just and fair participation in the income derived from their performances. The Representative reiterated that the report lacked substantive information in highlighting that reality. The Representative urged the committee to hold continued discussions on the topic. The Representative also noted interest on contracts and hoped that it would become a standing item on the Committee's agenda.

261. Ms. Butler noted that contracts were not considered in the study because they were not part of the initial introduction. She noted that there were decision makers who know so little about the music industry, how unique it was and understood the nuances that made it work. She noted that it did not provide an in-depth analysis because it was developed so as to provide everyone with first-hand information.

262. The Chair invited participants to present their statements on the digital environment, artists' resale royalty right and other rights in written. The Chair noted that there would be an intermediate report on the progress made by Mr. Ivan Bislet, director of the Russian Academy for Intellectual Property.

Rights of Theater Directors

263. The Delegation of the Russian Federation observed that there were a number of items on the Committee's agenda including the issue of the rights of theater directors. The Delegation noted that the study had given rise to a great deal of interest of colleagues around the world. The Delegation hoped that the results of their work would create interesting discussions for the Committee and for all specialists of the matter. It indicated that much emphasis was on the rights of stage and theater directors and presented an interim report on the progress made.

264. Professor Sergo noted that the study was one of the first important studies on the rights of stage directors and theatrical productions. Theatrical productions around the world were under various legal regimes. . The study would concentrate mainly on the rights of stage directors of theatrical productions. At the end of the study, it would be important to identify the regime, which would best satisfy the stage directors with regards to protecting their rights. He thought that the overall objective was to come up with some type of international agreement or convention on the protection of rights of stage directors. . Candidates from various countries were identified to be interviewed. The list of countries was also updated. Professor Sergo indicated that they tried to cover a great number of countries. He noted that there were various different legal regime. Professor Sergo noted that they spoke to theater directors who are specialists involved with theater productions.

265. Professor Gendreau noted that there were many people who were important to the objective of the study in order to have a broader range of information about the protection of stage directors. Professor Gendreau pointed out that WIPO helped in identifying such persons. Members of the SCCR might be interested in participating in the study. She noted that those case studies would be focused on the analysis of various models. Models where countries were protecting stage directors as authors, either signs to their statutes or judicial interpretation, and examples where they were protected as performers in respect of the law or because of interpretations and examples where contracts were the predominant models for determining the relationships of stage directors with other persons involved in the creative process. Given the work of an international study, Professor Gendreau added that they would want to always provide international examples with the aim of making the presentation of this matter more concrete. She noted that they were looking for more countries from which they would be able to interview either stage directors or other persons who were closely involved with them. The interviews would provide an idea of the industry trends. At the point of collation, the presence of a dominant model would be assessed and also to the extent of which the models in place were entrenched or if they were open to modifications in one way or another. Professor Gendreau concluded that the outcome of the interviews could not be predicted. She pointed out that the conclusions of the study would be dependent on the fieldwork to be conducted. Professor Gendreau called for increased collaboration in order to be as representative as possible.

266. The Delegation of Jordan noted that information played a huge role in the development of people and theater and in that respect, it was very important. The Delegation also noted that work in theaters was very important. It asked about activities conducted in the Middle East with respect to information and data received.

267. Professor Sergo noted that that was very significant to cultural efforts and of great importance to people across the world He underscored the importance of theater production and the quality of work in that area of the world. .

268. Professor Gendreau asked the Delegation of Jordan to assist with names of persons to work with theaters and urged members of the SCCR to aid in such collaborations.

269. The Delegation of Jordan identified people in the associations of theaters in Jordan who could grant permissions. The Delegation noted that there were people involved in theater in Jordan who had graduated from countries of the former Soviet Union and CIS. .

270. The Representative of the Health and Environment Program (HEP) noted that the studies underway did not cover all of the regions defined by the World Bank. He expressed concern as the previous study that accounted for the Central African zone was not anywhere included in the study. The Representative pointed out that Central Africa might be included in the Western Africa studies, which was not advisable as Central Africa was an entirely different region. The Representative noted that there was no data available or updated on the Central Africa region as far as protection of intellectual property rights and copyright. The Representative suggested that it was important to update statistics and create room for expert provisions. The Representative observed that the previous study recalled that only the West African region was mentioned. .

271. Professor Sergo indicated that it was imperative to develop better mechanisms for protecting the rights of stage directors. He pointed out that they would continue to study countries like Kenya, Cote d'Ivoire, Senegal and Nigeria among others. Professor Sergo welcomed contacts from Central African Republic to provide information with regard with rights to stage directors.

272. The Delegation of Argentina noted that it had expressed interest in those studies because Buenos Aires was a very important platform for theater, opera and other representations, both locally and internationally.

273. The Delegation of the Russian Federation noted that Argentina was one of its priorities and revealed intentions of utilizing materials to the maximum extent possible.

274. The Secretariat thanked Professor Sergo and Gendreau for their presentation.

275. The Chair invited statements on the issue of copyright in the digital environment

276. The Delegation of Ecuador thanked Professor Butler for the presentation of copyright in the digital environment. The analysis of the study was of particular importance to Ecuador. It believed it was important to have concrete measures at the international level, in order to protect IP property rights of those with protected works in the digital environment. The Delegation also underscored the continued debate on the subject matter in order to contribute to solutions in the light of the new challenging presented by works presented in the digital environment. The Delegation hoped that the topic would remain on the agenda of the Committee.

277. The Representative of Knowledge Ecology International (KEI) commented on the Digital Agenda in response to Professor Butler's report with emphasis on the Agenda Item. Given the challenges of obtaining economic data, perhaps the SCCR could focus more on transparency in that sector. Standards for transparency could be the subject of norm setting. The Representative noted that that was not farfetched as expressed by some stakeholders. The World Health Organization enacted a resolution on transparency on markets for medicines in May 2019 with a coalition that was led by Italy, Portugal, the United States, Brazil, South Africa, India and other countries. He suggested that the chief economist could be asked to report to the SCCR and the economics research available on the impact of digital platforms, on the

incomes of artists and the flows of incomes between countries, given the rise of telecom streaming services in that sector. The Representative noted that the Committee could be better informed as to the status of metadata and audiovisual works, as well as other copyrighted works. The Representative noted that people thought of metadata as related to licensing and enforcement actions, but it was also related to the enjoyment of creative works, and what may have been observed was often very minimal regarding listeners, particularly for streamed music. Unfair contracts with artists and users was a recurring issue by a diverse set of stakeholders. The Representative expressed interest on discussions on unfair contracts relating to authors, actors and performers at a future SCCR to compliment discussions of unfair contracts for the libraries.

