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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

**First Special Session of the
STANDING COMMITTEE ON COPYRIGHT
AND RELATED RIGHTS**

Geneva, January 17 to 19, 2007

DRAFT REPORT

prepared by the Secretariat

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the “Standing Committee”, the “Committee” or the “SCCR”) held its first special session in Geneva from January 17 to 19, 2006.
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, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Barbados, Belgium, Benin, Bolivia, Bosnia-Herzegovina, Botswana, Brazil, Burkina Faso, Cambodia, Canada, Chile, China, Colombia, Congo, Croatia, Cuba, Czech Republic, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Estonia, Finland, France, Georgia, Germany, Greece, Guatemala, Haiti, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Italy, Japan, Kenya, Latvia, Lebanon, Lithuania, Luxembourg, Malaysia, Mauritania, Mexico, Moldova, Morocco, Nepal, Netherlands, Nicaragua, Nigeria, Norway, Oman, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Russian Federation, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Thailand, Tunisia, Ukraine, United Kingdom, United States of America, Uruguay, Zimbabwe. (88)
3. The European Community (EC) participated in the meeting in a member capacity.

4. The following intergovernmental organizations took part in the meeting in an observer capacity: United Nations Educational, Scientific and Cultural Organization (UNESCO), World Trade Organization (WTO), *Organisation Internationale de la Francophonie* (OIF), South Centre, African Union, Arab Broadcasting Union (ASBU) (6).

5. The following non-governmental organizations took part in the meeting as observers: Actors, Interpreting Artists Committee (CSAI), Asia-Pacific Broadcasting Union (ABU), *Association brésilienne des émetteurs de radio et de télévision* (ABERT), Association of Commercial Television in Europe (ACT), Association of European Performers' Organisations (AEPO-ARTIS), Canadian Cable Telecommunications Association (CCTA), Center for International Environmental Law (CIEL), Central and Eastern European Copyright Alliance (CEECA), Centre for Performers' Rights Administrations (CPRA) of GEIDANKYO, Civil Society Coalition (CSC), Computer and Communications Industry Association (CCIA), Copyright Research and Information Center (CRIC), Digital Media Association (DiMA), Digital Video Broadcasting (DVB), Electronic Frontier Foundation (EFF), Electronic Information for Librarians (eIFL.net), European Broadcasting Union (EBU), European Digital Rights (EDRi), European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA), Ibero-Latin-American Federation of Performers (FILAIE), Independent Film and Television Alliance (IFTA), International Affiliation of Writers' Guilds (IAWG), International Association of Broadcasting (IAB), International Center for Trade and Sustainable Development (ICTSD), International Chamber of Commerce (ICC), International Confederation of Societies of Authors and Composers (CISAC), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Film Producers Associations (FIAPF), International Federation of Journalists (IFJ), International Federation of Library Associations and Institutions (IFLA), International Federation of Musicians (FIM), International Federation of the Phonographic Industry (IFPI), International Intellectual Property Alliance (IIPA), International Literary and Artistic Association (ALAI), International Music Managers Forum (IMMF), International Organization of Performing Artists (GIART), International Publishers Association (IPA), International Video Federation (IVF), IP Justice, Max-Planck-Institute for Intellectual Property, Competition and Tax Law (MPI), National Association of Broadcasters (NAB), National Association of Commercial Broadcasters in Japan (NAB-Japan), North American Broadcasters Association (NABA), Public Knowledge, Third World Network (TWN), Union Network International – Media and Entertainment (UNI-MEI), United States Telecom Association (USTA), Yale Information Society Project (ISP) (49).

OPENING OF THE SESSION

6. The session was opened by Mr. Michael Keplinger, Deputy Director General, who welcomed the participants on behalf of Dr. Kamil Idris, Director General of the World Intellectual Property Organization (WIPO).

ELECTION OF A CHAIR AND TWO VICE-CHAIRS

7. The Standing Committee unanimously elected Mr. Jukka Liedes (Finland) as Chair, and Ms. Zhao Xiuling (China) and Mr. M'hamed SIDI EL KHIR (Morocco) as Vice-Chairs.

ADOPTION OF THE AGENDA

8. The Committee adopted the Agenda as set out in document SCCR/15/1, with the addition of one item: Accreditation of Non-Governmental Organizations, after item 4.

ADOPTION OF THE REPORT OF THE FIFTEENTH SESSION

9. The Chair recalled that a Draft Report of the fifteenth Session had been made available to the Committee, but some delegations had only received it at the beginning of the present Session. In order to allow those delegations to read it, the Report would only be adopted at the end of the present Session.

10. At the end of the Session, the Chair noted that there would still be the possibility for delegations which had changes to be made to their own interventions to submit amendments in written form to the Secretariat before the end of the following week. After that deadline, the report of SCCR/15 would be finalized. Under those conditions, the Committee adopted the report.

ACCREDITATION OF CERTAIN NON-GOVERNMENTAL ORGANIZATIONS

11. The Chair noted that document SCCR/S1/2 contained a request by the Yale Information Society Project (ISP) to be admitted as an *ad hoc* observer.

12. The Committee gave its consent to the admission of that non-governmental organization as an *ad hoc* observer.

PROTECTION OF BROADCASTING ORGANIZATIONS

13. The Deputy Director General indicated that Members were facing a challenging three days of meeting. The General Assembly in September 2006 had assigned the SCCR a mission, to determine how to turn document SCCR/15/2 Rev. from emphasizing the protection of broadcasters' rights to focusing on the protection of the broadcast signal. Protection of the broadcast signal had always been an element of the basic proposal, and the General Assembly had requested that that element be strengthened, which required a change of thinking and a great deal of work in two meetings. The General Assembly had also agreed on the scheduling of a diplomatic conference in November – December 2007, upon condition that the two special sessions of the Standing Committee, the current session and a further session in June, could agree on a basic proposal based on document SCCR/15/2 Rev. as a starting point. In that context, and in anticipation of his election, the Chair had been requested to do some preliminary work to formulate a plan for the current meeting, and how to conclude the June session with a document that all Member States could accept as a basis for going to a diplomatic conference. Therefore, during the course of the meeting, the Chair would provide information on how the work could be organized to achieve those goals, including rethinking some of the articles in the Revised Draft Basic Proposal.

14. The Chair remarked that the General Assembly in 2006 had provided a road-map for the Committee to finalize its work with a view to preparing the basic proposal to be taken as the basis for organizing a diplomatic conference. Agreement on a basic proposal did not,

however, require agreement on every single detail at the level of the SCCR, and there would be outstanding issues remaining to be resolved at the diplomatic conference. The basic proposal would be developed on the basis of the working documents, and especially the Revised Draft Basic Proposal that had been discussed by the previous session of the Committee (document SCCR/15/2 Rev.). The General Assembly had approved the convening of a diplomatic conference from November 19 to December 7, 2007. That outcome required the current and one future meeting of the SCCR in June 2007, and depended on that the SCCR would succeed in producing a clean revised draft basic proposal with some, or possibly all, the provisions changed, and possibly including some alternatives. The General Assembly had also outlined a number of practical approaches to the SCCR's work. The SCCR should agree to finalize its work as follows: the SCCR should aim to agree and finalize a signal-based approach dealing with first the objectives, second the specific scope, and third the object of protection, with a view to submitting to the diplomatic conference a revised basic proposal. So there was an overall approach and then a number of items. The mandate of the General Assembly went to the core of the purpose of the treaty, its objective, why the treaty was being negotiated and then eventually concluded; its rationale and function. There were various views on the purpose of the treaty, and it remained to be seen whether a comprehensive philosophy could be formed to reach those objectives. The provisions regarding scope referred both to the substantive scope of application, the creation and level of rights and protections, as well as, flexibly considered, the scope of protection, meaning the range of rights and protections. The object of protection did not consist of rights, but was something to be protected and in the definitions and operative clauses of the draft treaty the term "broadcast" had been used to represent it. In the copyright area, the work was the object of protection. For related rights, the phonogram, or the performance, was the object of protection. In the current discussions, the object of protection had been identified as the broadcast. It remained to be discussed what exactly constituted the broadcast, and whether it could or should be defined was a question to be discussed. At the request of the Deputy Director General, a draft based on elements of the Revised Basic Proposal had been prepared by the Chair, in line with the General Assembly's mandate that also invited Member States to consider the philosophy of protection. He invited the Committee to consider elements of the 20 substantive articles that could replace parts of the previous draft. Some delegations and NGOs had construed the signal-based approach as opposite to a rights-based approach. There were others who stated that a signal-based approach was not contrary to the idea of providing exclusive rights as well as other protection. Therefore, one of the first tasks was to clarify the approach to that debate and see whether it led to a text that would be more acceptable than the previous version. The new draft text should be simpler and shorter, with fewer alternatives concerning only the main outstanding issues that could best be solved in the diplomatic conference itself. The Chair had prepared two documents, with a third under preparation. The first was a brief discussion paper (attached to this Report as Annex I) that described a signal-based approach: what was meant by scope and the tasks included in the General Assembly's decision? The second "non-paper" (attached to this Report as Annex II) addressed the various provisions in the draft texts that referred to the objects of protection and definitions relevant to defining the scope of the treaty. Any further proposals prepared by delegations, in their respective capitals or in consultation with other delegations, could be taken into account and be subject of informal consultations. It was not intended that any paper from the Chair would dominate the debate or be other than for reading purposes only, and delegations were invited to indicate quickly if the Chair's non-papers were not acceptable and to seek another basis for work. If the Committee agreed on the philosophical approach to the treaty, then discussions could continue on an article by article basis, beginning with the core issues. The Chair would then prepare a third non-paper simplifying some 15 to 20 alternatives on issues of rights and protection. The signal-based approach of the treaty should

