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WORLD INTELLECTUAL PROPERTY ORGANIZATION

GENEVA

STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

Fifth Session

Geneva, May 7 to 11, 2001

REPORT

prepared by the Secretariat

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the “Standing Committee”) held its fifth session in Geneva from May 7 to 11, 2001.
2. The following Member States of WIPO and/or members of the Berne Union for the Protection of Literary and Artistic Works were represented in the meeting: Algeria, Angola, Argentina, Armenia, Australia, Austria, Belarus, Belgium, Bosnia and Herzegovina, Brazil, Bulgaria, Cameroon, Canada, China, Colombia, Croatia, Cuba, Czech Republic, Democratic Republic of the Congo, Democratic People’s Republic of Korea, Dominican Republic, Egypt, Fiji, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Honduras, Hungary, India, Indonesia, Iraq, Ireland, Italy, Jamaica, Japan, Kazakhstan, Kenya, Latvia, Luxembourg, Malaysia, Malawi, Malta, Mexico, Morocco, Nepal, Netherlands, New Zealand, Nigeria, Norway, Pakistan, Peru, Philippines, Portugal, Qatar, Republic of Korea, Romania, Russian Federation, Saudi Arabia, Senegal, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Thailand, Togo, Tunisia, Turkey, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Ukraine, Uruguay and Venezuela.
3. The European Community participated in the meeting in a member capacity.
4. The following intergovernmental organizations took part in the meeting in the capacity of Observers: African Intellectual Property Organization (OAPI), Arab States Broadcasting Union (ASBU), Council of Europe (CE), International Labour Organization (ILO), League of Arab States (LAS), World Health Organization (WHO), World Meteorological Organization (WMO) and World Trade Organization (WTO).
5. Representatives of the following Non-Governmental Organizations took part in the meeting as Observers: Agency for the Protection of Programs (APP), American Film Marketing Association (AFMA), Asia-Pacific Broadcasting Union (ABU), Association of European Performers’ Organisations (AEPO), Association of Commercial Television in Europe (ACT), Association of European Radios (AER), Canadian Cable Television Association (ACTA), Central and Eastern European Copyright Alliance (CEECA), Comité de Actores y Artistas Intérpretes (CSAI), Copyright Research and Information Center (CRIC), Digital Media Association (DiMA), European Broadcasting Union (EBU), European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA), Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants (ARTIS GEIE), International Association of Broadcasting (IAB), International Confederation of Music Publishers (ICMP), International Federation of the Phonographic Industry (IFPI), International Federation of Actors (FIA), International Federation of Film Producers Associations (FIAPF), International Federation of Musicians (FIM), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), International Video Federation (IVF), Japan Electronics and Information Technology Industries Association (JEITA), Max-Planck-Institute for Foreign and International Patent, Copyright and Competition Law (MPI), National Association of Broadcasters (NAB), National Association of Commercial Broadcasters in Japan (NAB-Japan), North American Broadcasters Association (NABA), Software Information Center (SOFTIC), Union of Industrial and Employers’ Confederations of Europe (UNICE), Union of National Radio and Television Organizations of Africa (URTNA) and Union Network International–Media and Entertainment International (UNI-MEI).
6. The session was opened by Mr. Jørgen Blomqvist, Director, Copyright Law Division, who welcomed the participants on behalf of Dr. Kamil Idris, Director General of WIPO.

7. The List of Participants is attached to this Report as an Annex.

ELECTION OF OFFICERS

8. The Standing Committee unanimously elected Mr. Jukka Liedes (Finland) as Chairman, and Mr. Shen Rengan (China) and Mr. Fernando Zapata Lopez (Colombia) as Vice-Chairmen.

ADOPTION OF THE AGENDA

9. The Standing Committee unanimously adopted the Agenda (document SCCR/5/1).

PROTECTION OF DATABASES

10. The Chairman gave a brief review of the history of the issue of the protection of databases, indicating that the Standing Committee was dealing with the protection of non-original databases. This could be established as a *sui generis* protection independent of originality, or it could be obtained through other means, such as unfair competition, possibly on the basis of the concept of misappropriation. He suggested that the Standing Committee should take stock of the current state of protection and any new developments on this subject which might have occurred since its last meeting.

11. The Secretariat invited Member States who had information on legal developments concerning the issue to send it to the International Bureau with a view to a possible update of document DB/IM/2: Existing National and Regional Legislation Concerning Intellectual Property in Databases. The Standing Committee had requested a study on the economic impact and consequences of database protection, with particular emphasis on effects in developing and least developed countries, which should include not just the economic aspects, but also the social consequences, the impact on science, teaching, research, etc. The preparatory work had progressed and the study would hopefully be available by the end of 2001, or in the beginning of 2002.

12. The Delegation of Singapore requested information from the Delegation of the United States of America on a possible study on the protection of Databases in the United States of America.

13. The Delegation of the European Community recalled that the 1996 European Directive on the Legal Protection of Databases harmonized copyright protection for databases with sufficient originality under copyright, and provided protection for certain non-creative databases under an exclusive *sui generis* right with certain exceptions, and limited in time. All its Member States had implemented the Directive in their national laws, and the European Commission was about to publish a call for tender for a study of the effects of the transposition in national law of its Member States. The *sui generis* right had been accepted and appreciated by both rightholders and users; it stimulated investment; it safeguarded the legitimate interests of users; and it enhanced unhindered access to information. Since the Directive entered into force, there had been enormous growth in the European CD-ROM and on-line markets, and a large number of new database products had been made available in Europe, many of which had been produced by small and medium sized enterprises (SMEs). Court cases in several Member States of the European Community had shown that the *sui*

generis regime was working without difficulties or undesirable side effects. Foreign database makers enjoyed national treatment regarding the *sui generis* right on the basis of material reciprocity. In order to make further progress it was necessary: (i) to identify common ground in the general assessment of the benefits for the world economy of an international protection of non-original databases requiring substantive investment; (ii) to evaluate the international level of the appropriate form of legal protection, whether based on a *sui generis* intellectual property right or on a different approach; and (iii) to achieve an appropriate balance between the protection on the one hand and the interests of users and the public at large on the other hand, reflected in reasonable limitations of and exceptions to the rights of the makers of databases. Intellectual property protection, which provided an appropriate balance between the interests of rights owners and society as a whole, had proven to be highly beneficial for investment, growth, job creation, cultural diversity, creativity and the entire economy in all societies; all would stand to benefit from including non-original databases in the worldwide pattern of intellectual property.

14. The Delegation of the United States of America responded to the Delegation of Singapore that there had been several studies on the protection of databases in its country. Original databases qualified for protection under copyright law, and protection for non-original databases was being studied. Two such studies had been completed, one by the U.S. Copyright Office and another by the United States Patent and Trademark Office, and they were available on the respective websites. There was much interest in the issue in its country, and in the prior session of the Congress, two committees had been studying bills: the Committee on the Judiciary and the Committee on Commerce. In the current session, both Committees were working towards a comprehensive Bill and, as such, the issue was under active development in that country.