278. The Representative of the Confederation of Societies of Authors and Composers (CISAC) commended Professor Butler for the presentation. The Representative undertook a study focused on digital music services. As a general principle, CISAC welcomed any initiative aimed at exploring legal mechanisms for addressing the topic of the value gap, namely the imbalance which existed in the digital market between the weak position of creators and the strong power of those who explored their works and commercial benefit from that exploitation. The Representative emphasized the need to redefine the rules on liability of Internet platforms, and in particular, of those platforms which base their business on exploiting copyright-protected works uploaded by users. CISAC suggested that the study analyzes the best way possible to address the topic by its global perspective with the focus on the business of audio and video streaming services. The Representative noted that the recent adoption of the directive on copyright and related rights in the digital single market was an important step in the right direction. CISAC was confident that the next stage in the development of the study, as well as the future work of that Committee and the specific topic would be inspired by the recent developments in the European Union.

279. The Representative of the International Federation of Library Associations and Institutions (IFLA) noted that the explanation of the models by Professor Butler was a useful starting point towards understanding developments in the digital music industry. IFLA looked forward to hard numbers about the transparent and fair distribution and flow of royalties, as requested by the Delegation of Brazil but the extension of that to other areas. The Representative noted that there was a pressing need for more comprehensive data about how literary authors were remunerated as a basis for developing the best effective ways of supporting them. He noted that Professor Butler highlighted some policy areas, contract law, competition, enforcement, which outside of copyright itself, had an influence on the ability of artists to get a fair deal. The Representative hoped that in future work on the subject matter, a holistic approach would be considered in ways through which artists could be supported and not unduly focus on copyright when that may not necessarily be the right solution.

280. The Representative of the Institute Author expressed concern as to the apparently limited remuneration that artists received in the digital environment. He noted whether in addition to the business models analyzed to traditional formats, which made phonograms available to the public, as outlined in the report, perhaps one could include in the analysis business models relating to broadcasting. The Representative noted that the retransmission of television programs via the Internet where there was massive use of musical works corresponded to a significant business model, which should also provide remuneration to the rightsholders.

281. The Representative of the International Federation of Musicians (FIM) indicated that the study presented an overview of what needed to be done to describe in detail how the market works and to respond to the legitimate questions posed by the GRULAC document submitted to that Committee, document SCCR/34/4, which constituted a historic basis for that work. The Representative emphasized the general impression that the revenues from digital services did not flow to the authors and the performers, particularly unknown authors and performers. The

Representative reiterated those concerns as expressed by GRULAC. FIM noted that the principal problem was the considerable gap between the performers and artists whose work and talent were at the origin of the creation of revenues and the companies which exploited them online, be in phonograms or streaming platforms. The artists and the performers who were not featured particularly suffered and they were virtually invisible in the study which was presented. One of the reasons for the gap was the exclusive right to making available on demand for the streaming service like playlists where the final user did not make an explicit choice to their preferences. Because of such unbalanced negotiations, the majority requested that those would not be able to go through a contractual relationship, the fair remuneration of their work, through streaming. Loss of the exclusive right and consequently inability to share the value of the rightsholders. Those aspects were closely linked to the manner in which business models were developed and conceived. FIM noted that it was difficult to ignore them at the preliminary stage. The Representative noted that the study was the first stage of a longer study and believed that in subsequent studies, the Secretariat would probe the underlying issues including the review of obsolete regulations, which were dysfunctional. FIM hoped that the subject matter would remain on the agenda of the SCCR.

282. The Delegation of Sierra Leone pointed out that public lending right was the right to receive payments free of charge by public and other libraries. The Delegation noted that authors in only 35 countries benefitted from public lending right systems. In Africa, only Malawi benefitted from that system. Sierra Leone was actively pursuing the matter. Public lending rights were a simple and low-cost way, which could support all areas of life, cultural and linguistic backgrounds and provide identification of the value that they provide society through lending out of their books by libraries. The Delegation highlighted the changes involved in trying to make a living from creativity and the importance of supporting writers in creating literary content. Certain assistance enabled authors to allow public lending rights remuneration as a fundamental issue. Those payments could be made to authors individually or through the organizations in the form of grants or pensions. That flexibility and the adaptability to local consensus made public lending rights a good choice for developing countries seeking to support authors, novelists and libraries. The Delegation underscored the importance of creativity as a mode of educating, entertaining and supporting linguistic and cultural diversity and that will boost the economy. It proposed that WIPO should consider how it could help promote the spread of public lending rights worldwide and help support industries everywhere. The Delegation noted that that could help promote an active platform to provide information worldwide on public learning right. The Delegation proposed for a study focused on public lending rights system around the world, how it could benefit creators and subsequently the provision of technical support to countries in setting up systems.

283. The Chair thanked the Delegation for raising that issue under the agenda item. The Chair welcomed observations and opinions by members. The Chair advised the Delegation to discuss the issue with other members during the course of the session in order to have substantive discussions.

284. The Representative of the International Authors Forum (IAF) noted that it strongly supported the call for a study in public lending right and the importance of the artist resale right. That would ensure that artists would keep creating and maintaining, language and culture. He noted that public lending right was a positive mechanism that provides recognition for authors for the loans of their books from the libraries. Public lending right was greatly valuable to authors, both as a connection to ongoing readers enhancing literacy, as well as being the seed of the author's next creation. It would be valuable to support the authors writing in local language as well. That was a means to reward authors for their contributions, the availability of culture and public libraries. At the recent public lending right international conference in London, and side event at public lending right during the last SCCR, there were highlights of the successes of public lending rights systems around the world and supporting authors and

cultural sectors. That was meant to enable more authors to continue to create while their works are being shared through libraries. IAF noted that it was vital as every and public lending right encourages the support of lending right for local creators and indigenous languages. That it believed would be beneficial to authors, writers and visual artists alike, readers and library. IAF hoped for international cooperation towards that subject matter.

285. The Representative of the PLR International (PLRI) welcomed the statement made by the Delegation of Sierra Leone to provide Member States with more information on how the public lending rights operates and provide authors with the right to ask for payment. The Representative noted that 35 countries had access to public lending rights and there was a growing interest of PLR across the world, as such, there was a pressing demand for more information. He highlighted the financial and psychological benefits public lending rights provides to authors as it was one of the most efficient and effective methods to support authors. The Representative noted that it was cheap to run and as the ambassador said available to legal approaches. It was a particular relevance for linguistic in the way it supports authors.

286. The Delegation of Malawi supported the statement made by Sierra Leone on the public lending rights. The Delegation noted that that was an issue that should be discussed at the global level, considering that 35 countries were benefitting from the system. It was aware of the importance of recognizing the public lending rights, which essentially benefits the authors when the works are lent out for free of charge by public and public libraries. For that reason, they made provisions for the introduction of public lending rights in Malawi and once implemented the authors would be remunerated for all the uses of their works. The Delegation welcomed a study that could be taken by WIPO that would provide more information and demonstrate the benefits of public lending rights to the authors.