result in a narrower document than previously drafted. The work plan was to tackle the small papers first and then the broader items so as to cover a large part of the draft treaty. Following further work in the interim, the June SCCR could then decide whether there was a meaningful basis for the diplomatic conference. Time was short, some risks needed to be taken, and flexibility shown. There could not be debate on every single detail, nor reinvention of the wheel. As a Committee, the SCCR had to recognize different opinions. Noting that the Committee appeared to agree to work on the outlined basis, the Chair asked the Secretariat to distribute the first two Chair's papers, and during the first part of the meeting he would take questions for clarification, and comments on the working method and assessments of the general situation.

15. The Delegation of Algeria requested time to discuss the Chair's papers within the regional groups. The African Group wished to make a statement at the appropriate time in the general debate, and such statements might be more usefully made before a discussion on the Chair's papers that Members had not yet had the opportunity to fully consider.

16. The Chair opened the discussion for general statements or assessments of the situation, questions and comments. The first Chair's discussion paper contained new text for reading purposes based on the Chair's understanding and the General Assembly's decision, and was not intended to serve as the basis of debate. The second Chair's paper was more technical, with more familiar elements.

17. The Delegation of Algeria, speaking on behalf of the African Group, indicated its active support for and awareness of the importance of the protection of broadcasting organizations. It welcomed the decision of the General Assembly to organize a diplomatic conference to discuss and conclude a treaty on broadcasting organizations including cable casting organizations. The two special sessions of the Committee provided a necessary opportunity to grasp fully and discuss issues remaining on the table to enable consensus to be reached on the basic proposal to submit to the diplomatic conference. The most contested issue, that of webcasting, had been taken out of the basic proposal with the result that it now concerned solely protection for traditional broadcasting organizations. The African Group welcomed that approach, which responded to its concern to avoid giving legal protection to webcasting. Developing countries were suffering from the damaging consequences of the digital divide. The Draft Basic Proposal that was submitted in its current version provided a useful basis or platform, but was not an exclusive one for the deliberations, taking into account also the non-papers that the Chair had distributed for discussion. It hoped that all delegations could support a proposal that took into account all countries' concerns. The key issue was whether or not the scope of protection set out in the basic proposal ensured legitimate protection to broadcasters and guaranteed freedom of access to information and knowledge. Members would have to identify provisions that risked destroying a balance between the interests of rightholders and the guarantee of freedom of access for users. In that regard, preliminary comments on the main issues in the Draft Basic Proposal were addressed to six issues in particular. First, the proposal stressed providing broadcasting organizations with the right to prevent piracy of their program-carrying signals. But it should also ensure that they did not undermine copyright and the public right to access to information and knowledge. An increase in the scope of protection of rights in broadcasting would run against the objectives that the text stated that it intended to achieve. With regard to protection of the rights of broadcasters, there needed to be a defined distinction between broadcasting and the content of broadcasting. Intellectual property rights were not always held by broadcasting organizations, except when the broadcasters were also copyright holders. That distinction should be made in order to restrict any damage to the exclusive rights of authors and also to avoid any barrier to

access to information and knowledge in the public domain. Second, there was a need to clarify the concept of webcasting in the text that continued to give rise to contradictory interpretations. The African Group opposed any direct or indirect reference in the basic proposal to webcasting or netcasting. Third, it was considered important to include in the basic proposal a section on general principles and the preservation of the public interest in order to protect the freedom of contracting parties to promote access to knowledge and information and to pursue national objectives on education and science, and in order to promote the public interest in general. Fourth, exceptions and limitations to the protection of broadcasting organizations were also an important aspect of the basic proposal. In particular, in developing countries and least developed countries, States needed to have the necessary space to protect their national interests. Beyond the actual usefulness of these exceptions and limitations, the basic proposal should also ensure that there was a balance between rights given to broadcasting organizations and basic policies on intellectual property relating to the freedom of access to information and knowledge. That issue was particularly important in order to reconcile the rights of broadcasting organizations and the equally important rights of the public. In that regard, it was recommended to apply exclusive rights to programs themselves, and limitations and exceptions that existed for rights granted for the content of programs. That recommendation intended to avoid the exclusive rights of broadcasters being invoked to undermine exceptions and limitations to exclusive rights pertaining to the particular content of programs which tended to be in the public interest. Fifth, the inclusion of technological measures should not be a controversial issue, provided that they were specific to the protection of signals and did not have negative impact on access to knowledge and information. Sixth and finally, it was considered that the protection of rights granted to broadcasting organizations should be for a minimum of a 20-year period. This proposal was in the spirit of inclusion so as to enable national legislation in some Member States with a longer period to continue their current system of protection, if desired. The African Group hoped that between the current meeting and the projected date for a diplomatic conference, Members could agree a consensus text to be adopted by the Committee which would enable it to make swift progress in the negotiations in order to obtain a treaty on the protection of broadcasting organizations.

18. The Delegation of Bangladesh, speaking on behalf of the Asian Group, noted that the previous year the WIPO General Assembly had decided to convene two special sessions of the SCCR to finalize a basic proposal for the holding of a diplomatic conference later in the year. The Asian Group wished to see progress towards a broadcasting treaty focusing on protection against signal piracy while ensuring that the rights of content owners were not compromised. It was essential that delegations reached consensus on a single basic text on traditional broadcasting before proceeding to a diplomatic conference. The Group expressed its appreciation of the Chair's efforts to develop new documents and non-papers to facilitate the work of the SCCR, and stated that the Group would express its views on these documents after holding further consultations. Until that time, the Group reasserted the position it had taken during the last SCCR Session, namely that the treaty should take into account the technological nature of the digital environment and in particular the implications of technological protection measures on access to information, knowledge and materials in the public domain. It should also include a provision on protection and promotion of cultural diversity. Moreover, the treaty should include a provision on defense of competition. Great importance continued to be attached to articles relating to general principles, protection and promotion of cultural diversity and defense of competition.

19. The Delegation of Barbados, on behalf of the Group of Latin American and Caribbean Countries (GRULAC), thanked the Chair for his effort in preparing the initial working

document so as to facilitate the work of the SCCR. GRULAC was committed to continuing to work constructively during the two special sessions of the SCCR in an effort to reach agreement and finalize, on a signal-based approach, the objective, specific scope and object of protection of a revised version of the basic proposal in accordance with the decision of the 2006 WIPO General Assembly. The need was emphasized to ensure an appropriate balance between the rights of broadcasting organizations, the rights of copyright and related rights holders, and the promotion and protection of the public interest in Member States. It was understood that the two special sessions of the SCCR would be dedicated to the discussion of the protection of broadcasting organizations, however there was interest in discussing other subjects in the regular sessions of the SCCR, in particular the proposal for analyzing copyright exceptions for educational purposes, libraries and disabled persons. The SCCR should not lose sight of that proposal, as it was an important part of the work of the regular sessions of the SCCR.

20. The Delegation of Italy, speaking on behalf of Group B, expressed its commitment to a positive conclusion of the SCCR following the mandate of the General Assembly. The Group was ready to engage actively towards a clarification of the outstanding issues so as to find a solution based on a signal-based approach, so that WIPO could proceed to a diplomatic conference in 2007.

21. The Delegation of the Federal Republic of Germany, on behalf of the European Community and its 27 member States, remarked that the European Community and its member States had been working actively and constructively over the previous eight years at WIPO to elaborate an updated regime for the international protection of broadcasting organizations and would continue to do so in a constructive and inclusive manner. Appreciation was expressed for the progress made on the substantive issues related to the draft treaty, and commitment was expressed to the conclusion of the process through a diplomatic conference that would negotiate and conclude a new WIPO treaty on the protection of the broadcasting organizations.