15. The Delegation of the Russian Federation informed the Standing Committee that the Russian Agency of Patents and Trademarks was preparing a draft law on the protection of non-original databases, which would include both qualitative and quantitative requirements for the protection of databases. It expected that the draft law would be available by the end of the year. In order to resolve the issue at the international level, it would take a new draft treaty under the auspices of WIPO, which would contain definitions of concepts, a list of exclusive rights, exceptions and other customary provisions which appear in WIPO treaties. Also, other issues, such as the choice of legal system, a definition of substantial contributions and sanctions for infringements, would have to be worked out. Such a treaty would need to strive for a balance among the various interests, and be flexible. Exceptions for education, public safety and administrative and legal duties had to be included.

16. The Delegation of the Democratic People's Republic of Korea informed the Standing Committee that its country had passed a new copyright law in April, and as a result, would be more active in the Standing Committee.

17. An observer of the International Publishers Association (IPA), organization which represented the interests of the publishing industry at the international level as the umbrella organization of 77 publishers associations in 66 countries, called on WIPO Member States to keep the protection of databases on the agenda of the Standing Committee on Copyright and Related Rights. IPA believed that continuing copyright protection for original databases was an essential protection for works of great significance for the publishing trade, and looked forward to participating in further discussions on a possible instrument for the protection of non-original databases at the international level. He reiterated IPA's offer to participate in the study on the economic impact of the protection of databases on developing countries.

18. The Delegation of Honduras noted that its country had recently passed model laws on the protection of intellectual property, which had already been applied and tested in court cases. Countries must remain active and aware of the introduction of new laws, and remain determined to stay abreast of developments.

19. An observer from the International Literary and Artistic Association (ALAI) noted that most countries already granted protection for original databases under copyright law, and some even provided protection for non-original databases. His association welcomed a supplementary protection of non-original databases because extending copyright protection to non-original databases would dilute the law of copyright.

20. The Delegation of Morocco stated that protection of databases was important in respect of information technology, and particularly necessary for the free flow of, and access to, information. It would be necessary to define what place database protection should take in intellectual property; which investments would be necessary to achieve protection; and which exceptions, such as those for legal information, were appropriate. Its country had passed new legislation in 1999 which protected databases in accordance with the standards set forth in the TRIPS Agreement. There was a close connection between computer software and databases and the protection level for the latter should not be less than the protection afforded to software.

21. The Delegation of Qatar asked that the study on databases to be commissioned by the Secretariat be made available in Arabic.

22. The Delegation of the Czech Republic informed the Standing Committee that its country had passed a new copyright law in December 2000, which included protection of non-original databases. Furthermore, it contained a regime of statutory licensing for certain uses of databases in contexts of education, science and public security.

23. The Chairman noted that all statements had been positive and constructive and reflected that a smooth development on the issue was in progress. There was clearly a growing interest in the protection of databases. In his country, Finland, there had been a *sui generis* protection for catalogues and similar collections of data for 40 years, and there had been no problems associated with that protection. He suggested, and noted that the Standing Committee agreed, that the issue of the protection of databases should remain on the Agenda of the Standing Committee.

PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS

24. At the request of the Chairman, the Secretariat pointed to the newly received proposals from the Member States (documents SCCR/5/2, SCCR/5/3 and SCCR/5/4), and the Comparative Table of Proposals received by April 30, 2001 (document SCCR/5/5).

25. The Chairman added that the United Nations Educational, Scientific and Cultural Organization (UNESCO) and some non-governmental organizations had also submitted proposals. He suggested that a general debate be held on recent developments, including changes in the positions.

26. The Delegation of Singapore expressed its preference for the instrument to be a separate treaty since the WCT and the WPPT were also separate treaties, in order to avoid the

difficulties experienced at the Diplomatic Conferences in 1996 and 2000. As far as the definitions were concerned, it suggested having a general discussion on the terms to be defined first, and then discussing their specific wording later on.

27. The Delegation of the United States of America stated that while it was not prepared to support specific language for a new instrument, it recognized that new technological developments since the Rome Convention, both in the ways broadcast signals were transmitted and the potential means by which they could be retransmitted by third party retransmitters, required a reassessment and reevaluation of the protection of such signals at the international level. The proposals from Switzerland, Argentina and Japan addressed the protection of the broadcast signal and were in no way intended to affect or abrogate the copyright protection of any works incorporated in those signals. This principle was also reflected in the proposal by the various broadcasters' unions. This was a sound principle and would address the concerns of others whose creative efforts were included in a broadcast signal. From the inception of the 1932 Communications Act of its country there had been a prohibition against one broadcast station retransmitting, in whole or in part, the signal of another broadcast station without its consent. In 1992, that provision had been expanded, so no cable system or other program distributor could transmit the signal or any part thereof without the express authority of the originating station. There were some limitations to this exclusive right. One was that a television broadcaster could forgo its right to negotiate the retransmission consent in exchange for assured coverage. Another was that the right could not be asserted against a satellite carrier providing network programming service to dish owners in remote areas who were unable to receive an adequate signal from any local broadcaster providing the same network service. That exclusive retransmission right had not resulted in any appreciable disruption of service to the public. While there had been some instances of stalemates in negotiations between broadcasters and cable or satellite carriers, combined public and political pressures had resulted in restoration of service within a matter of weeks. The broadcasting organizations to which that retransmission right applied were radio stations and over-the-air commercial television broadcasting stations. Non-commercial television stations had not been included because they had opted for mandatory carriage. With respect to pre-broadcast and encrypted signals, the law of its country basically prohibited all means of conduct consisting of, or relating to, the interception of encrypted or scrambled signals transmitted to a broadcast station for purposes of retransmission to the general public. Even if such signals were not encrypted or scrambled, they might not be used for purposes of direct or indirect commercial advantage or private gain. Two domestic lawsuits had had some bearing on those proceedings. In one, a Canadian entity that had commenced Internet retransmission of Canadian and United States television broadcast signals, ostensibly under the auspices of a Canadian compulsory license, but which had resulted in reception by substantial numbers of Internet subscribers in the United States of America, had been enjoined by a United States Federal Court for violation of the United States Copyright Law. In another case, a satellite carrier that had been picking up, in the United States of America, off-air signals and retransmitting them to Canadian satellite subscribers had been enjoined from doing so by a United States Federal Court. The considerable activity in the area and the issues raised with respect to the retransmission of broadcasters' signals underlined the need to address those issues at the international level.

28. The Delegation of Japan referred to the need to update the rights of broadcasting organizations in line with other related rights owners covered by the WPPT, and to its proposal made during the second session of the Standing Committee. The purpose of the current proposal was to further facilitate the discussions. Since the proposal reflected the deliberations so far in its country, its Government reserved the right to make further proposals

based on subsequent discussions. The proposal was based on the Rome Convention, and incorporated new provisions in line with technological developments. As to the title of the instrument, an independent treaty would be preferable to a protocol to the WPPT. The definition of “broadcasting” in Article 2(a) included the concepts of “images” and “representations of images,” taking the example of Article 2(f) of the WPPT. In addition, “satellite broadcasting” and “encrypted signals” were also explicitly defined as in the WPPT. The definitions of “rebroadcasting,” and “deferred rebroadcasting” which was not covered in the Rome Convention, were also included. Those definitions should be further examined. The definition of “communication to the public” was modified from Article 2(g) of the WPPT by adding the word “visible.” The right of communication to the public included cable transmission but did not include the making available of both fixed and unfixed broadcasts. Article 3 (beneficiaries of protection) differed from Article 6(1) of the Rome Convention by adding a provision on satellite broadcasting. Article 5 (rights of rebroadcasting, communication to the public and fixation) should be further examined in line with the definitions of Article 2. The article stipulated that “fixation” included the making of any still photograph of a television broadcast. In Article 6, the right of reproduction was granted to broadcasting organizations regardless of whether the initial fixation had been made with or without their consent, unlike in Article 13(c) of the Rome Convention. Article 7 (right of making available) covered not only fixations of broadcasts but also unfixed broadcasts. Article 10 (obligations concerning technological measures) was subject to further examination in relation to decoding of encrypted broadcasts. Article 14 (application in time) was also subject to further examination to take into account economic and social implications of retroactive application of the treaty. The Delegation further pointed to the issues of protection of pre-broadcast signals; right of distribution and right of rental; and the right of access control or right of decoding and scrambling, which might call for further consideration.