287. The Representative of International Federation of Reproduction Rights Organizations (IFRRO) welcomed the proposal by the Delegation of Sierra Leone. The Representative agreed that it was time for WIPO Member States to look into the benefits of public lending right and to consider introducing such a right in the country, in an approach sorted to the national circumstances.

288. The Representative of Knowledge Ecology International (KEI) indicated that if such a study was done, it would be important to shed some light on the distribution of the money from the public lending right between the publishers and the authors and also to address how the issue of privacy is addressed.

289. The Representative of Health and Environment Program (HEP) expressed support for the statement made by the Delegation of Sierra Leone.

290. The Representative of the International Federation of Library Associations and Institutions (IFLA) noted that participants would benefit from greater understanding of the effectiveness of public lending rights schemes as a means of getting money into the hands of authors. The Representative hoped that work conducted would focus on distribution, as well as contracts, the relative effectiveness of direct policies that did not involve the inevitable costs. At that stage, the international federation of library associations believed relatively firmly that especially in countries where there were low literacy rates, very low public support for libraries, it believed that priority should be in promoting literacy, creating those markets so that more people would buy books. The Representative welcomed the evidence and the ideas that would come up.

291. The Chair welcomed members to the SCCR agenda topic on other items. The Chair proceeded to open discussions on the resale royalty right. The Chair invited comments from regional coordinators, members and observers with usual customary rules.

Resale Right

292. The Delegation of Uganda speaking on behalf of the African Group reiterated the need to include the artist's resale right as a standing agenda item on future program of SCCR. The African Group attached great importance to artist's resale right. The Delegation noted that more than 80 countries across all regions of the world had incorporated the artist's resale right in their national laws while other countries were in the process of introducing the right in their laws. A strong case for that right was the principle of equity. Aligning the rights of visual artists with those of other categories of authors. Unlike other copyright rightsholders, including writers, performing artists with the ability to disseminate their copyrighted materials to large communities, and also able to receive royalty payments for as long as copies of their work sales and their fame grew, visual artists were creators of singular original objects. The African Group called for in-depth discussions of that issue in the context of the SCCR to hear all issues surrounding artist's resale right. The Delegation recalled that under the SCCR Agenda, the artist's resale right had been a longstanding issue having been informally introduced at the 27th session of the SCCR with a proposal formally tabled at SCCR 31. Gradually, it had gained strong support from a large majority of members across all regions. The Delegation was of the view that it should be prioritized and expand its work program in the future and invited all Member States and stakeholders for their support to the proposal. The Delegation thanked the Secretariat for its update on the work undertaken by the task force and hoped that the work would contribute to clarifying issues of concern for Member States and other stakeholders.

293. The Chair indicated that the Secretariat would provide an update on the topic after statements had been made.

294. The Delegation of Croatia speaking on behalf of CEBS expressed gratitude to the Delegations of Senegal and Congo to include the resale right in the work of the SCCR as well as to the Secretariat for providing support to the task force on the issue. The Delegation looked forward to hearing more on latest developments of the task force and hoped that the SCCR would make further progress in making the resale right a standing agenda item of that Committee.

295. The Delegation of Burkina Faso aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group. The Delegation noted that the resale right helped creators of graphical and plastic works of art and helped them to benefit from copyright. The Delegation recognized copyright and the decree adopted in 2000 that organized the collection of royalties. The implementation of legal and regulatory provisions had not been achieved in view of its complexities, and thus for those reasons and those mentioned by the Delegation of Uganda on behalf of the African Group, the Delegation reiterated its support for the proposal made by the Delegations Senegal and Congo to have the resale right as a permanent item on the agenda of the SCCR.

296. The Delegation of the European Union reiterated its support for the proposal of the Delegations of Senegal and Congo to include the resale right in the agenda. The Delegation looked forward to the update on ongoing work carried out by the task force of Member States about the practical elements of artist's resale right. The European Union attached great importance to the topic of resale right. The Delegation indicated that the resale right had formed part of the European Union legal framework for more than a decade and that was the dedicated legislation applicable and ample experience to draw from. The Delegation expressed continued support for a discussion on the resale right at the SCCR. The Delegation recalled that the proposal to include the topic in the agenda of the SCCR began during SCCR 27 and was tabled at SCCR 31. For that reason, the European Union believed that should the SCCR agenda be expanded to cover additional items in the future, priority should be given to the resale right over any other topic. The European Union urged all Member States to support the

proposal of the Delegations of Senegal and Congo and to accept the inclusion of the resale right as a self-standing item in the agenda of the SCCR.

297. The Delegation of Zimbabwe aligned itself with the statement delivered by the Delegation of Uganda on behalf of the African Group. The Delegation of Zimbabwe noted with concern the economic injustice according to visual artists and their heirs from the application of the first sale doctrine. Under that doctrine, visual artists and their heirs were deprived of a share of resale value of their work. The Delegation welcomed the update of the task force established in 2018 and hoped would be the beginning of a concrete solution to address the anomaly. The Delegation noted with concern that Article 14 of the Berne Convention, limited the application of resale right on the principal reciprocity. The Delegation supported the proposal tabled by the Delegations of Senegal and Congo at the 31st session of the SCCR to include the topic of resale right in the agenda of future work of SCCR.

298. The Delegation of Senegal supported the statement by the Delegation of Uganda on behalf of the African Group. The Delegation commended the Secretariat and the group of experts for the work that had been done in accordance with the objectives of the Committee. The Delegation expressed gratitude to the African Group, European Union and CEBS Group and to all delegations that continued to give their support to the joint proposal from Senegal and Congo. For the first time, the Delegation revealed that the CMO of Senegal had distributed royalties coming in particular from France and in general from abroad. The Delegation thanked the relevant department in France that proved that the works of artists were being recognized around the world. The Delegation noted that that underscored the importance of the resale right. The Delegation looked forward to the final report at the forty-first session of the SCCR. The Delegation welcomed intersessional reports from the group of experts. The Delegation reaffirmed its support for the resale right.

299. The Delegation of the Ivory Coast aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group. The Delegation also expressed support for the joint proposal on resale right by the Delegations of Congo and Senegal. The Delegation pointed out that it was part of Cote d'Ivoire as noted at the 35th SCCR. The economic fallout from resale right was not in doubt. Auctions of works of art provided substantive proof and there was a need to include the resale right as a permanent item on the SCCR's agenda. The Delegation noted that that was a challenge to morality and to collective conscience. The Delegation hoped that the resale right would lead to a balanced international framework which would adapt copyright to the constantly changing needs of society. The Delegation urged members to overcome that and make resale right generally acceptable and applied throughout the world.