22. The Delegation of Colombia approved that consideration be given to a diplomatic conference by the end of 2007, which would allow delegations to take up a number of very important issues including webcasting. It was important to look at the outcome of the fifteenth session of the SCCR, as it moved towards that goal. There was concern at the lack of understanding of some delegations in various areas. There were doubts, for example, as to what precisely was meant by protection of signal vis-à-vis protection of content. For that reason, the current session of the SCCR provided a good opportunity to revise some of the relevant articles in order to provide explanation of those concepts so that all delegations could fully understand the discussion. The Chair and International Bureau should seek to guide the dialog for full understanding and to dispel doubts. Consultations were required on the documents distributed by the Chair.

23. The Delegation of Chile expressed support for the statement made by GRULAC, and drew attention to the issue of exceptions and limitations, which were important for the use of libraries and for handicapped and disabled persons and should be examined in depth in the current session in greater detail than previously. Following the current meeting, the Committee would have to wait for a further three years before discussing broadcasting again, and during that period the International Bureau should undertake a study on library usage. Some work was already underway in that area, in particular a study on exceptions and limitations for blind and partially sighted people, but there was a need for further work to be done, and for that reason a proposal had been made to study library facilities in more general

terms. Such a study might provide a starting point for a more in-depth discussion and study of the issues. It was recognized that the SCCR had to focus on broadcasting, but there was a great deal that remained to be done and various studies needed to be taken in the future to enable the SCCR to take the necessary steps in those areas.

24. The Delegation of El Salvador endorsed the comments made by preceding speakers and expressed whole-hearted support for the GRULAC statement. Support was also expressed for the way in which the session had been organized in strict compliance with the mandate given to the SCCR by the General Assembly at the September session 2006. There was great satisfaction with the agreement reached at that General Assembly, on the basis of work done at the previous SCCR session. It was hoped that the diplomatic conference would be organized in November 2007 with a view to successfully achieving a treaty after many years of preparatory work. Strong support was expressed for the technical and objective discussion of the Revised Basic Proposal, document SCCR/15/2 Rev., which would continue to serve as the basis for the diplomatic conference. It was time to focus discussion on the object of the treaty, and to dispel any doubt that might still exist pertaining to the issue, in order to allow the Committee to move forward to a position where a final agreement could be reached at the conference itself.

25. The Delegation of the Islamic Republic of Iran stressed the need for protection of rights of broadcasting organizations, and noted that the prior intensive discussions had made positive achievements. It was committed to the agreements made in the 14th and 15th sessions of the SCCR, as well as to the decision of the General Assembly in 2006, to continue the discussion on the substantial issues of the draft treaty with a view to agreeing on acceptable clean drafts for the diplomatic conference. In addressing the substantive issues, it was necessary to make a clear distinction between protection of signal and protection of program materials carried by signals. Support was expressed for the signal-oriented approach of the treaty, which should be clarified. The scope of the treaty should be limited to traditional broadcasting organizations, and all the articles of the draft should be consistent with that approach, taking into account the evolving nature of the technology of the broadcasting devices. Discussion on the protection of broadcasting organizations in the digital environment required more deliberation. Access to knowledge and information was a recognized international principle, and that issue should be taken into account in all relevant articles of the draft treaty. All articles of the Draft Basic Proposal had to be consistent. In that context, the signal protection approach in the framework of the treaty for the protection of traditional broadcasting organizations should be recognized in the articles of the draft, including the final provision. Transparency, clearer procedure and engaging all delegations in formal and informal consultations would direct the trend of the discussion to tangible results. There was readiness to participate constructively in the discussions with the aim of preparing a text that covered the consensus of all.

26. The Delegation of India expressed a firm commitment to the process of carrying forward the task mandated by the General Assembly within the parameters set by the General Assembly. The General Assembly had clearly stated that it should be a treaty on the traditional medium of broadcasting and cablecasting in the traditional sense. The General Assembly also endorsed the SCCR's suggestion that webcasting and netcasting should not be included in the treaty and should be discussed separately, and, most importantly, that the treaty should be on the signal based approach.

27. The Delegation of the United States of America supported the statement made by the Delegation of Italy on behalf of Group B. The SCCR was entering an important phase, and

the Group supported the Chair's proposed method of work, with a view to advancing and concluding a new treaty on the protection of the rights of the broadcasting organizations. Support was expressed for the decision of the 33rd session of the General Assembly to hold two special sessions of the SCCR to clarify the outstanding issues. The critical question to guide the SCCR was "what do broadcasters need at a minimum to protect against the unauthorized interception and transmission of their signals?", and the consideration of any protection should be based on answering that important question. It was expected that the decision of the General Assembly to focus on a more limited and narrow signal-based approach would be respected. To that end, all delegations had an important opportunity and responsibility to revise the current Draft Basic Proposal, document SCCR/15/2 Rev. As had been stated at the September 2006 SCCR meeting and repeated at the General Assembly, proceeding to a diplomatic conference using a 108 page document with few agreed provisions did not make for a text stable enough to be considered a basic proposal. The document had to be substantially narrower to meet the criteria set forth in the decision of the General Assembly. At a minimum, that meant agreement on the scope of protection providing broadcasters with what they needed to protect against signal piracy while not undermining the rights of the underlying content holders or the public interest. Certain provisions in the current draft would undermine any protection provided under the treaty, and resolution of those issues was integral to resolving the scope of protection of the draft treaty. Care must be taken to avoid any unintended consequences with regard to current and future technological advances. Protection for technological protection measures in exceptions and limitations consistent with international treaties remained critical components for any treaty. Throughout the process, the Delegation had sought to achieve a treaty that was reasonably up-to-date, given the state of technology, now and in the reasonably foreseeable future. Fundamental to the treaty was protection for its beneficiaries against the unauthorized simultaneous retransmission of broadcast signals over the Internet. The major threat to broadcasters today arose when someone placed their signal on the Internet without permission. Since the beginning of discussions at WIPO on the issue, the Delegation had scaled back its ambitions for the treaty, as reflected by the withdrawal of its own proposal which proposed on a technologically neutral basis, protection for netcasting organizations. Such flexibility in the process was required of all delegations, in order to achieve an agreement that would enjoy consensus. However, an agreement without identifiable benefits for broadcasting and cablecasting organizations would be a pointless exercise, if it derogated from existing protections and set negative precedents. It was hoped that all delegations would demonstrate flexibility so as to achieve a positive outcome, and commitment was expressed to a successful conclusion of a treaty that responded to the needs of all the stakeholders.

28. The Chair noted that French and Spanish versions of the non-papers were being prepared and would be distributed later. With respect to webcasting and netcasting, he recalled that the May 2006 meeting of the SCCR decided that the process could only continue by establishing two tracks, one track dealing only with the protection of broadcasting and cablecasting in the traditional sense, and the other on the issue of webcasting or netcasting, and that wording was used by the General Assembly in 2006. The understanding was that a subsequent meeting of the SCCR would deal with that matter, after having dealt with the item of traditional broadcasting. That explained why there was no parallel basic proposal to the current Revised Draft Basic Proposal. No delegations had denied the possible and eventual importance of webcasting as a form of broadcasting for the new millennium, but that was a matter to be tackled as a future item.

29. The Delegation of the People's Republic of China supported the decision taken by the General Assembly in 2006, to hold a diplomatic conference in November 2007, and to hold

two special sessions of the SCCR with the main objective of attaining consensus on the content of a new treaty on the protection of broadcasting in the traditional sense, and to treat webcasting separately. There was a need to renew and update protection for broadcasting organizations and also to strike a proper balance between the rights of broadcasting organizations on the one hand and other rightholders on the other hand. An in-depth discussion on matters of substance was needed in order to achieve consensus or at any rate to reduce the differences between Member States on these issues. It was believed that progress would be made and the meetings would ultimately be successful.

30. The Delegation of the Republic of Korea agreed with other delegations that there was a need to update the rights of broadcasting organizations on a signal-based approach, in order to cope with the development of certain digital technologies and the Internet since the adoption of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention). When considering the level of protection that would be provided in the future treaty, delegations needed to take into account the protection given to the other related rightholders under the WIPO Performances and Phonograms Treaty (WPPT). It was hoped that progress would be achieved during the current session regarding the pending issues, so that the new instrument could be concluded on schedule and provide better protection for broadcasters in a timely manner.