29. The Delegation of the European Community suggested that the general aspects of the protection be discussed before going into technical details. The European Community had decided positively on the necessity of updating the protection for broadcasting organizations long ago. Rights had been granted to broadcasting organizations in parallel with other categories of related rights holders by the Directive on Rental and Lending Rights and on Certain Rights Related to Copyright in the Field of Intellectual Property Rights and the Directive on the Protection of Copyright and Related Rights in the Information Society. The latter Directive had been adopted by the European Council on April 9, 2001, and its final text would be published in the Official Journal in late May or early June 2001, from which date the Member States would have 18 months to implement it. Therefore the accession to the WCT and the WPPT by the European Community and its Member States would hopefully take place towards the end of 2002. The former Directive harmonized the right to authorize or prohibit fixations of broadcasts, including broadcasts made by wire; the right to authorize or prohibit the reproduction of such fixed broadcasts; the right to authorize or prohibit the distribution of fixed broadcasts; the right to authorize or prohibit the rebroadcasting of broadcasts by wireless means; and the right to authorize or prohibit the communication to the public of broadcasts, if such communication was made in places accessible to the public against payment of an entrance fee. The Directive on the Protection of Copyright and Related Rights in the Information Society further granted the right of making available to the public of fixed broadcasts for individual interactive demand. It also included provisions on technological measures and rights management systems. The Delegation reiterated its view that the existing legal framework at the international level should be updated and improved to fight international broadcast piracy. At the same time the protection of broadcasting organizations had to safeguard the balance with the rights of other categories of rightholders, in particular those who contribute to broadcasting programs, such as authors, and the interests

of users and the public at large. The Delegation had been unable to submit a proposal in treaty language, but it might be able to do so in the near future. In the deliberations, the Rome Convention should be taken as a starting point and they should focus on the aspects which were not satisfactorily addressed by that Convention, notably the possible need for covering broadcasting by satellite, for a cable retransmission right, for a making available right, for clarifying the scope of the reproduction rights and, possibly, for a separate protection of program-carrying signals. Whether separate definitions would be necessary in the new instrument, or *ad-hoc* definitions in the operational clauses would be preferable, should also be discussed, and one should refrain from mechanically copying the definitions of the WPPT.

30. The Delegation of Uruguay stated that it was necessary to update the 1961 Rome Convention. It considered it appropriate to rely on the main provisions of the 1996 WIPO Treaties and to adapt them to the rights of broadcasting organizations.

31. The Delegation of Australia informed about amendments to the Australian Copyright Act, which had been passed in August 2000. The Act came into force on March 4, 2001. The major areas of change included a new broad right of communication to the public that extended to cable transmission and to broadcasting by wireless means; provisions dealing with the circumvention of technological protection measures and broadcast decoder devices; and an equitable remuneration provision for retransmission of free-to-air broadcasts. New remedies and sanctions had also been provided for.

32. The Delegation of the Russian Federation reported on the 1993 Copyright Law of its country which provided for rights in favor of broadcasters, including satellite broadcasters, with a level of protection higher than that of the Rome Convention. The Delegation considered the proposal of the Delegation of Switzerland a good basis for discussion on the rights of broadcasting organizations, and the proposal of the Delegation of Japan would be further analyzed since it had been received only very recently. Also, the proposal submitted by UNESCO merited further consideration.

33. The Delegation of Colombia indicated its intention to fully contribute to the discussions in favor of the protection of broadcasting organizations' rights. The mandate of the Standing Committee was first and foremost to decide on which rights should be granted to broadcasting organizations. The need for new and specific definitions should only be examined at a later stage.

34. The Delegation of China reported on the new rights that had been granted to broadcasters by the legislation of its country. It believed that time was ripe to discuss new rights for broadcasting organizations. The 1996 WIPO Treaties should be considered as the basis for the discussions and further additions should be made. It would be difficult to grant new rights to broadcasting organizations without settling adequately the rights to be granted to audiovisual performers, and the two issues should therefore be settled in parallel. The Delegation indicated that new copyright legislation would be adopted before the end of the year in its country, which would be in harmony with the 1996 WIPO Treaties and the TRIPS Agreement.

35. The Delegation of the Philippines recalled that the WIPO World Symposium on Broadcasting, New Communication Technologies and Intellectual Property, organized in Manila in 1997, had largely contributed to launching the debate on the need to update broadcasters' rights. The Delegation mentioned that it intended submit a proposal in due time but, in the meantime, it will contribute actively to the debate.

36. The Delegation of Cameroon recalled that it had submitted a proposal, contained in Document SCCR/2/12. The broadcasting sector had changed considerably in its country in the last years. The monopoly situation of broadcasting organizations had been abolished and a plethora of broadcasting organizations had spread out. In 2000, a new Copyright Law had been adopted, providing protection for broadcasters. The proposal by the Delegation of Japan was considered a good basis for discussion.

37. The Delegation of Singapore found that the discussions relating to the rights of broadcasting organizations should focus on some priority issues. It would not be appropriate to simply extend rights from other existing treaties to broadcasting organizations. The rights needed for broadcasting organizations should be clearly reflected upon and defined appropriately.

38. The Delegation of Senegal expressed its support for an improvement of the level of protection of broadcasting organizations. It stressed the need to achieve a balance between the rights of the various stakeholders, as well as the necessity to provide for clear definitions of satellite broadcasting and the making available right.

39. The Delegation of Mexico drew attention to the proposals of non-governmental organizations, contained in document SCCR/2/6. It recalled that the Federal Law on Copyright of its country granted the following rights to broadcasting organizations: right of retransmission, of deferred transmission, rights of simultaneous or deferred cable distribution, fixation, reproduction of the fixation, communication to the public. It was necessary to achieve a balance of rights between broadcasting organizations and the right owners at stake, in particular regarding cable retransmissions.

40. An observer from the Arab States Broadcasting Union (ASBU) pointed out that broadcasting had become one of the most developed areas of technology, its volume had grown considerably and its economic importance was greater than ever. The price of acquiring broadcasting rights had also increased, in particular for sports broadcasts and broadcasts of theater productions. At the same time, broadcasts were likely to be pirated to a significant extent. He expressed his organization's support for the strengthening of the rights of broadcasting organizations.