300. The Delegation of Kenya endorsed the statement made by the Delegation of Uganda on behalf of the African Group. The Delegation attached great importance to the adoption of fair and equitable remuneration to all products of intellectual, creative, labor and skill. It was in that consideration that in its copyright amendment Kenya introduced a resale right which needed copyright registration. Kenya believed that the issue of resale right was internationally important. The Delegation expressed support to the joint proposal presented by the Delegations of Congo and Senegal on the subject matter.

301. The Delegation of Gabon associated itself with the statement made by the Delegation of Uganda on behalf of the African Group, supporting the proposal by the Delegations of Senegal and Congo on the introduction of the resale right to the agendas of the SCCR, the Delegation noted with interest the progress achieved since the presentation of that proposal at the 27th session. The Delegation welcomed the constant and growing support for the proposal. The Delegation noted that Gabon had provisions on resale right that were evident in its copyright law, however they had not been implemented in practice. Conferences and studies undertaken

so far had led to better understanding of what was involved in the resale right and how it could be applied. The Delegation noted that it looked forward to subsequent studies on the subject matter and reiterated the need for it to be a permanent item on the Committee's agenda.

302. The Delegation of Malawi aligned itself with the statement presented by the Delegation of Uganda on behalf of the African Group. The Delegation reiterated its support for Senegal and Congo to include the artist's resale right of a standing agenda item of the SCCR. The Delegation recognized the significant role of visual artists and therefore placed great importance to the protection of the visual art works as well as the welfare of the visual artists. For that reason, the Copyright Act of Malawi of 2016 made provisions introducing resale right and implementation of provisions would ensure that the rights of visual artists were aligned with those of other categories of authors who continued to receive royalties for as long as their works were available on the market. The Delegation urged the Committee to consider prioritizing the artist's resale right as a substantive agenda item.

303. The Delegation of Botswana aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group. The Delegation commended the Delegations of Senegal and Congo for their proposal to include artist's resale royalty right as a substantive agenda item of the SCCR. The Delegation looked forward to receiving the update on the work of the task force. The Delegation indicated that it was necessary for the Committee to prioritize adoption of artist resale right as a standing agenda item of SCCR to allow engagement on that right at an international level.

304. The Delegation of Morocco commended the Secretariat for initiatives taken to further protect intellectual property in its cultural and economic dimensions. The Delegation acknowledged the efforts taken by the Organization to help Morocco to defend international property. The Delegation pointed out that Morocco constantly sought support from WIPO experts. The Delegation noted that they were seeking to keep pace with the latest developments in the field of intellectual property and which undoubtedly should help to organize the right of copyright holders. The Delegation noted that Morocco adopted an urgent plan based on a systematic methodology to support the moral and material rights of authors through the support and further enhancing the codes and legislation defending the rights of authors, especially those of visual rights. An exhibition of artists' paintings on the day of Africa for the African Confederation of Authors and Artists was organized. The Delegation noted that the exhibition sought to establish a sound basis for cultural enhancement. Morocco sought to further support visual artists so that they may continue to play their role in cultural development and in their art. The Delegation reaffirmed their commitment to support the efforts of WIPO concerned and to improve their performance on the national and international level.

305. The Delegation of Japan recognized that a few countries including Japan did not have the resale rights in their legislation system. The Delegation believed that the information and research on implementation and performance regarding resale right or mechanism would be important and useful in order to have objective discussions on the subject matter. The Delegation noted that the opinion of the wide range of stakeholders should be collected. The Delegation believed that the study of the expert task force was helpful for deeper understanding. The Delegation opined that the fact-finding study conducted by the task force was a useful understanding with the resale right. The Delegation suggested that the task force should research the necessity and acceptability of the resale right as well as a practical issue. For example, first the reason for justification of returning part of the wholesale benefit to the artist. Second, the reason why only visual artworks were given special right compared with other types of works. The third, the possibility of both positive and negative impacts to the market in other countries besides the United Kingdom. Resale right was not the only measure to protect artists under the copyright system. The Delegation pointed out that the broader study for the flexible way to protect artists' rights under the copyright system was also important and

useful for further discussions. The Delegation reiterated that priority should be given to the long-standing agenda item, namely protection of broadcasting organizations. The Delegation expressed concern that introduction of the topic as a standing item could reduce the time for the discussion on the existing agenda. The Delegation proposed that the Committee should focus on the existing agenda.

306. The Delegation of Brazil expressed support on the topic of resale right as it believed it was a subject closely related to the topic of digital environment in the sense that it aimed to properly compensate authors and creators for their work. The Delegation suggested that the resale right and digital environment items should become a specific agenda items on the agenda of the Committee.

307. The Delegation of Nigeria aligned itself with the statement made by the Delegation of Uganda on behalf of the African Group concerning that agenda item. The Delegation noted that Nigeria had gained some practical experience with the application of the artist resale right. The painting of a renowned Nigerian artist that had been described in the press as the Mona Lisa of Africa was recently auctioned in another country becoming the highest price paid for an African work of art in the auction market. Despite the existence of provisions on artist's resale right in the copyright legislation of Nigeria and that other country, the Nigerian artist was denied the benefit of that provision in that country simply because Nigeria was not on the list of countries that enjoyed reciprocal treatment in that country. The Delegation indicated that extensive consultations with the visual arts community had begun to address such situations. The Delegation also revealed that they were taking appropriate legislative action at the national and international level. The Delegation welcomed more inputs to deepen understanding the wider ramifications of the resale right. The Delegation noted with concern that while the growing global market benefits collectors and galleries, the visual artists whose copyright work were the core of the business were often left out. As some of the studies already carried out had shown, artists were probably the only category of right owners that did not enjoy any recompense from the secondary exploitation of their works. The Delegation showed keen interest in understanding how the solution would benefit artists in the context of traditional cultural expressions. As members continued to share experiences from different copyright backgrounds, the Delegation noted a lot of similarities in national laws despite differences in copyright traditions. The Delegation of Nigeria looked forward to witnessing accelerated progress in the work of the SCCR on the subject. The Delegation proposed that the artist's resale right would become a permanent standing alone agenda item in the future work of the Committee.

308. The Delegation of the United States of America aligned itself with the statement made by the Delegation of Japan. The Delegation noted that United States of America was one of the number of WIPO Member States that did not have domestic resale royalty legislation. Though a study on resale royalty had been completed, there had not been active discussions on the subject matter. Nonetheless the U.S. was interested in learning more about resale royalty, especially other countries' experiences with it. Though the Delegation appreciated the updates from the task force, they were not ready to accept it as a part of the permanent agenda for SCCR and suggested that it stays under the other matters items on the agenda. The Delegation pointed out that the SCCR already had a full agenda of pressing matters and devoting a full agenda item to that topic would be problematic.