31. The Chair introduced the first discussion non-paper (attached as Annex I to this Report), and noted that it contained items that corresponded to the expectations and approaches put forward by several delegations and groups. The non-paper had been submitted for delegations' reading purposes and not for debate over details, and it set out the Chair's understanding of the decision and special tasks that had been listed by the General Assembly, including the overall signal-based approach. The first page contained a small chapter on the purpose and nature of the non-paper, providing non-binding food for thought, and the fourth paragraph (first bullet) clarified that the goal was to make the treaty text more acceptable for all delegations. The Committee was invited to consider all the preparatory steps including the current session and its follow-up and to set a plan for the June session. The rest of the non-paper contained four parts. First, it described what was meant by a signal-based approach, and how the text would become more signal-based than before. The main focus should now be on the circumstances where the signal was in existence. The signal carried programs, the programs were assembled and scheduled to be transmitted. In addition to the program content, it was the investment in the scheduling, selection and arrangement of programming of the program content carried by the signal that added value. The question was whether the whole operation of the treaty should stop when the signal ceased to exist. Under national legislation and the Rome Convention and the Agreement on Trade-Related Aspects of Intellectual Property Rights (the TRIPS Agreement), protection did not stop exactly when the signal ceased to exist, but extended beyond the lifetime of the live signal in some instances. For example, the Rome Convention provided a form of right of reproduction even after fixation, and this was also found in the TRIPS Agreement. When fixation took place, the signal was still live, in existence, and if there was no signal in the air or in the cable, then nothing could be fixed. Therefore, the signal existed at the moment of fixation, and that was why all references were to where the signal was in existence. However, in real life, under national laws and treaties, the protection extended in some cases beyond the live signal to some post-fixation rights, and therefore consideration had to be given as to where should the limit of protection be. The previous draft text provided a broad range of exclusive rights that followed fixation. The contribution and the investment of the broadcaster survived fixation, and if the broadcast program-carrying signal was fixed, it was fixed on a medium. The signal ceased to exist, but the scheduling and assembling and arrangements remained. Therefore,

even if the main focus was on the signal, delegations needed to consider what kind of protection was required even after the fixation of the signal. While there was no definition of a signal-based approach, delegations should understand that such an approach did not preclude granting some rights in the form of exclusive rights. The signal-based approach was used to indicate also a narrower range of rights. The non-paper (paragraph seven) then addressed the range of exclusive rights and how they could be reduced to a level that was acceptable to all, and how the object of protection could be made more precise, leading to the possibility to reduce and narrow down other provisions surrounding those core provisions on the object of protection and rights. The tasks that had been listed in concrete terms by the General Assembly were, first, the objectives and purpose of the treaty. The most important function of the treaty was the anti-piracy function, which would act as a weapon against unauthorized interception and use of signals. Such use might be described in some circumstances as misappropriation of investments, or unfair competition. Where the theft of signal was for commercial purposes, then the purpose of the treaty was to prevent free riding. In addition, as noted previously by one Delegation, the treaty would provide some protection to broadcasting organizations against unfair competition in the media market. The second task listed by the General Assembly was to consider the objective scope and object of protection of the same entity from different angles. The form of the scope of protection would be in addition to any protections that might exist as far as the program content was concerned, and could be set out in related or neighboring rights, or in the national legislation as protection based on prohibitions that might not be defined as rights. Such protections for broadcasting organization were independent, self-standing rights and related to the protection of the rights of authors and other rightholders of program content. The non-paper (paragraph 10) contained an invitation to delegations to consider what elements were absolutely necessary to meet the objective of the treaty, the need for an adequate and effective protection for broadcasters in a complex technological environment and the evolving situation of the media markets. The third task set by the General Assembly referred to the scope of the instrument by defining the phenomena to which the instrument applied, and that was the very object of the protection. The scope of an instrument was normally dictated by the definition of the object, and the object of the protection had to date been the broadcast. It was suggested that the broadcast should continue to be the object, but it should be defined. A definition of signal could also be included. To use the broadcast as the object of protection would be consistent with existing treaties that protected broadcasts, namely the Rome Convention and the TRIPS Agreement. In principle, the term “broadcast” did not have to be the same in the draft treaty as in the Rome Convention and TRIPS, however consistency between the definitions of broadcast in the various treaties would be the best course, and at least the definition in the draft treaty should not be narrower.

32. The Chair introduced the second non-paper (attached to this Report as Annex II), covering the object of protection and definitions, which set out the basic opening statements of the draft treaty as a proposal regarding the object. The second paragraph from the article on scope had been moved to be the first paragraph; “provisions of this Treaty shall apply to the protection of broadcasting organization in respect of their broadcast”. The second paragraph provided that the provisions of the treaty did not give any rights in the program content transmitted by the broadcasting organizations. The signal-based approach was also reflected in the definitions, and two new definitions had been added in the beginning of the series of definitions. There was a suggested proposal for a definition of a “broadcast”, as the ultimate signal-based approach, to define the broadcast as the program-carrying signal itself. The basic element of the signal-based approach would be that the broadcast would be the program-carrying signal used for transmission by the broadcasting organization. Then, as

requested by numerous delegations, the definition of “signal” taken from the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (the Satellites Convention) was included under item (b). “Signal” meant an electronically generated carrier capable of transmitting programs which was an academically clean and technologically neutral definition of a signal. When that signal then carried programs, it became a “broadcast”, and “broadcast” meant the program-carrying signal. The rest of the non-paper was familiar, though modified by the new basic definitions. “Broadcasting” meant the transmission by wireless means of images and sounds, etc., meaning the transmission of program-carrying signal for reception by the public. The further part of the definition was unchanged. It appeared that some delegations still preferred a separate corresponding definition of “cablecasting”, and to combine the protection of cable casting with the protection of broadcasting, so that structure had been maintained. “Broadcasting organizations” as well as “cablecasting organizations” would mean the legal entity that was responsible for broadcasting the program-carrying signal to the public, as well as for assembling and scheduling the content. “Retransmission” could be defined as set out in the non-paper, if it was considered necessary. “Communication to the public” meant making a transmission of program content perceptible or audible to the public in a place where access was granted against an entrance fee. That was a shorter version of the definition. If required, the definition of “fixation” would be as it was in the package. The main element was in Article 1, which stated that the treaty would provide protection for broadcasting organizations in respect of their broadcasts, and did not give rise to any rights in the program content. The first definition would then provide that the broadcast was the program-carrying signal. He noted that the definitions were not reproduced in full in the non-paper, and full definitions were contained in document SCCR/15/2 Rev. A large number of groups and delegations had clearly stated their commitment to work in a constructive spirit towards a treaty within the constraints and the framework provided, and that meant a kind of obligation to deliver a basis for the diplomatic conference at the current meeting or, at the next session at the latest. Delegations were invited to read the non-paper and make any comments on it. In the non-paper, the first block under the word “object” and the first two paragraphs would be inserted as the first article in the new treaty. Then the reformulated and amended definitions (a) and (b) would replace the relevant parts in the article with definitions. All the further articles would be presented to delegations in a condensed form during the afternoon session for their consideration.

33. Resuming the meeting after the lunch break, the Chair noted that delegations had held discussions in different groups so the Committee could now focus on substantive business. The floor was not yet closed for questions or comments concerning the procedure and work program. He also submitted for the Committee’s concrete consideration his second non-paper on the signal-based approach. The series of two articles, namely on the object of protection and on definitions, should be read in conjunction with the related articles in document SCCR/15/2 Rev.

34. The Delegation of the European Community, speaking also on behalf of its member States, noted after careful reading of the proposed treaty language in the Chair’s first non-paper that under the heading “Task 1: ‘Objectives’”, the function of the treaty was anti piracy and against free-riding. It asked how the definitions in treaty language in the non-paper would effectively fulfill the role of the anti-piracy function. It was a very technical subject matter, requiring technical knowledge of how a signal was actually stolen, and what was technically at issue when a signal was stolen. The fundamental question was: “how does one steal a signal?” and it would be extremely useful for the Committee to understand how pirates actually stole signals as guidance in crafting an effective anti-piracy function. The

legal instrument could be tailored in light of the technical explanation on how signals were customarily stolen, so as to give broadcasters exactly the rights needed to prevent that, or pursue the signal pirate. There was expertise in the room, including several broadcasting organizations that could explain technically how signals were actually stolen, before a position would be taken on the subject matter of the non-paper.

35. The Chair thanked the Delegation of the European Community for the suggestion of inviting technical experts to advise the SCCR, the possibilities of which would be explored.

36. The Delegation of the Russian Federation, speaking also on behalf of a number of countries from the CIS, Eastern Europe, Central Asia and the Caucasus, expressed support for preparing treaty language for a draft treaty on those aspects and fundamental provisions which were previously accepted by the SCCR for a diplomatic conference. Support was also expressed for reducing the number of alternative texts as much as possible. The Chair's approach by issuing non-papers was a new initiative that would assist the Committee in improving the treaty.