41. An observer from the European Broadcasting Union (EBU) pointed out that the Rome Convention, which had been drafted 40 years ago, was now largely outmoded. Substantial efforts had been made to update and reinforce the rights of phonogram producers and performers. In the last 40 years, however, the broadcasting world had experienced dramatic changes, such as major innovations in transmission and recording techniques, the spread of satellites and cable distribution systems, the development of the Internet, deregulation and the subsequent multiplicity of new broadcasting organizations and program channels of both national and transnational nature. Piracy had also developed considerably, and as had a fierce fight for acquisition of exclusive broadcasting rights. Nothing, however, had been done at the international level to update the rights of broadcasters. Since the 1997 WIPO symposium, governments had confirmed their readiness to proceed with the updating of broadcasters' rights in a new treaty, and his organization was pleased to note that the establishment of a new treaty for the protection of broadcasters' rights was now within reach.

42. An observer from the National Association of Commercial Broadcasters in Japan (NAB-Japan) expressed full support for the updating of broadcasters' rights at the international level. Substantial changes had taken place in the broadcasting environment, and

an international treaty for the protection of broadcasters' rights was required to fight against piracy. His organization was of the opinion that the proposal submitted by the Delegation of Japan in document SCCR/5/4 was heading into the right direction.

43. An observer from the North American Broadcasters Association (NABA) further elaborated the statement made by the representative of EBU by providing a concrete example from North America of unauthorized use of broadcast signals—what was referred to, by broadcasters, as “Internet piracy.” Her organization was of the view that the new pirates would threaten broadcasters worldwide. Therefore, a clear, harmonized solution for protecting broadcasters' rights at international level was required. The new treaty should provide broadcasters with clear exclusive rights to control the exploitation of their signals.

44. An observer from the American Film Marketing Association (AFMA) referred to the statement by the Delegation of the United States of America that broadcasters' signal should be protected and that there should not be any interference with the content. That statement referred to the situation in that particular country and could not apply to other countries where local arrangements might include, for example, “must carry” rules relating to the signal. However, that did not change the concern to maintain protection of the works carried. He stressed that “broadcasting organizations” should be clearly defined, and that the signal should be separated from the carried content. Parties other than the transmitting organizations produced large proportions of broadcasts, and any new broadcasters' rights should not weaken the exclusive rights of parties involved in the creation of works. Transmission rights for works provided by others were subject to contractual arrangements. He finally stressed that retransmissions were not broadcasts originated by the cable or satellite operator. Passive retransmitters should not be given the status of broadcasting organization.

45. An observer from the International Federation of the Phonographic Industry (IFPI) expressed her concerns concerning the launch of a new treaty exercise before full ratification of the 1996 WIPO Treaties had been achieved. Standards of protection in favor of broadcasters required clarity. New international standards of protection for broadcasters should only have as their objective the fight against signal piracy. When broadcasters acted as content producers, they would fall under the scope of the WPPT. The beneficiaries of the possible new instrument should also be clearly defined, and it should be limited to traditional broadcasts. The new instrument should not prejudice the rights of other categories of owners of related rights. In particular, broadcasters should not be granted rights unless an equivalent level of control was granted to those creating and producing the creative content. The ratification of the 1996 WIPO Treaties should be made a prerequisite to membership in any new instrument on broadcasters' rights.

46. An observer from the International Federation of Actors (FIA) stressed the need to provide for an equitable and fair treatment of all groups of owners of related rights and called on government delegations to ensure that the concerns of audiovisual performers, in particular, are properly met. Their lack of rights at international level contradicted the fundamental need for a balance between those above-mentioned groups.

47. An observer from the International Association of Broadcasting (AIR) noted with satisfaction that there seemed to be a consensus in favor of a new instrument aiming at strengthening broadcasters' rights.

48. An observer from the Digital Media Association (DiMA) pointed out that it would be meaningless to base a new instrument on concepts that were drafted in 1961, in particular the

definitions of broadcasts and broadcasters. New forms of transmission had been developed, as well as piracy, including the unauthorized use of signals for commercial gains. New, viable rights should be adopted covering, in particular, Internet broadcasting.

49. An observer from the International Federation of Musicians (FIM) stated that the term “broadcasting organization” should be more closely defined, as should the right owner as the one who had first taken the initiative and under the responsibility of whom the broadcast had taken place. An appropriate balance of rights should be maintained. Any potential instrument should also include a provision that the exercise of broadcasters’ rights should be subordinate to the respect of the rights granted to producers and performers

50. An observer from the International Literary and Artistic Association (ALAI) found that the definition in the WPPT sufficed regarding the term “broadcasting.” The term “broadcast,” however, had never been expressly defined, and a definition was required, as pointed out by the observer from EBU. ALAI considered it vital to provide in the new instrument definitions of the concepts used which clearly distinguished between the broadcast and the content.

51. The Chairman suggested that the debate follow the list of items in the table of contents of document SCCR/5/5: (i) object and beneficiaries of protection; (ii) concepts and notions, mainly definitions of broadcasting, broadcasting organization, broadcast, retransmission (by cable and rebroadcasting), communication to the public and fixation; (iii) rights of broadcasting organizations; (iv) national treatment; and (v) obligations concerning technological measures. He proposed that the discussion of some other items be deferred to the next session of the Standing Committee: (i) limitations and exceptions; (ii) term of protection; (iii) obligations concerning rights management information; and (iv) administrative and final clauses.

The object of protection, definitions

52. The Chairman stated that the justification for protection was the efforts and investments in the establishing of the program supply and its diffusion. The notions of carrier and content had to be distinguished from each other, and by no means should the rights of broadcasting organizations to the signals interfere with the copyright or related rights protection of contents. In addition, not everything that carried content was a broadcast signal. Broadcasting should be defined in positive terms based on the definitions in existing treaties. Under the Rome Convention, broadcasting was a transmission by wireless means, for public reception of sounds, or of images and sounds. That definition could also be considered against the Radio Regulations of the International Telecommunications Union (ITU) which defined broadcasting services as radio communication services intended for the direct reception by the general public of signs, sounds and/or images. Key elements in the definition of broadcasting in a possible instrument would be the carrying of content, but excluding wire transmissions, such as cable-originated or Internet-based services, and signals intended for the reception by, for instance, a broadcaster via satellite or earth links. Thus, as a starting point, the object of protection could be wireless signals for reception by the public and carrying signs, sounds or images. The Rome Convention did not clarify whether satellite broadcasting and encrypted or encoded broadcasting were broadcasting. Those elements, as well as certain transmissions originating in a wired environment, such as cable-originated television and Internet-originated transmissions, should perhaps also be considered broadcasting for the purposes of the instrument. National legislation often included cable television transmissions in the notion of broadcasting, and that was not contrary to existing

international treaties. Two schools of thought were represented in the proposals submitted in treaty language regarding the definition of broadcasting. Some followed a narrower scope and others embraced wire transmissions, adopting a broader scope.

53. An observer from the European Broadcasting Union (EBU) suggested that the definition should be approached from another angle. There were new needs for protection today, including a new definition of broadcasting and, in that respect, sports transmissions were the most important issue as much national legislation did not recognize such matter as protected by copyright or related rights, even though the rights paid by broadcasters for sport transmissions were much higher than what they paid for copyright. Pirates stole and broadcast their pre-broadcast program-carrying signals which were simultaneously relayed by the broadcasters over their broadcast network together with their national sound commentary. The Brussels Convention tried unsuccessfully to fight against that kind of piracy in 1974. He was of the opinion that the broadcast of pre-broadcast program carrying signals should be included into the protection in order to avoid that the broadcaster would have to prove from which source the pirate's signal originated.

