

Standing Committee on Copyright and Related Rights

Forty-Fourth Session
Geneva, November 6 to 8, 2023

DRAFT PROPOSAL BY THE AFRICAN GROUP FOR THE IMPLEMENTATION OF
THE WORK PROGRAM ON EXCEPTIONS AND LIMITATIONS, ADOPTED AT THE
43RD SESSION OF THE WIPO SCCR

prepared by the African Group

At the 43rd session of the WIPO Standing Committee on Copyright and Related Rights, a new Work Program on Exceptions and Limitations was adopted and contained in SCCR/43/8.

2. This proposal is presented in furtherance of the implementation of the Work Program especially as it relates to the following three priority issues on exceptions and limitations highlighted in Paragraph/Point 2:

- a. to promote the adaptation of exceptions and limitations to ensure that laws at the national level enable the preservation activities of libraries, archives, and museums, including the use of preserved materials;
- b. to promote the adaptation of exceptions and limitations to the online environment, such as by permitting teaching, learning and research through digital and online tools; and
- c. to review implementation of the Marrakesh Treaty and how to ensure that people with other disabilities (also covered by the Convention on the Rights of Persons with Disabilities) can benefit from similar protections, in particular in order to benefit from new technologies.

3. We wish to recall that Paragraph 4 of the adopted Work Program directed as follows:

- that the Chair should advance information sharing and consensus building on points 1-3 between SCCR meetings through processes which are transparent and inclusive in conformance with WIPO Development Recommendation #44, such as working groups of Member States, supported by experts as appropriate and agreed, preparing objectives and principles and options for implementation at national level for consideration by the Committee.

4. This proposal sets out the methodology and program for the Working groups of Member States, supported by experts agreed by the committee as appropriate, in accordance with Paragraph 4 of the Work Program.

5. To begin implementation of the adopted Work Program in the manner set out in Paragraph 4 thereof, the following is hereby submitted for the consideration of the Committee:

- i. the Chair should, immediately after the conclusion of SCCR/44, establish three working groups of Member States to prepare draft objectives, principles, and (implementation) options with respect to the three priority issues identified in Paragraph 2 of the Work Program, with each working group focusing on a single priority issue;
- ii. the working groups should consist of at least two Member States with balanced and diverse representation from each region, to be selected by Regional Coordinators, with the participation of at least one expert to support the work of each working group;
- iii. the working groups shall elect a Chair, meet twice before SCCR/45 and provide updates to the Committee on the progress of their deliberations;
- iv. the first meeting of the working groups should begin with presentations of research on the focus priority issue and working principles, objectives, and (implementation) options by expert(s) and beneficiaries, drawing inspiration from the processes used in

- the WIPO Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC);
- v. the drafts of the objectives, principles and (implementation) options should be presented at SCCR/45 for consideration by the Committee;
 - vi. prior to SCCR/45, the Secretariat shall summarize the various objectives and principles relevant to the priority issues that have previously been presented to the SCCR, including SCCR/26/8, SCCR/27/8, and SCCR/34/5, as appropriate;
 - vii. the working groups should build upon the prior work of the Committee and existing SCCR documents on limitations and exceptions, including proposals and comments by Member States, to ensure continuity and progress in Committee work on L&Es. The objective is to use existing documents as stepping stones while underscoring the importance of not prejudging the outcomes of the deliberations of the working groups;
 - viii. the Working Groups shall operate in an open, transparent and inclusive manner, providing an opportunity for meaningful engagement by stakeholders; and
 - ix. the Secretariat shall facilitate the meetings of the working groups in a hybrid format, to be held at WIPO and online, where interested Member States and accredited observers may attend the meetings of the working groups as observers; and
6. In line with established practice, the SCCR plenary will remain the negotiating and decision-making body. The working groups of Member States and experts will support and facilitate the negotiations of the SCCR, by providing advice and analysis on the issues to be addressed.

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