37. The Chair invited the Committee to consider the proposal made by the Delegation of the European Community, and various options for receiving technical advice.

38. The Delegation of Egypt referred to the decision of the General Assembly requesting the SCCR to lay the groundwork for a diplomatic conference to afford protection to signals. It supported the suggestion to obtain technical advice on how signals were stolen. It was understood that the signal in itself had no value, and that an empty signal would not be stolen. However, piracy occurred when there was a particular kind of content within a given signal, which was of interest to pirates. The draft treaty was not intended to afford protection to the content conveyed by the signal. A distinction had to be drawn between the indirect purpose and the direct purpose, and the indirect intent and the direct intent of any given piece of law. The direct objective and purpose of the draft treaty was the protection of the rights of broadcasting organizations, because those organizations invested considerably in the broadcasting of different types of content. The treaty would protect the signals broadcast by broadcasting organizations, which was different from the protection afforded to rightholders under copyright. The technical criteria to be adopted referred to the protection of signals emitted by broadcasting organizations, bearing in mind the fact that the signals only had value if they contained particular content.

39. The Delegation of Algeria, speaking on behalf of the African Group, stated that from a methodological perspective it preferred to work on the basic text, reviewing all proposals and alternatives in order to simplify the text to identify points on which there was common agreement and those on which there was still divergence of views. That would allow for practical and tangible progress, and enable the Committee to focus on the areas of divergent views in order to try to simplify them and bring positions together.

40. The Chair agreed that the objective was to simplify the text, and different methods could be tried. The method now being tested consisted in comparing the draft text with other models and formulations that could replace and simplify parts of it, so far as possible.

41. The Delegation of Colombia agreed with the position taken by the Delegation of Algeria, and stated that the Committee should consider document SCCR/15/2 Rev. article by article. While grateful to the Chair for preparing the non-papers, there had been no chance to consult with capitals and some issues were of concern, such as discussing a live signal, which

seemed to tacitly exclude the fixation of the broadcast that was included in the Rome Convention. The Rome Convention should not be forgotten, in particular Article 13 on minimum rights for broadcasting organizations. The proposal made by the Delegation of the European Community to state exactly what piracy of a signal meant was a good idea, but it should not be forgotten that the protection was still a related right and its existence therefore depended on the existence of content. Related rights did not necessarily have to be included because they were well established in the Rome Convention, and the draft treaty clearly stated that it did not include the contents. The treaty was updating an existing right that had not previously been updated in the WPPT. While there had not been time to consult capitals about the definitions, the Delegation was concerned with the definitions of “broadcast” and “signal”. The Rome Convention contained adequate definitions which should be considered.

42. The Chair noted that for some 80 Countries, party to the Rome Convention, it provided a model level and scope of protection for the rights of broadcasting organizations. For many countries, the question whether a new treaty would be meaningful and have any added value was dependent on whether it was based on addressing loopholes or aspects of protection that were insufficient to protect broadcasting organizations against piracy. However, not all Member States of WIPO were party to the Rome Convention. Delegations also had to bear in mind that they had to combine the two elements, and depending on the scope and level of protection in the new treaty, consideration would have to be given to safeguarding the existence and continued function of the Rome Convention.

43. The Delegation of El Salvador supported the previous statements of the Delegations of Algeria and Colombia. Many definitions and concepts were already covered by the Rome Convention and the WPPT.

44. The Delegation of Mexico associated itself with the other delegations that had proposed a proper basis before continuing the Committee’s work on the Revised Draft Basic Proposal. It supported the statement of the Delegation of Colombia on the existing protection granted by the Rome Convention.

45. The Delegation of India recalled that the mandate given by the General Assembly in September 2006 was to hold discussions regarding the signal-based protection, including traditional broadcasting platforms but excluding webcasting and netcasting. The two sessions of the SCCR should aim to agree and finalize, on that approach, the objectives, specific scope and object of protection. It suggested that the Committee look at those tasks separately to resolve the relevant issues in each one. Following the Delegation of the European Community and its Member States’ proposal, it sought clarification about what free-riding and unauthorized retransmission meant.

46. The Chair noted that a conceptual basis should be clarified before tackling the technical and legal details by keeping in mind the decision of the General Assembly. The seven or eight lines in paragraph 8 of the non-paper were exactly intended to invite the Committee to think about the different dimensions of the objective and purposes. The anti-piracy function could be protection against competitors, unfair exploitation, free riding or misappropriation.

47. The Delegation of Benin stated that the work done so far left no room for doubt that, in next June, there should be a consensus text to submit to a Diplomatic Conference in accordance with the mandate of the General Assembly. It supported the suggestion of the Delegation of Algeria, on behalf of the African Group, to focus the debate on the points proposed in the non-paper.

48. The Chair said that the anti-piracy function for the kind of treaty under discussion was of great importance. A direct function would be to benefit the broadcasters in their activities and then, at the same time, concerning the fight against unauthorized capture of the signals and use of the result of the broadcasters' investment. At the same time, the treaty would provide a legal framework for the economic activities for the broadcasters in the media market. The fact was that broadcasters might also license the use of their signals, in which the added value was the assembly and scheduling, to be transported to other audiences. Such licenses should always be subject to the rights of the content owners. He asked whether the Committee was ready to endorse the objective set in paragraph 8.

49. The Delegation of Mexico sought clarification about which method of work to choose. The General Assembly's resolution, under item 2, stated that the basis for the two special sessions was document SCCR/15/2 Rev., but it seemed that there were other delegations who wished to first tackle the definitions and the scope of protection without taking into account document SCCR/15/2 Rev.

50. The Delegation of Colombia associated itself with the question posed by the Delegation of Mexico. The work was supposed to be done on the basis of document SCCR/15/2 Rev. with three aims: objectives, specific scope and object of protection. However, the non-paper referred to certain aspects that caused confusion. For example, paragraph 8 on objectives proposed to reformulate or reduce the provisions. That was strange in an intellectual property treaty. Neither the Berne Convention for the Protection of Literary and Artistic Works (the Berne Convention) nor the WPPT referred to anti-piracy or free-riding concepts. The protection of broadcasting organizations should be an update of the existing protection granted in the Rome Convention, in particular the norms on rebroadcasting and the right of communication to the public.

51. The Chair recalled that the decision of the General Assembly that the scope of the treaty would be confined to the protection of broadcasting and cablecasting organizations in the traditional sense, excluding webcasting and netcasting as objects of protection. A well-functioning protection in that respect would be against unauthorized web-retransmission or another kind of abusive use of the broadcaster's or cablecaster's signal. If document SCCR/15/2 Rev. had been considered good enough to convene the diplomatic conference, the General Assembly would have authorized its convening without the current special session of the SCCR. Document SCCR/15/2 Rev. was too complex and extensive and contained too many alternatives to provide sufficient prospects for a successful diplomatic conference. That was why the two special sessions had been convened to clarify the outstanding issues and to agree and finalize a proposal on the basis of the signal-based approach, bearing in mind the objective, specific scope and object of protection of the treaty. There should be an agreement to amend document SCCR/15/2 Rev., and the best solution would be to do it through consensus. The diplomatic conference would be convened if such agreement was achieved in the two special sessions of the Committee. If not, all further discussions would be based on document SCCR/15/2 Rev. with the risk of losing energy and willingness to propose future conferences for having failed to make a simpler basic draft. The objective implied that more emphasis had to be added to the anti-piracy function and other functions so as to provide a stable legal framework for the economic operations of the broadcasting organizations without undermining the rights and interests of content rightholders. The preamble in document SCCR/15/2 Rev. was the place where the objectives were manifested in expressed terms. It was encompassed in six paragraphs: The first paragraph had been borrowed from the Berne Convention which read: "*Desiring* to develop and maintain the protection of the rights of broadcasting organizations in a manner as effective and uniform as possible." "Uniformity"

meant being international and having an effect on international harmonization. “Effective” meant that obligations and rights should be clear enough to be implemented in a proper manner. “Effectiveness” meant that it would meet the needs of protection. The second paragraph read: “*Recognizing* the need to introduce new international rules in order to provide adequate solutions to the questions raised by economic, social, cultural and technological developments.” That was found in the WIPO Copyright Treaty (WCT) and WPPT. The third paragraph was a bit more specialized in the objective: The Contracting Parties would recognize “the profound impact of the development and convergence of information and communication technologies which have given rise to increasing possibilities and opportunities for unauthorized use of broadcasts both within and across borders.” The development of the technological environment and the unauthorized uses that were more and more common in the world were reflected in the third paragraph. The fourth paragraph was the recognition of “the need to maintain a balance between the rights of broadcasting organizations and the larger public interest, particularly education, research and access to information.” That was added during the negotiations of the WCT and WPPT. The fifth paragraph emphasized again: “*Recognizing* the objective to establish an international system of protection of broadcasting organizations without compromising the rights of holders of copyright and related rights in works and other protected subject matter carried by broadcasts, as well as the need for broadcasting organizations to acknowledge these rights.” Probably the phrase “and respect these rights” should be the end of that paragraph. The sixth paragraph read: “*Stressing* the benefits to authors, performers and producers of phonograms of effective and uniform protection against illegal use of broadcasts.” An indirect effect of the instrument would be also to reflect protection to those whose contributions were in an inseparable way in the same package of interests and rights of the broadcasting organizations, and therefore protecting others’ position in the market. Finally, the preamble was quite good but the task was to make it even better and simplify other parts of the document where there were too many alternatives.