309. The Delegation of Gambia underscored the importance of the resale rights. The Delegation noted that the economic benefits that resale artists benefitted from showed that it was a stabilizing factor in terms of bringing about social cohesion and allowing an area of employment to be chartered without necessary government intervention. The Delegation observed that some countries may not see it as a priority because everyone had an interest in their development. However, the Delegation noted that in small African countries where music

had empowered them and given them something useful to do and gaining an income from, it was important to treat resale right as one of the objectives to empower the lesser countries that did not have the might of the greater countries.

310. The Representative of The International Council of Creators of Graphic, Plastic and Photographic Arts (CIAGP) noted that it was important to stress visual arts as a form which was characterized by the fact that creators are the entrepreneurs of their own creation as opposed to musicians or authors because fund their own projects. Those were sold in a market of original objects, which did not occur in the case of other creators. In that case, they were talking about something specific, which only happened in the visual arts field. The Representative spoke of the need of those authors to obtain revenues, which would enable them to continue with their work. The Representative noted its significance due to the transformation of the art industry by the global market. The Representative observed that there were issues of artists in competition to sell their works and achieve market prices that could be considerable. The Representative underscored the importance of resale rights to enable artists to participate in those rights and receive such compensation. As was noted by some representatives from several African countries, that was prejudicial in particular to those countries which did not have legislation and the nationals of which might find themselves sold in market places like New York, London, Paris, or other markets in the world. It was very important to continue with the work of WIPO to explore the way in which Article 14 of the Berne Convention could be exempted due to its obsolete nature and given the transformation in a global market. CIAPG called for the resale right to be included as a permanent item on the SCCR agenda. Given the interest of a large number of countries in exploring the benefits that could be gained from the universal protection of the right.

311. The Representative of European Visual Artists (EVA) supported the proposal from the Delegations Senegal and Congo to include resale right in the agenda of future work of the SCCR. The Representative noted that it was vital for artists in every country in the world to be aware that their works were being used. The Representative noted that that created a better living standard for the artists and possibilities to create works of high artistic quality. The resale right would also benefit from the art market especially when people began to realize the growing world market for artistic works. There was a need for similar regulation worldwide for artists and art market professionals. The Representative also expressed support for the proposal from Sierra Leone regarding a study on the public lending right. The Representative noted that that was a remuneration right, which was of great importance for visual creators such as illustrators and photographers.

312. The Representative of International Federation of Reproduction Rights Organizations (IFRRO) noted that the resale right showed that artists valued fair remuneration and it promoted that right. The Representative believed that the important benefits of resale rights as observed in some countries demonstrated the essential importance of the details of its implementation all over the world.

313. The Representative of Knowledge Ecology International (KEI) noted, as it did for the past five years, the resale right was first established in 1928. The Representative reiterated support on the work of resale right and the normative work for resale right for visual artists. However, the Representative suggested for the work to be limited to physical original works.

314. The Representative of the Confederation of Societies of Authors and Composers (CISAC) underlined the importance of ensuring the effective harmonization of the resale right and secure its availability around the world without discrimination. That would guarantee that native artists all around the world would have a way of sharing in the wealth created without having to rely on the trust of charity of middlemen. The Representative pointed out that the resale right provided much more. The Representative noted that it was the only legal instrument that allowed artists

to maintain a connection with the unique artworks they create. The resale right created more transparency in the art market and allowed artists to have a share in the value of their works. That was a crucial point because when a work of art increased in value, it was as a result of the artist's reputation. CISAC reaffirmed support to the initiative of the task force as a forum of experts to discuss and report on the practical elements of the resale right. The Representative was confident that the exercise would create added value to the discussions in the Committee and shed more light on the different aspects of that issue. Thus, the work of the task force would complement the outcome of two studies presented to the committee in previous years. The study of Professor Ricketson that gave value, insight and the study from Professor Gendreau that found no evidence that resale had a negative impact on the market. The Representative encouraged Member States to start substantive discussions on the proposal of Senegal and Congo towards a meaningful outcome. CISAC was open to provide the Secretariat with information and testimonials from artists of how fundamental resale right is to artists and their heirs. Community that represented the creativity and the cultural heritage of each country around the world truly needed and very much deserved such remuneration.

315. The Representative of the International Authors Forum (IAF) supported the work of the task force and looked forward to the task force update. Resale rights could give a fair contribution from the global art market to the community of creators, as it had been recognized by some Delegations. A lack of reciprocity could create injustice between the global arts market and creators. The Representative noted that it was important that artists in all countries could benefit from the resale of their creations. That was a matter of equity with how creators of other works were respected and rewarded for continued enjoyment of their creation. The Representative strongly supported the inclusion of the resale right and supports the progress of the resale rights task force.

316. The Secretariat informed members of the work done in connection with the resale right under Agenda Item 8, other matters. During the 37th session the Committee had approved the ways and means for the setting up of a task force of experts, made up of experts from the main groups of stakeholders as well as coordinators representing regional groups. The Secretariat noted the mandate of examining the essential elements of resale right system, which were common to most laws and covered the following means of collection and distribution. The transactions aimed at by that right, list of persons that could claim that right management responsibility for payment, and information, concerning resale amongst other subjects. The team of experts had an initial meeting and that meeting, in fact, was extremely useful in order to identify certain number of subjects and themes in to which more details could be analyzed in order to better understand the implementation of that right. Amongst the subjects that were mentioned during the working group, it noted the interest of analyzing different types of regulatory provisions implementing resale rights. A second question identified by the experts concerned an analysis of the various modalities and means of managing those rights in countries which, in fact, did implement resale rights. In that respect, and in connection to the work done by the task force, the Secretariat invited countries which had spoken during that session and interested in the work of the task force to communicate the name of a national focal point to the Secretariat with which the task force could interact within the framework of its work. The Secretariat noted that it would actively continue with its work and analyzing the various subjects with the members of the task force. Various exchanges and a meeting of members were expected to take place in the course of 2020. The Secretariat indicated that it would submit a report to the Committee at the following session of the SCCR.

Rights of Theater Directors

317. The Chair noted that though there was growing support for the inclusion of the resale right on the agenda, a consensus had not been reached. The Chair urged members to share their focal points with the Secretariat. The Chair invited comments from participants on the final

ongoing topic under other matters, which was in relation to the strengthening of protection for stage directors of theatrical productions.