54. The Chairman agreed that pre-broadcast program-carrying signals should be considered as a possible object of protection, in particular, transmissions between broadcasters, between production plants and broadcasters, between cameras, up-links and satellites, and perhaps also other such links.

55. An observer from the International Association of Broadcasting (AIR) considered it necessary to include the notions of satellite and encoded signals in the traditional definition of broadcasting. In his view, that definition in the WPPT was correct. The scope of protection should cover transmissions of sounds and images and it should be expanded to other kinds of wired transmissions, like cable transmissions. His organization did not have a specific position regarding the protection of transmissions via Internet, but that issue could be further discussed.

56. An observer from the National Association of Broadcasters (NAB) referred to the definition of broadcasting in the Communications Law of the United States of America as the dissemination or transmission of radio communications intended to be received by the public. That definition might be taken as a reference and should also include the notions of sound and images and transmissions made directly or by intermediary stations.

57. The Chairman recognized two elements that he had not emphasized in his introductory remarks of the definition of broadcasting: the word "intended" as the subjective requisite in the definition of broadcasting services of ITU and the expression "direct" reception by the general public.

58. The Delegation of Singapore asked if the observer of EBU could clarify whether his organization was concerned about a shift in the burden of proof or was interested in a new right in pre-broadcast signals. In addition, he sought clarification on what had been said regarding the Satellite Convention.

59. An observer from the European Broadcasting Union (EBU) pointed out that the Brussels Convention left it open to Contracting States to provide some means of protection whether as communications law, penal law or related rights. Unfortunately, that Convention had not found the necessary broad support in the international community, and national legislation tended to find solutions in the penal or telecommunications area. Therefore,

protection was weak as it seemed that many governments were not interested in intervening against pirates who stole sports programs from satellites. A protection of pre-broadcast program carrying signals would affect the burden of proof and benefit those broadcasters that had paid for the exclusivity and wanted to be protected against pirates stealing the signal in direct competition with their own broadcast using exactly the same picture.

60. The Chairman pointed out that the protection of program carrying signals was reflected in different proposals. The updating of the rights of broadcasting organizations might include the rights granted not only in the Rome Convention but also protection corresponding to the Satellite Convention.

61. The Chairman proposed that the Standing Committee addressed the following issues: the object of protection; definitions (in particular, broadcasting, broadcasting organization, broadcast, retransmission including rebroadcasting and cable transmission, communication to the public, fixation); beneficiaries; national treatment; rights of broadcasters; obligations relating to technical measures; and application in time.

62. The Chairman suggested that eligible for protection should be the broadcast content-carrying signal, and possibly program-carrying signals that were part of a transmission leading to broadcasting. He also referred to the possibility to extend the protection to cable-originated transmissions and to webcasts. Criteria would in that case have to be defined to delimit such transmissions.

63. The Delegation of South Africa noted that its national legislation already covered most of the major points raised by the Chairman, and its country would not have any problem defining such concepts in its national legislation. Domestic jurisdiction issues should be left outside the debate which should mainly concentrate on the international reality.

64. An observer from the National Association of Commercial Broadcasters in Japan (NAB-Japan) distinguished between broadcasting, interactive transmission and webcasting. Interactive transmission and webcasting could only take place when there was access to a server, whereas broadcasting did not require such access. A new instrument on broadcasters' rights should exclude from its scope interactive transmissions and webcasting.

65. An observer from the Digital Media Association (DiMA) stressed that the technological distinction referred to by NAB-Japan was not relevant with respect to the rights being considered. It had become rather common that webcasting organizations broadcast on the Internet as if they were a licensed entity engaged in their own, independently-generated programming. Several radio stations had given up or not renewed their licenses for terrestrial broadcasting and were now carrying out the same programming on the Internet. It would be more relevant to discuss the acts that should be protected than the technological means.

66. The Chairman stressed that a number of notions needed further clarification, including broadcasting, broadcasting organization and the broadcast. He referred to the concepts relating to retransmission, such as cable retransmission, cable distribution, communication by wire of broadcasts and rebroadcasting. The question was whether the rights of broadcasting organizations should cover retransmission by any means, provided the retransmission was directed to the public.

67. The Delegation of Canada stated that, generally speaking, simultaneous retransmission should not fall under broadcasters' rights. For example, if the retransmission of a copyrighted

work was allowable under the Berne Convention, broadcasters should not be provided with such a right with respect to that retransmission.

68. An observer from the European Broadcasting Union (EBU) stressed that the Berne Convention was based on exclusive rights, but recognized that where there was a multitude of authors it would be impossible for users to acquire rights on a contractual basis. Therefore, the Convention offered the possibility of non-voluntary or extended collective licensing, but that justification did not apply when the question was whether a cable distributor could take the signal from one individual broadcaster.

69. The Delegation of Japan pointed out that deferred rebroadcasting was not covered by the Rome Convention, but such protection had been included in its proposal in document SCRR/5/4. Further examination was required to examine the scope of “deferred” and to address appropriately “re-broadcasting” and “re-cablecasting.”

70. An observer from the Asia-Pacific Broadcasting Union (ABU) supported the statement of the EBU and added her specific concerns on behalf of the broadcasters in the Asia-Pacific region where there was a particular need to see the broadcasters protected and where the broadcasters were seeking protection against the piracy of signals. Cable retransmission rights were not recognized in the region, and therefore cable operators could retransmit without any sanctions. Her organization looked forward to the recognition, at the international level, of an exclusive cable retransmission right.

71. An observer from the Canadian Cable Television Association (ACTC) referred to the cable television industry in Canada where 75 percent of the population received programs through cable retransmission. The cable television industry took a wide variety of forms. Canada had already addressed many of the issues discussed in the Committee, and whatever solutions would be adopted in a possible new instrument, flexibility would be required for Member States to implement them in the way best suited to their own reality.

72. The Chairman referred to the proposals submitted by the Delegations of Argentina and Japan in documents SCCR/3/4 and SCCR/5/4 where the definitions of broadcasting were based on the definition in the WPPT. Regarding the notion of communication to the public, the starting point could be to look at Article 13(d) of the Rome Convention and discuss whether it could be transposed to the new treaty. In that Article, the notion of communication to the public was confined to TV broadcasts and to communications made in places accessible to the public against payment of an entrance fee. It was a question whether all those criteria were still necessary. Current practices in that field should be analyzed. Concerning the notion of fixation, very generalized models existed in the different treaties, although it was not defined in the Rome Convention, but the existing models should be a basis for the discussion. The notion of fixation was normally used when the signal was captured and the content was stored in a form from which it could be retrieved, possibly through a device. The right should cover those types of act.

73. An observer from the National Association of Broadcasters (NAB) referred to the Copyright Law of the United States of America that provided, in Section 114, definitions of transmission, retransmission and broadcast transmission. A transmission was defined as an initial transmission or a retransmission. A retransmission was defined as a further transmission of an initial transmission and included any further retransmission of the same transmission. A broadcast transmission was defined as a terrestrial broadcast from a station licensed by the Federal Communication Commission.