52. The Chair noted that the third non-paper (attached to this Report as Annex III) had now been distributed, and that it reflected his understanding of the signal-based approach and the objectives and purposes of the treaty. It was therefore possible to focus on the rights and different forms of protection. In the Revised Draft Basic Proposal, document SCRR/15/2 Rev., the rights covered were Article 9 - Right of Retransmission, Article 10 - Right of Communication to the Public, Article 11 - Right of Fixation, Article 12 – Right of Reproduction, Article 13 – Right of Distribution, Article 14 – Right of Transmission Following Fixation, Article 15 – Right of Making Available of Fixed Broadcasts, Article 16 – Protection in Relation to Signals Prior to Broadcasting, Article 19 - Obligations Concerning Technological Measures and Article 20 – Obligations Concerning Rights Management Information. There were more than twenty pages in document SCRR/15/2 devoted to the protection, which contained a long series of articles, numerous alternatives, and extensive explanatory notes. It would be advisable to try to provide a basis for consideration of packages of all these provisions. The Chair’s third non-paper on the signal based approach offered a presentation of all those rights and protections in one page and four articles. The non-paper was intended to reflect the signal-based approach, namely that the instrument should become narrower and simpler and shorter. In the package “Rights in the Broadcast”, there were two rights that took the form of exclusive rights, namely, the retransmission of broadcasts by any means and the fixation of the broadcast, which belonged to the area that could be termed as the protection of the live signal, before any fixation took place. There was also under (i) the expression “simultaneous or deferred retransmission”. The Chair had often spoken against the concept of deferred retransmission and in favor of confining retransmission to simultaneous acts. However, in

order to make the document shorter, deferred transmission on the basis of fixations had tentatively been combined with normal, or simultaneous, retransmission. The second package contained the rights that dealt with uses that followed the fixation, namely (i) reproduction of fixations of the broadcasts, (ii) distribution of the original and copies of fixations of the broadcast; (iii) making available to the public of the broadcast from fixations in an interactive manner and (iv) communication to the public of the broadcast, understood as making perceptible the content of the broadcast in places accessible to the public against an entrance fee. That Rome-type communication to the public was in fact a public performance by means of radio and television receivers, which could be combined with screens and loudspeakers. Communication to the public also covered use based on very large screens in places accessible to the public, or made for profit-making purposes. For all those post-fixation rights only adequate and effective legal protection was proposed, which could be implemented by means of exclusive rights or other kinds of protection, such as prohibitions and sanctions. The third package comprised technological measures and rights management information in a very condensed form. Adequate and effective legal protection against unauthorized decryption was granted, instead of the formulation found in the WCT and WPPT. However, the relevant forms of technological protection for broadcasts were covered, as encryption was the very specific area where protection for broadcasting signals was required. In fact, one of the first proposals for a treaty for broadcasting organizations by a government delegation, made already almost ten years ago, the Swiss proposal, contained the exclusive right to control decryption. There was also a proposal from Argentina, reflected in Alternative V to Article 19 in document SCCR/15/2 Rev., which granted effective legal remedies against decryption and other activities regarding devices and services that made possible, or unfairly benefited from, the unauthorized decryption of the encrypted broadcast. It was necessary to question what kind of protection the broadcasters needed concerning rights management information. Similar to needs of content holders, there was the logo of the broadcasting organization, there were watermarks, and in some cases there could be the program information functioning as an identification form for the content of the specific program. The non-paper had a condensed scope limited to providing adequate and effective legal protection against unauthorized removal or alteration of any electronic information relevant for the protection of the broadcasting organization. The last paragraph was the familiar protection of pre-broadcast signals. The non-paper reflected in treaty language, in a combined and condensed form, everything found in document SCCR/15/2 Rev. The invitation to the Committee was to consider whether all those rights and protections were necessary or whether some of those were not so relevant and could be deleted; whether for instance the whole second chapter on protection and uses following broadcasting could be deleted. Or whether even a higher level of protection should be provided and how to make the treaty flexible enough to recognize the different interests: a sufficient level of protection, no protection, or a low level of protection. In addition to deletions and additions, the language on protections should be considered. In the second package, the uses following broadcasting, the “shall” language was employed; i.e. “there ‘shall’ be adequate and effective legal protection in respect of the following acts”. Permissive language (“may”) could also be considered, i.e. “such and such protections ‘may’ be established”; that language would entail no obligations but the possibility to grant protection in certain areas. Some could think that without an obligation the provision would be meaningless. However, there would still be a specific value for that kind of formula. If those protections were mentioned, and if on the national level the Contracting Parties had rights and protections in those areas, the treaty would be the only possible way to make those protections international in function and interoperable. Consequently, even in the “may” language the clauses would have a function in providing a basis for international meaningful protection. Another possibility would be to

put conditions on the adequate legal protection so that it only worked against commercial misappropriation.

53. The Delegation of the European Community, speaking also on behalf of its member States, stated that it was necessary to deal with the three points of the decision of the General Assembly, namely, objectives, specific scope and object of protection. Task three, object of protection, had been provided in part by the list of definitions. Task two, the specific scope, was dealt with in the abrogated version of the third non-paper on rights and protections. However, “Task 1: Objective”, remained unaddressed. If a signal-based approach was to be followed, it was necessary to understand better how a signal could be stolen, so that the nature of the piracy or free-riding or unfair exploitation involved could be understood.

54. The Chair recalled that there had been two or three information meetings that provided information on how signals could be stolen. The non-papers covered points that were included in the Revised Basic Proposal and in the decision of the General Assembly. At least there were some links between the working paper and the discussion paper, which pointed in certain directions and invited certain things to be considered. The objectives, as had also been pointed out by the Delegation of India, were laid down in the Preamble. In the tradition of WIPO, preambles had always been very short. There were no declaratory or informative elements regarding the contents of the treaty. That information was in the minds of those who negotiated the treaty and was found in the legislative history and negotiating history, reflected in the reports from the meetings where people had said why they were there. The Preamble containing the objectives of the treaty had been laid down in the discussion paper and there had been no reaction from delegations. The treaty should be designed to serve and recognize different objectives and purposes.

55. The Delegation of the European Community, speaking also on behalf of its member States, questioned whether the methodology to be followed in the discussions implied construing the existing draft alongside the papers that had been distributed. In that context it was not clear if, as stated by the Chair, the Preamble already reflected the objectives of a possible treaty. There was only one reference to the illegal use of broadcasts, which was not a sufficient reference to the anti-piracy function of the treaty.

56. The Chair stated that there was no doubt that document SCCR/15/2 Rev., following the decision by the General Assembly, was the basic working document. The SCCR had been invited by the General Assembly to replace elements and revise that document on the basis of the discussions. Last September there were three or four attempts from the Chair to obtain authorization to revise that document, without success. Even before that, the presentation of a clean text took place on May 2006, with the alternatives in another document. Those twin documents were intended to be considered together, but that attempt also failed, as it was not all-inclusive. Therefore the discussions were brought back again to consideration of the all-inclusive package in document SCCR/15/2 Rev. However, that basis was not good enough for convening a diplomatic conference. At present there was an attempt to base the discussions on non-papers, as a first step towards replacing elements in document SCCR/15/2 Rev.

57. The Delegation from El Salvador thanked the Chair for his explanations and congratulated him on his diplomacy and on the balanced way in which he had consolidated the positions and interests at stake.

58. The Chair indicated that a third non-paper had been made available which included all the provisions on rights in an abbreviated and condensed presentation (attached to this Report as Annex 3). That document had been prepared in order to facilitate technical discussions and with a view to making the Draft Basic Proposal in document SCCR/15/2 Rev. more acceptable to all delegations by considering narrowing down the scope of some of the rights which were too broad. Further non-papers covering the additional provisions on substantive articles with the exception of the provisions dealing with public interest clauses and eligibility clauses would be distributed later (Annex IV and V to this Report). Those documents would not provide for any alternatives. A consolidated form of the non-papers would then be prepared for consideration and amendment by the Committee. An alternative working method would be to work on document SCCR/15/2 Rev. to reduce some of the proposed alternatives. If time would allow, that possibility could also be considered. The afternoon session would then turn into an informal session for discussions among the governments.