318. The Delegation of the Russian Federation believed that the strengthening the rights of stage directors needed constant attention. In May 2019, a meeting was held in St. Petersburg on that subject and the international implications. During that meeting, the Russian Federation was noted for its theatrical presence where important shows and events were held. That helped in arguing its position for the rights of stage directors. Furthermore, the subject needed to be examined at a higher level by taking in to account the activities carried out in that connection in the Russian Federation.

319. The Delegation of Croatia thanked the Delegation of the Russian Federation on the continued work related to strengthening the rights of the theater directors at the international level. The Delegation indicated that majority of participants had regulated that issue, however, they looked forward to future discussions based on the presentation of the scoping study.

320. The Chair encouraged the Russian Federation to continue with its work and urged the Secretariat to continue their work on the scoping study. The Chair looked forward to hearing the progress of the work at the next SCCR. The Chair referred to the issue of public lending rights and the suggestions by participants for it to be the subject of a study from the Secretariat. The Chair pointed out based on informal discussions with the regional coordinators, they welcomed members to suggest topics for consideration given that copyright was a dynamic area with interesting developments, which would be of interest to the Committee. The Chair urged members to submit proposals based on submissions raised on items to study and assess it to be able to take the suggestion to raise as an agenda item or raise as one of the items under any other business for full consideration. The Chair proposed that the Delegation of Sierra Leone submit a formal paper on its proposed topic that could be studied carefully by the Committee.

321. The Delegation of Sierra Leone welcomed the proposal by the Committee to move forward the proposal to Member States and attached great importance to the remuneration of intellectual works to authors. The Delegation reaffirmed its position in holding subsequent discussions in the coming session.

322. The Chair indicated that consensus was being reached on the shape of the recommendation for the Agenda Items 5 and 6, limitations and exceptions. The Chair noted that that would constitute a request from the Committee to the Secretariat for report. The Chair indicated that there was the need for further deliberations on the exact parameters and asked regional coordinators to consult and coordinate in finding the consensus text for the adoption and incorporation in to the Chair's summary.

323. The Chair indicated that consensus had been reached on how to reflect work ahead on Agenda Items 5 and 6. The Secretariat was to produce a report that would be tabled two months before the next SCCR. Based on that and the existing documents of the SCCR, as well as the work conducted, the Committee would plan the next steps ahead during the next round. The Chair explained that the Chair's summary reflected as accurately as possible a factual record of what occurred during the meeting. He urged participants to avoid reopening any substantive questions on addressing the items on the agenda.

324. The Secretariat presented the Chair's summary.

AGENDA ITEM 9: CLOSING OF THE SESSION

325. The Chair thanked the Secretariat and all participants for their inputs. The Chair moved on to Agenda Item 9, the closing of the session.

326. The Delegation of Croatia, speaking on behalf of the Central European and Baltic States, (CEBS) thanked the Chair and Vice-Chairs for their able guidance throughout the SCCR 39 as well as the organization of the international conference on copyright limitations and exceptions for libraries, archives, museums and educational and research institutions which was preceded by the three regional seminars. CEBS also commended the Secretariat and interpreters and the conference service. The Delegation acknowledged constructive engagement of different Member States as well as relevant institutions and NGOs and noted with pleasure progress achieved on different SCCR topics, in particular on broadcasting. The Delegation reaffirmed its commitment towards future work.

327. The Delegation of Mexico, speaking on behalf of GRULAC, acknowledged the work of the leadership towards making progress in the Committee's consideration of the items so as to reconcile the positions of the Member States. GRULAC acknowledged the efforts to draft document 39/4 and ensuring constructive deliberations. The Delegation noted that the revised proposal would continue to be a Chair's document given the flexibility that it entailed. GRULAC hoped to continue working to find formulas acceptable that would enable members to respect the mandate of the General Assemblies to convene a Diplomatic Conference on the protection of broadcasting organizations in the 2020-2021 biennium. As regards exceptions and limitations, GRULAC highlighted the need for the Secretariat to prepare a factual report on the results of the three regional seminars and the international conference which would reflect the analysis and the practice of the experts and in the four areas and also the aspects highlighted and the opinions given on the future work to be done. GRULAC emphasized the timely publication of documents in all official languages. GRULAC noted that it was essential to have the documents produced in English, French and Spanish in due time to enable proper consideration to the contents and participation in an informed way in the discussions to be presented at the 40th session of the Committee. The Delegation appealed to the Secretariat to publish the reports as soon as possible. GRULAC acknowledged Professor Butler for the presentation on the introduction to the digital world music market. GRULAC hoped that the study would probe the dynamics of the musical digital world and the global value chain thereof and would result in a clear program of work that would facilitate progress in the Committee. .

328. The Delegation of Singapore speaking on behalf of the Asia and Pacific Group commended the Chair and Vice-Chairs and able effective leadership in guiding Member States. . Copyright limitations and exceptions were of critical importance. APG looked forward to the factual report from the Secretariat on international conference on copyright limitations and exceptions. The APG reiterated its commitment to continue discussions on the future steps for copyright limitations and exceptions taking in to account parallel work by the committee. On the broadcasting Treaty, the APG looked forward to examining the flexibility and solutions proposed by Member States as reflected in the Chair's text. The APG looked forward to future discussions on fundamental issues for progress towards the Diplomatic Conference on a Broadcasting Treaty. On the emerging areas of artist resale rights, copyright in digital environment and theater director's rights, the APG looked forward to continuing discussion on those new areas.

329. The Delegation of Canada speaking on behalf of Group B thanked the Chair and Vice-Chairs for their able leadership throughout the session of the SCCR. Group B acknowledged the efforts of the Secretariat prior to the session. Group B welcomed technical discussions on the protection of broadcasting organizations. It also acknowledged the level of engagement of Member States in those discussions and welcomed their presentations regarding the studies and typology on limitations and exceptions as well as the reports. Group B thanked the respective authors and Rapporteurs and reaffirmed support towards constructive discussions in the SCCR.

330. The Delegation of Uganda, speaking on behalf of the African Group underscored the importance of remaining faithful in a balanced manner to the mandates of the Committee as regards its two outstanding Agenda Items, namely the 2007 General Assembly decision regarding protection of broadcasting organizations and the 2012 General Assembly decision on copyright limitations and exceptions for libraries, archives, museums and educational and research institutions and persons with other disabilities. The African Group remained committed to both mandates and any other mandates of the General Assembly. The African Group recalled the primary reasons for establishment of the SCCR which was to develop the international system for protecting copyright and related rights through harmonization and other means. The Group was aware that there were copyright challenges that could be addressed at the national and regional levels. Those should be addressed through appropriate national and regional platforms with WIPO playing a supportive role. The Group welcomed the successful implementation of agreed action plans and thanked all the experts, capital experts and Member States and members of Civil Society Organizations who participated in those activities and contributed effectively. The Delegation noted that the outcomes of the work plans had led to opportunities for that SCCR to identify specific areas for further consideration within the mandate of the Committee. The Delegation looked forward to reviewing the synthesized factual reports of the seminars and the international conference to assist the SCCR to discuss concrete steps forward on limitations and exceptions. The African Group thanked the Chair and Vice Chairs for their effective leadership skills which had enabled substantive progress on the presented issues. The Delegation also commended Member States and other stakeholders for their constructive engagement during discussions on the issues presented.