74. The Chairman drew the Standing Committee's attention to an analytical document (SCCR/1/3) which compiled information on existing national solutions on the rights of broadcasting organizations.

75. An observer from the Association of Commercial Television in Europe (ACT) considered it too early to consolidate definitions before the substantive discussions on the rights of broadcasting organizations. If a consensus was reached regarding the definition of broadcasting, then broadcasting organizations would be those organizations that engaged in that activity. A substantive distinction between the notion of broadcast and the signal existed, but it might not be necessary to discuss that issue since what was being transmitted was the broadcasting organization's program, irrespective of the distinction between the carrier and the content. Some governments had expressed concerns about public policy issues regarding national broadcasters' signals being available throughout the country. Universal access to national broadcasts was, however, not at stake when discussing the protection of foreign broadcasting organizations. The substantive rights had to include unauthorized decryption, because otherwise there would be a lacuna in the protection, especially of pay-TV services.

76. An observer from the National Association of Broadcasters (NAB) underscored that the protection of broadcasting organizations had to be seen from the economic perspective of making signals and defending them from exploitation. In the United States of America, the broadcasting system was based on the reliance of the local television stations on being the exclusive provider in the market. Tremendous harm was done to the local broadcasters when programs were retransmitted and coming into the market via Internet, or by cable or satellite retransmission. Therefore, the relevant rights should be preserved to maintain their exclusivity in the market.

77. An observer from the International Federation of Musicians (FIM) questioned the remarks of the observer from ACT regarding the object of protection and specifically the notion of fixation. He recalled that Article 15(c) of the Rome Convention created an exception for ephemeral fixation in favor of broadcasting organizations. Broadcasters were interested in covering the ephemeral fixation of a signal which would protect the signal better than the content. If the approach regarding the updating of protection considered the utilization or use based on a signal only, his organization would not have difficulties in qualifying the object of protection, but he believed that the approach of the broadcasting organizations was to extend protection to cover the content of programs.

78. An observer from the Union of National Radio and Television Organizations of Africa (URTNA) expressed his concern about the notions of the broadcast signal and the content of a broadcast. He proposed to take into account the definition of signal in the Brussels Convention. In addition, he stressed the importance of a real need of protection for broadcasters against pirates. African broadcasters could not recuperate their investment in rights paid for transmissions of events through advertisement and exclusivity of transmissions when pirates stole their signals. His organization would propose to discuss the protection against still photographs from television screens in the further deliberations.

79. An observer from the International Literary and Artistic Alliance (ALAI) referred to the statement of ACT and disagreed with the idea that the object of the right pertained to the broadcast content. This concept would lead to the usurpation of others' rights and supersede the protection granted in copyright and related rights.

80. An observer from the International Association of Broadcasting (AIR) indicated that the signal was a physical element that could be the carrier of a content or not. He pointed out that what it was important and interesting was not the protection of the signal itself, but the protection of the programs contained in that signal. If that were not the protection of contents, it would not make sense to grant rights of retransmission, fixation or communication to the public to broadcasters. The purpose of granting those rights was to protect the content of the signal. It did not mean to substitute or displace the protection of the author of the program, producer who could be the same broadcaster or not, but it merely meant that the broadcaster who created and broadcasted a program to the public needed his own additional protection. It was exactly the protection derived from the broadcasters' related rights in respect of their broadcasts.

81. The Delegation of Honduras stressed the need to discuss the piracy activities of other broadcasters. Rights granted in a new instrument could be a safe conduct for those broadcasting organizations which took signals illegally from other broadcasting organizations.

82. An observer from the Association of Commercial Television in Europe (ACT) regretted the misunderstanding of his previous statement. He had referred to the definitions and not the matter of protection as such. He did not propose any distinction between broadcast or rebroadcast or any implications of the rights of broadcasters to the ownership of content.

83. An observer from the Digital Media Association (DiMA) referred to the comments of the NAB regarding the Copyright Law of the United States of America. The definition of broadcast transmission offered in that legislation was not relevant in the present context, but was only for the purposes of a particular section of the Law, clarifying that terrestrial broadcasts themselves would be exempted from the digital sound performances rights.

Beneficiaries of protection and national treatment

84. The Chairman recalled that the aim of the present exercise was to establish standards of broadcasters' rights consistent with existing treaties. The proposals regarding the beneficiaries of protection showed two legislative techniques: (i) proposals that followed Article 6 of the Rome Convention, establishing points of attachment (proposals of Argentina and Cameroon); and (ii) proposals that followed the TRIPS Agreement, including the concept of nationality and a definition of "nationals" (Japan and Switzerland). In substance, all the proposals had an identical legal result, but delegations could put forward other proposals regarding the matter at a later stage. As to the question of national treatment, the three proposals in treaty language used roughly the same wording and established a national treatment regarding the exclusive rights specifically granted in the instrument. There was no obstacle to make further suggestions later.

Rights of broadcasting organizations

85. The Chairman explained that the different proposals contained, *inter alia*, the following rights: (i) the right of retransmission to the public, expressed in different ways, such as cable distribution, cable transmission or retransmission; (ii) the right of fixation; (iii) a right of reproduction of fixations; (iv) a right of retransmission based on a fixed broadcast, in case that the notion of deferred retransmission would not be included; (v) a right of making available a fixed broadcast; (vi) the right of communication to the public; (vii) the right of

decrypting or decoding signals; and (viii) the rights concerning program-carrying signals that were not broadcast. The Rome Convention granted the right of rebroadcasting, excluding wire retransmission; the right of fixation; the right of reproduction if the fixations were made without the consent of the broadcaster or were made according to Article 15, but the reproduction was made for purposes different from those referred to in that provision; and the right of communication to the public of the television broadcast in places accessible to the public against payment of an entrance fee. The issues of obligations concerning technological measures and rights management information would go further than a possible right of decoding and the scope of protection should be defined as broadly as appropriate.

86. As to the right of retransmission, the starting point could be the granting of an exclusive right with some limitations and exceptions. Regarding the right of fixation, it could be construed from the notions of the Rome Convention and the WPPT. In respect of the right of reproduction based on fixation, perhaps the basis could be the WPPT. The right of making available should probably not differ from that right in the WPPT. As to the right of communication to the public the starting point could be situations where the broadcast was made audible or visible to members of the public who were present where the loudspeakers and screens were situated. This narrow complex would be justified if the retransmission right would cover all situations implying a transmission leg. The right on program-carrying signals was a matter to be elaborated further with special attention to those signals part of an uninterrupted chain of transmissions leading to broadcasting or other relevant transmission to the public. Finally, the right of decoding or decrypting should be considered together with the obligations concerning technological measures.

87. The Delegation of Japan explained that its proposal included the exclusive right of making available of both fixed and unfixed broadcasts. There were maybe different opinions on whether unfixed broadcasts should be protected under that right or the right of communication to the public. Under its proposal, infringement of the right of making available occurred at the moment when someone uploaded the broadcast, where, in the case of communication to the public, it occurred only when the actual transmission took place. Thus, the right of making available gave a higher level of protection.