59. The Delegation of Bangladesh, speaking on behalf of the Asian Group, reiterated its commitment to further progress to be made at the informal sessions. However, the Group was not clear about the status of the non-papers prepared by the Chair in relation to document SCCR/15/2 Rev. Members needed clarification in order to be able to engage more effectively in the discussion. The Group's understanding was that document SCCR/15/2 Rev. remained the Draft Basic Proposal and the special sessions of the SCCR would aim to agree and finalize, on a signal-based approach, the objectives, specific scope and the object of protection, with a view to submitting to the diplomatic conference a revised basic proposal which would amend the agreed relevant parts of the Draft Basic Proposal. It was also noted that the revised basic proposal would deal with traditional methods of broadcasting. In relation to the non-papers distributed by the Chair, the Group was not yet in a position to formulate positions on definitions of basic concepts.

60. The Chair recalled that the non-paper had no official status and its content could be either accepted or rejected, in part or as a whole.

61. The Delegation of Algeria stated that the African Group had held a coordination meeting which had focused on the working method and had reaffirmed its commitment to a discussion that would lead to a reference document which could be proposed to the diplomatic conference. According to the mandate received from the General Assembly, that document had to be document SCCR/15/2 Rev., although it was recognized that the documents submitted by the Chair could be useful to facilitate the discussion. However, those non-papers had just been submitted and further work was required to analyze them. Progress in the discussions could be achieved by taking document SCCR/15/2 Rev. as the reference text and analyze it clause by clause. That would not prevent the Committee from hearing additional proposals, including from the Chair, which could be included at some point into the reference document. Additional limited consultations could be held with some delegations to agree on the working method before moving into the substantive discussions.

62. The Chair acknowledged that the prevailing opinion among the delegations that had taken the floor was to focus the discussions on document SCCR/15/2 Rev. and that the non-papers could be considered as side documents without any official status. A first round of interventions on the rights issues would be useful before moving into the informal session.

63. The Delegation of Brazil referred to the position expressed by GRULAC and recalled that two important criteria for engagement in the discussions had been established. The first one was the full adherence to the language and the spirit of the decision adopted by the

General Assembly which, however, still required further analysis to allow all delegations to reach a common understanding of its meaning. The decision implied agreement and finalization on a signal-based approach of the objectives, specific scope of application and object of protection of the Revised Draft Basic Proposal. If agreement could not be reached on those three core elements, document SCCR/15/2 Rev. as it stood would be taken as the basis for discussions. There was no willingness to engage in a cleaning-up exercise of document SCCR/15/2 Rev., which was the basic proposal for a diplomatic conference, unless an agreement could be reached on a signal-based approach to the three core elements. The option of going through document SCCR/15/2 Rev. with Member States to request maintenance or deletion of elements of that text could not be supported. The document had to be considered as a single package and if no agreement on a signal-based approach on the three core elements could be reached, which would amount to an agreement on a new approach to a treaty, document SCCR/15/2 Rev. as it stood would be the fall back position. No redrafting exercise of document SCCR/15/2 Rev. could be considered at the present stage, and therefore there was no added value in re-examining document SCCR/15/2 Rev. No discussion on the core objective of the treaty was needed, but it was necessary to understand what was concretely meant by providing measures against signal theft or signal piracy which represented a considerable departure from the existing approach of carving out a whole series of exclusive rights to broadcasting organizations. A step-by step approach was required to provide further clarity as to what could be the consensus on the core elements of the treaty. Clarity was required on the objectives of the draft treaty. Although the Chair's non-papers had no formal standing, they contained elements for reflection on the objectives of the treaty as well as the Chair's views on the specific provisions of the treaty. Such approach could be considered disruptive in the consensus building process since document SCCR/15/2 Rev. was viewed by all delegations as an inclusive document which reflected everybody's positions and proposals. The departure from that path required cautiousness and inclusiveness to listen to delegations' concerns. As emphasized by GRULAC, an appropriate balance between broadcasting organizations' rights, and the rights of copyright and related rights holders and the promotion and protection of the public interest in Member States had to be safeguarded. The issue of promotion and protection of the public interest in Member States was missing from the Chair's proposals as well as some fundamental proposals that had been included in document SCCR/15/2 Rev. with a view to reaching an appropriate balance. Only if Member States could find a common understanding of what could be considered a new approach, the exercise could be considered worthwhile; otherwise it would be more comfortable to move to a diplomatic conference on the basis of the current document SCCR/15/2 Rev.

64. The Chair thanked the Delegation of Brazil for its reading of the General Assembly's decision, the emphasis put on document SCCR/15/2 Rev. and the indication that no alternatives could be reduced. However, some amendments could probably still be made which would in some cases provide fewer alternatives in areas where convergence of positions could be identified. The public interest clauses had to be considered part of the package included in document SCCR/15/2 Rev. which was not subject to any amendment. The objective was to look at which provisions could be narrowed down, since the broad scopes and broad ranges of rights had not received any support, while trying to achieve a package that would provide for a meaningful protection.

65. The Delegation of Colombia stated that the Committee had to stick to the Assembly's decision referring to the tasks to be achieved without losing sight of document SCCR/15/2 Rev. which, as mentioned by the Delegation of Brazil, contained fundamental proposals and was the essential basis for any further discussion. The non-papers represented a tremendous effort from the Chair to simplify document SCCR/15/2 Rev., in line with the

General Assembly's decision. The focus described in the first non-paper presented by the Chair was acceptable. In relation to the objectives of the protection, it was necessary to maintain the catalogue of rights set out under the draft treaty whereas for the specific scope, the treaty had to be limited to signals and broadcasters' signals without involving any other types of content under copyright. The concept of signals required a proper definition and the Rome and Satellite Conventions could be taken for reference. The scope of application of the draft treaty and its objectives were already clarified in Article 5 of the Draft Basic Proposal. It also expressed support for the protection of pre-broadcast signals. The structure of the Rome Convention had to be followed although the informal proposals submitted by the Chair represented significant steps towards further consolidation of a final text for a diplomatic conference.

66. The Delegation of El Salvador requested clarification regarding the status of document SCCR/15/2 Rev., as well as the mandate received from the General Assembly. It was willing to make use of the flexibilities in the document, and it supported the statement of the Delegation of Brazil indicating that document SCCR/15/2 Rev. and the Chair's informal proposals could be combined for discussion.

67. The Delegation of the European Community, speaking also on behalf of its member States, stated that the Chair's non-papers provided an excellent basis for a structured debate. The objectives would then have to be defined, but they had to refer to an adequate level of protection against any form of free riding on a broadcasting organization's investment. It would include the necessary tools for a broadcasting organization to effectively prevent the phenomena of free riding which occurred as signal piracy and in a modern digital environment by way of stealing a signal through interception and deflection of that same signal. Signals traveled and were propagated in the air through a device which functioned essentially as a mirror deflecting it on to another transmission network different from the broadcasting organization's transmission network. Any modern signal theft necessarily involved a so-called embodiment of that signal in a device that captured and embodied it for retransmission simultaneous with the broadcaster's transmission of the signal. The process of unauthorized fixation required control of the broadcasting organizations to stop any free riding by third parties against the broadcaster's investment in configuring the program content. The broadcaster's investment was essentially made through the upstream clearance of rights that were needed in order to incorporate works, etc., in the programs. That could be a clearance of rights over works, performers' rights, or rights in other subject matter such as phonograms. Broadcasters' investments also consisted in getting access to a variety of venues, such as sports stadiums, for recording events for transmission. In such cases, the broadcasting organization positioned its equipment to catch the event in an original way and then scheduled it with considerable advance planning effort. That final result constituted the programming sequence which amounted to a transmission once the transmission had taken place. Broadcasting organizations' efforts should be protected against free riding and simultaneous retransmission because of such significant investments. An effective tool was required to prevent theft, fixation and retransmission of the signal simultaneously to the programming of the broadcasting organization itself. Such elements would fulfill the objective of adequate protection against free riding. The signal embodied all up-stream investments and presented economic value for those reasons. Effective protection against theft, unauthorized fixation and unauthorized retransmission of signals was the first task to be achieved in the negotiations. Signals carrying such investment and effort should be defined as program carrying signals, clarifying the fact that the program represented an investment related to the clearance of rights, access to venues and equipment for transmitting sounds or images or the combination of images and sounds. The Delegation endorsed the Chair's

non-papers as discussion papers for reaching clarity on the objectives.