331. The Delegation of China acknowledged active participation of all stakeholders with numerous points of view. The Delegation noted the constructive engagement of regional coordinators and Member States in order to close those gaps. There had been significant progress with regard to the Treaty on broadcasting organizations, limitations and exceptions with regard to museums and research institutions, et cetera, as well as other outstanding issues. The Delegation noted that it was ready to adopt a constructive and a flexible attitude in order to obtain substantive results in the SCCR and

332. The Delegation of the European Union thanked the Chair, the Vice-Chairs and the Secretariat and their interpreters for their efforts in successfully conducting the discussions carried out in that Committee. The work towards a Treaty for the protection of broadcasting organizations was of great importance for the European Union. The discussions and clarifications at the informal sessions and at the meeting of the friends of the Chair were of great value and helped to further understand the aims and ideas behind the respective proposals. The European Union thanked the all Delegations for their engagement. and remained fully committed to finalizing a Treaty which reflected the realities and the developments of the 21st Century. In that context they looked forward to making further progress on certain essential issues such as the objective of protection and the rights to be granted during the next session. The Delegation expressed appreciation for the comprehensive work that had been carried out under the two agenda items on limitations and exceptions. In particular, the European Union thanked Dr. Crews, Professor Xalabarder and Ms. Torres for their representative presentations and informative question-and-answer sessions. The European Union believed that the presentations and subsequent discussions were of great value and highlighted the significance of the work undertaken for the topics discussed under those agenda items. The European Union thanked the Secretariat for organizing the international conference on copyright limitations and exceptions for libraries, archives, museums and educational and research institutions prior to that session and acknowledged the Chairs and Rapporteurs for the regional meetings in Singapore, Nairobi and Santo Domingo for providing reports for the interesting discussions held at the meetings. In that context, taking account of the reports from the conference and the regional meetings, the Delegation reiterated its belief of a meaningful outcome of work in the field of limitations and exceptions could be guidance to Member States

regarding best practices, taking advantage of the flexibility of the international copyright legal framework to adopt, maintain or update national exceptions that responds to local needs and traditions. The European Union took note of the broad support which emerged for further work at the national and regional levels and the reflections on how WIPO could best provide assistance in that regard. It noted that that was a good starting point for discussions on the way forward regarding the Committee's work on limitations and exceptions. Lastly, the Delegation acknowledged the work under the agenda item Other Matters by the Secretariat and Professors Gendreau and Sergo. The Delegation also thanked the Professor Butler for the interesting presentation on the global digital music market. The Delegation noted the increasing support to include the artist's resale right as a self-standing agenda item in the Committee's agenda.

333. The Delegation of Saudi Arabia observed the extensive discussions during the international conference and during the thirty-ninth session of the Standing Committee on Copyright and Related Rights meetings around the discussed issues. The Delegation looked forward to the Chair's leadership and steering members to achieve Consensus on the fundamental issues. It is noteworthy that the Saudi authority for Intellectual Property of Saudi Arabia had signed a trilateral agreement with the session of blind and Saudi library and its efforts to implement the Marrakech Treaty for people with blindness or visual impairments with the aim of facilitating access to published works for their benefits. It acknowledged the importance of the aforementioned issues as artist's resale rights, copyright and the digital environment and other issues. The Delegation recognized the efforts and the work that took place by the Secretariat and experts on those issues under your esteemed leadership.

334. The Delegation of El Salvador aligned itself with the statement made by the Delegation of Mexico on behalf of GRULAC. Notwithstanding, the Delegation expressed the need for consensus on the subject of limitations and exceptions on future work to enable constructive debates. It thanked all Delegations and regional groups for their constructive work and for having reached an agreement where limitations and exceptions were addressed in a direct and concrete way. The Delegation believed that would present a basis for establishing future work in the next session. The Delegation pointed out the element of copyright in a digital environment and emphasized that it become a standing item on the Committee's agenda given that it was present in all of our deliberations.

335. The Delegation of Jordan commended the entire leadership for successfully steering the affairs of the SCCR. The Delegation also commended all Delegations for their full participation towards discussions and deliberations. The Delegation believed that the work of the Committee would lead to advancement of future work

336. The Delegation of Indonesia aligned itself with the statement delivered by the Delegation of Singapore on behalf of the Asia and Pacific Group. Indonesia looked forward to the discussion on a future work program on Agenda Items on both libraries, archives, museums as well as exceptions and limitations for educational and research institutions. The Delegation was optimistic that consensus would be reached on a work program under the two agenda items on exceptions and limitations at the upcoming 40th session on SCCR. Key to agreement under the topic of exceptions and limitations in that Committee depended on giving mutual respect to all perspective issues. The Delegation noted that it was important for members to abandon long held views on how exceptions and limitations issues should be handled internationally. It was time to realize that it was not only national issues that required national solution, but issues on exceptions and limitations needed international solutions. The Delegation looked forward to the report of the regional seminars and the international conference on copyright exceptions and limitations. It hoped that Indonesia's views and positions which were expressed both at regional seminars and as well as in the session of the way forward at the international conference on copyright exceptions and limitations would be reflected in the report. On the issue of protection for broadcasting organizations, the Delegation welcomed the fruitful discussions that had been

undertaken on flexible means on how Member States could provide adequate and effective protection for broadcasting organizations. With the same optimism for the exceptions and limitations agenda the Delegation hoped for concrete progress towards the convening of a diplomatic conference. It echoed the views of members to remain faithful to the mandates on all standing Agenda Items both on the 2007 mandate and 2012 mandate for exceptions and limitations agenda. The Delegation also looked forward to further discussion on issues under the other matters Agenda Item.

337. The Delegation of Iran (Islamic Republic Of) highlighted the importance of remaining committed to the mandates given to the Committee on 2007 and 2012 by the General Assembly on all standing agenda items. Deviating from the mandate was not a positive precedent which could create far reaching consequences.