88. The Delegation of Canada favored some forms of protection for pre-broadcast signals, but it did not yet have any comments on the precise definitions or the nature of the protection.

89. The Delegation of the Russian Federation suggested that it would be helpful in the continued discussions to refer back to all prior proposals on this issue, including those from governments, IGOs and NGOs, the proposal received from UNESCO, as well as the Report from the second session of the Standing Committee.

90. The Delegation of the Philippines informed the Standing Committee that certain questions had arisen within national consultations in its country. There were needs to clarify the rights of broadcasters, such as in respect of remuneration for the communication to the public, the fixation of broadcasts for private use, the right of reproduction in relation to legally made fixations and in relation to still photos taken from a TV broadcast.

91. The Chairman suggested that delegations continue discussions on the issue of rights with their national stakeholders.

Obligations on technological measures and application in time

92. The Chairman stated that the starting point was the similar provisions of the WCT and WPPT, and suggested keeping a high level of parallelism with them, although specific elements concerning broadcasting might justify certain differences in those provisions. As to the application in time, he noted that three proposals made reference to Article 18 of the Berne Convention which implied both retrospective and prospective application of the rights.

93. The Delegation of Senegal associated itself with the prior intervention by the EBU. Fraudulent use of broadcast signals was theft, which required evidence and proof of such theft. Criminal legislation might be an appropriate adjunct to protect the rights, and that should be left to national legislation. The Delegation confirmed the need to maintain balance among the various interests associated with this issue. The right to encode and decode was basically a technical matter, and therefore one which was not appropriate in an international instrument. The Delegation referred to the prior intervention by FIM—noting that it included a proposed safeguard clause to protect the rights of, for instance, performers and copyright owners—and suggested that that proposal be included as a basis for the future work and thinking of the Standing Committee.

94. The Delegation of Australia supported the views of the Delegation of Canada concerning the protection of pre-broadcast signals, and suggested that the issue of decryption would more properly be dealt with under the section on technological measures of protection rather than under the section on rights of broadcasters.

95. The Delegation of Japan informed the Standing Committee that the issue of the protection of pre-broadcast signals was under continued examination in Japan.

96. An observer from the International Federation of the Phonographic Industry (IFPI) questioned whether the proposed safeguard clause would include producers of phonograms. She advised that the discussions should obtain very high precision when defining rights, in particular regarding such rights which were not intended to fight piracy but which could trigger claims for remuneration.

97. An observer from the National Association of Commercial Broadcasters in Japan (NAB-Japan) referred to situations where retransmission took place on the Internet and raised the question whether such distribution was making available or a cable transmission. If the right of making available applied, infringement occurred when the signal was uploaded, but if the right of cable transmission applied, it would be necessary to prove that an actual transmission had taken place, something that could be quite difficult. Pre-broadcast signals, such as the signal from the field of a sports event to the main office of the broadcaster, needed to be protected. The rights of broadcasters should also include rights against deferred broadcasting and deferred cable distribution.

98. The Delegation of Canada noted that several of the proposals received had included the provision in the WPPT on exceptions and limitations. If that approach was taken in the final instrument, it suggested that those proposals should add to the language referring to limitations and exceptions in the protection of copyright in literary and artistic works also such limitations regarding performances and phonograms.

FUTURE WORK

99. The Delegation of Egypt raised the fact that the celebration of Ramadan was to commence as of November 17, 2001.

100. The Standing Committee made the following decision:

A. Databases: the issue would be carried forward on the Agenda of the next meeting of the Standing Committee.

B. Rights of Broadcasters: (i) the issue would be the main point on the Agenda of the next meeting of the Standing Committee; (ii) the Secretariat would invite the Governments and the European Community to submit additional proposals on this issue, preferably in treaty language, to be received by the Secretariat on or before October 1, 2001; (iii) the next meeting of the SCCR would take place from November 26 to 30, 2001, subject to a technical exploration by the Secretariat as to whether the meeting room would be available on alternative dates not coinciding with Ramadan; (iv) in the morning of November 26, 2001, regional consultations would be held in Geneva.

ADOPTION OF THE REPORT

101. The Standing Committee unanimously adopted this report.

102. The Chairman closed the session.

[Annex follows]

ANNEXE/ANNEX

LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS

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ROYAUME-UNI/UNITED KINGDOM

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SÉNÉGAL/SENEGAL

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SINGAPOUR/SINGAPORE

Sivakant TIWARI, Senior State Counsel and Head, International Affairs Division, Attorney General's Chambers, Singapore

SLOVAQUIE/SLOVAKIA

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SLOVÉNIE/SLOVENIA

Mojca PECAR, Head, Legal Department, Slovenian Intellectual Property Office (SIPO), Ljubljana

Miha TRAMPUŽ, Legal Counsel, Copyright Agency of Slovenia, Ljubljana

SOUDAN/SUDAN

Ahmed EL SHAFIE FARAG, Director of Censorship Bureau, The Federal Council for Literary and Artistic Works, Omdurman

SUÈDE/SWEDEN

Henry OLSSON, Special Government Adviser, Ministry of Justice, Stockholm

Annika MALM (Mrs.), Legal Adviser, Ministry of Justice, Stockholm

SUISSE/SWITZERLAND

Catherine METTRAUX (Mme), juriste, Division du droit d'auteur et des droits voisins, Institut fédéral de la propriété intellectuelle, Berne

THAÏLANDE/THAILAND

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TOGO

Komi Ametepe AYI, directeur général, Bureau togolais du droit d'auteur (BUTODRA), Lomé

TUNISIE/TUNISIA

Samia Ilhem AMMAR (Mlle), conseillère, Mission permanente, Genève

TURQUIE/TURKEY

Yüksel YÜCEKAL, Second Secretary, Permanent Mission, Geneva

UKRAINE

Valentin CHEBOTARYOV, Deputy Chairman, State Department of Intellectual Property, Ministry of Education and Science, Kyiv

URUGUAY

Carlos SGARBI, Ministro Consejero, Misión Permanente, Ginebra

VENEZUELA

Virginia PÉREZ PÉREZ (Srta.), Primer Secretario, Misión Permanente, Ginebra

COMMUNAUTÉ EUROPÉENNE (CE)/EUROPEAN COMMUNITY (EC)

Jörg REINBOTHE, chef d'Unité, Direction générale "Markt/E/3", Bruxelles

Rogier WEZENBEEK, Administrator, Bruxelles

Keith MELLOR, chef de Division, Secrétariat du Conseil de l'Union européenne, Bruxelles

Roger KAMPF, premier secrétaire, Délégation permanente, Genève

II. ORGANISATIONS INTERGOUVERNEMENTALES/
INTERGOVERNMENTAL ORGANIZATIONS

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

John MYERS, Industry Specialist, Media and Entertainment, Sectoral Activities Department, Geneva

ORGANISATION MÉTÉOROLOGIQUE MONDIALE (OMM)/WORLD
METEOROLOGICAL ORGANIZATION (WMO)

Iwona RUMMEL-BULSKA (Mrs.), Senior Legal Adviser, Geneva

ORGANISATION MONDIALE DE LA SANTÉ (OMS)/WORLD HEALTH
ORGANIZATION (WHO)