338. The Delegation of the Philippines associated itself with the statement delivered by the Delegation of Singapore on behalf of the Asia Pacific Group. The Delegation considered copyright limitations and exceptions as an important tool for pursuing its national Development Agenda. Preservation of works and education were better acts of progress. The Delegation attested to the significance of ensuring expiration and pursuit of all possible avenues for disseminating information and knowledge through existing frameworks and activities that seem to continuously improve the landscape. It believed that addressing development gaps was an issue worth advocating. The Delegation noted that it would continue to engage constructively in that regard and looked forward to the factual report of the regional seminars and the international conference. The Delegation reiterated the importance Philippines places on the draft broadcasting Treaty and acknowledged the work to be conducted in order to substantially narrow existing gaps.

339. The Delegation of Argentina pointed out the significant progress made on some working points. Looking at the different WIPO committees was pleased with the work of the Committee. The Delegation was encouraged by the prospect of Intersessional work.

340. The Delegation of Mexico noted that the work of the Committee on the sensitivity of addressing the topics was very crucial particularly with regard to broadcasting organizations. The Delegation expressed interest in the international conference which was held. The Delegation noted the significant progress with full participation from represented nations. It acknowledged the work and progress which had been made and noted progress on copyright and digital environment and for stage directors. That it hoped would continue to feature in the work at a national level. The Delegation called for a continued support and commitment from all participants.

341. The Chair echoed the comments and appreciation made by members in relation to people who had contributed immensely to the work of the SCCR; the interpreters and conference services as well as the Secretariat for administering and organizing the regional seminars and international conference. The Chair also acknowledged the support of host countries and participants, experts and panelists who helped to enrich those meetings. He acknowledged the efforts of the Vice-Chairs for their extensive support and inputs and indicated that progress was made on the specific work items. In relation to broadcasting, the Chair mentioned that the Friends of the Chair had met inter-sessionally to analyze some of the technical issues and provided suggestions in advancing discussions. The Chair also thanked experts for their expert analysis on the technical issues. He noted that those discussions had been outlined in the Chair's text and looked forward to progress on the subject matter. The Chair expressed concern of the Committee's inability to reach consensus on limitations and exceptions and noted the proposal for the Secretariat to produce a report. The report and other prior work conducted would form a group basis towards future discussions. He noted that the good work program would form the basis for the next round. The Chair thanked all members for showing a

spirit of conciliation and constructivism in holding discussions. The Chair declared the thirty-ninth session of the SCCR closed.

ANNEXE/ANNEX

I. MEMBRES/MEMBERS

AFRIQUE DU SUD/SOUTH AFRICA

Meshendri PADAYACHY (Ms.), Deputy Director Intellectual Property Law and Policy, Policy and Legislation, Trade and Industry, Pretoria

Kadi David PETJE (Mr.), Senior Manager, Copyright Intellectual Property Office, Pretoria

Mandla NKABENI (Mr.), First Secretary, Permanent Mission, Geneva

Cleon NOAH (Ms.), Director, Multilateral and Resourcing, Department of Arts and Culture, Pretoria

ALBANIE/ALBANIA

Entela ÇIPA (Ms.), General Secretary, Ministry of Energy and Industry, Tirana

ALGÉRIE/ALGERIA

Mohamed Said ABBAS (M.), directeur général, Office national des droits d'auteur et droits voisins (ONDA), Ministère de la culture, Alger

Mohamed BAKIR (M.), premier secrétaire, Mission permanente, Genève

ALLEMAGNE/GERMANY

Matthias SCHMID (Mr.), Head of Division, Copyright Division, Ministry of Justice and Consumer Affairs, Berlin

Laura PHILIPP (Ms.), Legal Officer, Division of Copyright and Publishing Law, Federal Ministry of Justice and Consumer Protection, Berlin

Jan POEPEL (Mr.), Counsellor, Permanent Mission, Geneva

Florian PRIEMEL (Mr.), PhD Candidate, University of Cologne, Cologne

ANGOLA

Alberto GUIMARAES (Mr.), Second Secretary, Permanent Mission, Geneva

ANTIGUA-ET-BARBUDA/ANTIGUA AND BARBUDA

Carden Conliffe CLARKE (Mr.), Deputy Registrar, Intellectual Property and Commerce Office, Antigua and Barbud

ARABIE SAOUDITE/SAUDI ARABIA

Maher URAIJAH (Mr.), Deputy Chief Executive Office, Intellectual Property Operations,
Intellectual Property Office, Riyadh
Ibrahim ALZAID (Mr.), Senior Legal Analyst, Legal Department, Intellectual Property Office,
Riyadh

ARGENTINE/ARGENTINA

Gustavo SCHÖTZ (Sr.), Director, Dirección Nacional del Derecho de Autor, Ministerio de
Justicia y Derechos Humanos, Buenos Aires
Betina Carla FABBETTI (Sra.), Segunda Secretario, Misión Permanente, Ginebra

AUSTRALIE/AUSTRALIA

Hari SUNDARESAN (Mr.), Assistant Director, Copyright Trade and Government, Department of
Communications and Arts, Canberra

AUTRICHE/AUSTRIA

Günter AUER (Mr.), Civil Law Department, Copyright Unit, Federal Ministry of Constitutional
Affairs, Reforms, Deregulation and Justice, Vienna

AZERBAÏDJAN/AZERBAIJAN

Nadira BADALBAYLI (Ms.), Head, Registration of Copyright Law Objects and Legal Expertise,
Intellectual Property Agency, Baku
Afsana MIRZAZADA (Ms.), Deputy Head, Registration of Copyright Law Objects and Legal
Expertise, Intellectual Property Agency, Baku

BAHAMAS

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

BANGLADESH

Mahabubur RAHMAN (Mr.), First Secretary, Permanent Mission, Geneva

BÉLARUS/BELARUS

Aliaksandr DZIANISMAN (Mr.), Head, Collective Management Center, National Center of
Intellectual Property (NCIP), Mins

BOLIVIE (ÉTAT PLURINATIONAL DE)/BOLIVIA (PLURINATIONAL STATE OF)

Ruddy José FLORES MONTERREY (Sr.), Representante Permanente Alterno,
Misión Permanente, Ginebra

Fernando Bruno ESCOBAR PACHECO (Sr.), Primer Secretario, Misión Permanente, Ginebra
Mariana Yarmila NARVAEZ VARGAS (Sra.), Segundo Secretario, Misión Permanente, Ginebra

BOTSWANA

Keitseng Nkah MONYATSI (Ms.), Copyright Administrator, Copyright, Companies and
Intellectual Property Authority (CIPA), Gaborone

BRÉSIL/BRAZIL

Carolina PANZOLINI (Ms.), Director, Copyright Office, Ministry of Citizenship, Brasília

Maurício BRAGA (Mr.), Copyright Secretary, Copyright Office, Ministry of Citizenship, Brasília

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