David BRAMLEY, Copyright Manager, Geneva

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

Hannu WAGER, Counsellor, Intellectual Property Division, Geneva

CONSEIL DE L'EUROPE (CE)/COUNCIL OF EUROPE (CE)

Pall THÓRHALLSSON, Administrative Officer, Secretary to the Advisory Panel on Intellectual Property (AP-IP), Media Division, Directorate General of Human Rights DG II, Strasbourg

LIGUE DES ÉTATS ARABES (LEA)/LEAGUE OF ARAB STATES (LAS)

Samer SEIF ELYAZAL, Second Secretary, Permanent Delegation, Geneva

ORGANISATION AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (OAPI)/AFRICAN INTELLECTUAL PROPERTY ORGANIZATION (OAPI)

Hassane YACOUBA KAFFA, chef, Service de la propriété littéraire et artistique, Yaoundé

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

Lyes BELARIBI, directeur, Centre arabe d'échanges d'actualités et de programmes, Alger

III. ORGANISATIONS NON GOUVERNEMENTALES/
NON-GOVERNMENTAL ORGANIZATIONS

Agence pour la protection des programmes (APP)/Agency for the Protection of Programs (APP)

Xavier FURST (chargé de mission), Genève

American Film Marketing Association (AFMA)

Lawrence SAFIR (Chairman (AFMA Europe)), London

Asociación Internacional de Radiodifusión (AIR)/International Association of Broadcasting (IAB)

Andrés LERENA (Presidente, Comité Permanente de Derecho de Autor)

Association canadienne de télévision par câble (ACTC)/Canadian Cable Television Association (ACTA)

Gerald KERR-WILSON (Counsel, Public Law), Ottawa

Association des organisations européennes d'artistes interprètes (AEPO)/Association of European Performers' Organisations (AEPO)
Cecilia DE MOOR (Mme), Bruxelles

Association des télévisions commerciales européennes (ACT)/Association of Commercial Television in Europe (ACT)
Tom RIVERS (Legal Adviser), London

Association européenne des radios (AER)/Association of European Radios (AER)
Tom RIVERS (Legal Adviser), London

Association littéraire et artistique internationale (ALAI)/International Literary and Artistic Association (ALAI)
Herman COHEN JEHORAM (Executive Committee), Amsterdam

Association nationale des organismes de radiodiffusion (NAB)/National Association of Broadcasters (NAB)
Benjamin IVINS (Senior Associate General Counsel), Washington, D.C.

Central and Eastern European Copyright Alliance (CEECA)
Mihály FICSOR (Chairman), Budapest
Jerzy BADOWSKI (Member, Executive Board), Warsaw

Comité de Actores y Artistas Intérpretes (CSAI)
Abel MARTÍN VILLAREJO (Asesor Jurídico y Experto), Madrid

Confédération internationale des éditeurs de musique (CIEM)/International Confederation of Music Publishers (ICMP)
Jenny VACHER (Mrs.) (Chief Executive/Director General), Paris

Copyright Research and Information Center (CRIC)
Samuel Shu MASUYAMA (Manager, Legal Department, Center for Performers' Rights Administration (CPRA), Japan Council of Performers' Organization (GEIDANKYO)), Tokyo

Digital Media Association (DiMA)
Seth GREENSTEIN (Counsel), Washington, D.C.

Fédération européenne des sociétés de gestion collective des producteurs pour la copie privée audiovisuelle (EUROCOPYA)/European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA)

Nicole LA BOUVERIE (Mme) (présidente), Bruxelles

Yvon THIEC, Bruxelles

Fédération internationale de l'industrie phonographique (IFPI)/International Federation of the Phonographic Industry (IFPI)

Ute DECKER (Ms.) (Legal Adviser, Legal Policy Department), London

Fédération internationale des acteurs (FIA)/International Federation of Actors (FIA)

Dominick LUQUER (General Secretary), London

Fédération internationale des associations de producteurs de films (FIAPF)/International Federation of Film Producers Associations (FIAPF)

André CHAUBEAU (directeur général), Paris

Valérie LÉPINE-KARNIK (Mrs.) (Deputy Director General), Paris

Fédération internationale des musiciens (FIM)/International Federation of Musicians (FIM)

Jean VINCENT (secrétaire général), Paris

Groupement européen représentant les organismes de gestion collective des droits des artistes interprètes ou exécutants (ARTIS GEIE)

Francesca GRECO (Mme) (directeur), Bruxelles

Institut Max-Planck de droit étranger et international en matière de brevets, de droit d'auteur et de la concurrence (MPI)/Max-Planck-Institute for Foreign and International Patent, Copyright and Competition Law (MPI)

Silke VON LEWINSKI (Ms.) (Head of Department), Munich

International Video Federation (IVF)

Theodore Michael SHAPIRO (Legal Adviser), Brussels

Japan Electronics and Information Technology Industries Association (JEITA)

Yasumasa NODA (Adviser to President), Tokyo

National Association of Commercial Broadcasters in Japan (NAB-Japan)

Shinichi UEHARA (Director, Copyright Division, Asahi Broadcasting Corp. (ABC)), Osaka
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Hidetoshi KATO (Program Contract Department, Television Tokyo Channel 12 Ltd. (TV Tokyo)), Tokyo
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Kazuko YOSHIDA-INGHAM (Mrs.) (Interpreter), London

North American Broadcasters Association (NABA)

Erica REDLER (Ms.) (Chair, Legal Committee; General Counsel, Canadian Association of Broadcasters (CAB)), Ottawa

Software Information Center (SOFTIC)

Kensuke NORICHIKA (Executive Director), Tokyo

Union de radiodiffusion Asie-Pacifique (ABU)/Asia-Pacific Broadcasting Union (ABU)

Maloli MANALASTAS (Mrs.) (Chairperson, Copyright Working Party, Vice President for Television KBP-Philippines), Manila
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Union des radiodiffusions et télévisions nationales d'Afrique (URTNA)/Union of National Radio and Television Organizations of Africa (URTNA)

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Union européenne de radio-télévision (UER)/European Broadcasting Union (EBU)

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Union internationale des confédérations de l'industrie et des employeurs d'Europe (UNICE)/Union of Industrial and Employers' Confederations of Europe (UNICE)

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Union internationale des éditeurs (UIE)/International Publishers Association (IPA)

Benoît MÜLLER (Secretary General), Geneva

Stéphanie TUETÉY (Miss) (Deputy to the Secretary General), Geneva

Union Network International–Media and Entertainment International (UNI-MEI)

Jim WILSON (Director), Brussels

IV. BUREAU/OFFICERS

Président/Chairman: Jukka LIEDES (Finlande/Finland)

Vice-présidents/Vice-Chairmen: SHEN Rengan (Chine/China)
Fernando ZAPATA LOPEZ (Colombie/Colombia)

Secrétaire/Secretary: Jørgen BLOMQVIST (OMPI/WIPO)

V. SECRETARIAT DE L'ORGANISATION MONDIALE DE LA
PROPRIÉTÉ INTELLECTUELLE (OMPI)/
SECRETARIAT OF THE WORLD INTELLECTUAL
PROPERTY ORGANIZATION (WIPO)

Shozo UEMURA, vice-directeur général, Secteur du développement progressif du droit international de la propriété intellectuelle/Deputy Director General, Sector for Progressive Development of International Intellectual Property Law

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