68. The Chair thanked the Delegation of the European Community for providing clarity on the issue of signal theft and for clarifying that a fixation always constituted an intermediary step in any use, in any theft of a signal as well as in any retransmission of the original broadcaster's simultaneous signal. No unauthorized use of the fixation could be allowed, but it was necessary to clarify from whom the authorization had to be obtained, and whether it could be from the original broadcaster.

69. The Delegation of India supported the concerns expressed by the Delegation of Brazil stating that the Chair's work plan was fraught with several pitfalls. According to the General Assembly's decision, the consequence of an agreement on the objectives, the specific scope and the object of protection, based on a signal-based approach, would lead to the revision of the Revised Draft Basic Proposal contained in document SCCR/15/2 Rev. If no agreement could be reached on those three aspects, any effort to prepare a revision of document SCCR/15/2 Rev. would be unnecessary and undesirable. Further attention had to be given to the three tasks outlined in the Chair's non-paper, and only on condition that substantial agreement on those three elements could be reached could some time be spent to consider amending document SCCR/15/2 Rev. The discussions had to be exclusively focused on those three tasks. The issue was whether the signal-based approach could include fixation and post fixation rights and the right of retransmission. All these rights were either intellectual property rights, which were well defined in the WIPO context, or related rights, essentially economic rights related to the exploitation of the intellectual property rights or the properties created by the exercise of intellectual property. In the case of related rights, the acquisition of the original intellectual property rights was an essential element in the exploitation of the related rights. The exploitation of the related rights had limitations which could either be linked to territorial jurisdiction, or to the technological platforms that the rights had been acquired for. Limits could also be established in terms of exclusivity on the basis of which the rights had been acquired or assigned. The exclusivity principle was therefore an important parameter for all the economic or related rights discussed. The broadcasting organization or the related rights owner had to check the nature of the rights acquired and assigned to them and for which they were claiming protection. Only if those rights had an exclusive character would the organization deserve protection under the international treaty. If the acquired rights did not have any exclusive character, if the sports rights had been acquired only for one particular territory for being telecast, then the broadcasting organization would not be in a position to claim any compensation for free riding in a territory entirely outside its domain because the rights could then have been acquired by another entity. The granting of protection had to depend on the extent to which exclusivity and the rights had been acquired or owned by the broadcasting organization. If the original intellectual property right owner had granted non-exclusive rights only, the broadcasting organization would not be in a position to claim a protection superior to the one granted to the original broadcasting organization. In the case a sport federation had granted rights for access to a sports stadium, such rights would only be granted on a non-exclusive basis for which the broadcasting organization could not claim any exclusivity and protection against free riding. Full attention had to be given to the three tasks, as outlined by the Chair in his non-paper.

70. The Delegation of Mexico supported the working method proposed by the Chair and stated that the mandate given by the General Assembly was to take into consideration document SCCR/15/2 Rev. and to focus on the objectives, specific scope and object of protection. The informal proposals submitted by the Chair constituted an excellent basis for further progress and for fulfilling the mandate received. The article-by article discussion had

not proven successful in previous meetings, and it was therefore necessary to show flexibility in the working method.

71. The Delegation of Canada noted that in relation to the scope of protection, the anti-piracy approach would not necessarily require a comprehensive retransmission right covering all forms of signals. An unconditional right of retransmission of un-encrypted wireless signals would not be justified. Both document SCCR/15/2 Rev. and the Chair's informal proposals had omitted to reflect Canada's proposal on the right of retransmission. For many delegations a key element of the proposed treaty was the right of broadcasters to authorize the simultaneous retransmission of their signals. However, in June 2003, the Delegation of Canada had submitted a wording allowing for a reservation or opt-out option for contracting parties to allow the simultaneous retransmission of free over-the-air broadcast signals. That proposal needed to be included in any revised basic draft text. The proposed reservation did not intend to allow retransmitters to provide services to members of the public situated outside the country in which the broadcaster's signal was picked up by the retransmitter but had for effect to permit a contacting party to allow in its national legislation retransmission of foreign broadcasts. Because of the territorial implications of a retransmission over the Internet, a reservation could not be relied on by a contracting party to permit a retransmission of broadcasts or signals over the Internet or over any other network to which members of the public situated in other countries had general access.

72. The Chair thanked the Delegation of Canada for reiterating its proposal which had been reflected in the notes of the working documents but not in its articles.

73. The Delegation of Australia expressed support for the working method presented by the Chair and indicated that the adoption of a revised basic proposal could be facilitated by going through document SCCR/15/2 Rev. Agreement also existed with the position expressed by the Delegation of the European Community including the proposal relating to an additional definition of program, for which a definition already existed in the Satellites Convention referring to images and sounds or one or both. The Delegation was hesitating regarding the proposal made by the Delegation of India, that protection should prevent free riding of a signal which consisted in the transmission of a work to which the transmitter had a non-exclusive license or non-copyright material, such as a sporting event. There was still considerable investment in bringing such images to the receivers of the transmission and those investments should not be the subject of free riding. In the case of a sporting event or some event in a public place, any other broadcaster who wanted to make the investment to transmit those images of those things had to be given the possibility to do so, rather than just free ride on the original broadcaster's transmission. The whole negotiating exercise had started in relation to the need to update the Rome Convention in a way comparable to how the WPPT had modernized the protection for performers and phonograms producers. This could not be a matter of updating for the sake of updating only but rather because the Rome Convention had been challenged by the development of new technologies, such as cable transmission and retransmission over the air, Internet streaming and satellite transmission for which the protection under the Rome Convention was no longer clear enough. The Committee had already spent a lot of time considering the beneficiaries of any additional protection to cover those gaps in the Rome Convention, and eventually consensus had been reached on confining it to traditional broadcasters. The decision adopted at the General Assembly showed that the rights based approach as afforded under the Rome Convention was too broad and that instead a narrower signal based approach had to be preferred. The question had been raised as to whether that specific form of protection could be cast aside in a new treaty that would supplement the Rome Convention. Article 22 of the Rome Convention

allowed for the possibility of agreements between Contracting Parties of the Convention on more extensive rights than those provided under the Convention and not contrary to it. If the implications of the General Assembly mandate were to narrow the basis of protection, it could be questioned whether any new treaty had to complement the protection granted under the Rome Convention in the form of a protocol for the Rome Contracting Parties and whether such treaty would collide with Article 22 of that Convention. However, the widely accepted standards of Rome regarding the protection of broadcasting organizations could be incorporated by reference in the new treaty in a similar way that the WCT had done in relation to the Berne Convention.

74. The Delegation of Colombia expressed support for the statements made by the Delegation of Mexico and by the European Community. The object of the discussions related to the investments made by broadcasters, since in many regions, such as Asia and Latin America, they were faced with many obstacles due to territorial constraints.

75. A representative of the Arab States Broadcasting Union (ASBU) expressed satisfaction with the efforts exerted by the Committee for reaching a proposal that would be acceptable to all Member States. The discussion should be aimed at updating and modernizing the basis on which the Rome Convention had been established, and it had to address the economic and technological changes which had occurred in the last four decades. Discussions had to be based on document SCCR/15/2 Rev. and needed to review the text article by article to amend it in the light of the directives that had been issued by the last General Assembly.

76. A representative of the International Federation of the Phonographic Industry (IFPI), referred to the joint position paper submitted with other rightsholders' organizations and expressed its support for the new approach presented in the first non-paper. It was appropriate and timely to provide protection against the misappropriation of broadcasts and cablecast signals, no matter what technology was used to misappropriate them. Such protection had to include unauthorized retransmission over the Internet which was separate from webcasting and referred to broadcasts being used without the broadcasters' will. Protection had to be granted in a measured and non-harmful way, avoiding any negative impact on existing rights in the content that was transmitted by the signal. Established principles of copyright law had to be preserved, in particular in relation to obligations and flexibilities in existing international treaties. The long standing criteria for exceptions and limitations under the three step test as well as provisions on technological measures were the result of carefully negotiated consensus on general principles which left Member States with great flexibility in their implementation. The specifics about the subject matter, definitions and the precise means of protection needed to be addressed in line with the new approach. Initial ideas had been put on the table which provided a good basis for discussion. The protection against misappropriation of the signal would not require the full set of exclusive rights contemplated in the previous versions of the draft treaty.

77. A representative of the Independent Television Association (ITA) supported the principle of a signal based approach for the protection of traditional broadcasting organizations and considered that the treaty should not interfere with the protection already provided at the international level for content rights holders who shared interests as investors, both financially and in clearance or licensing of programs in the process leading to their distribution of the broadcast signal. Any new provisions suggested to protect the live signal had to supplement but not negate commercial and contractual rights which remained reserved to the holders of rights in the content. Clear definitions had to be included, in particular in relation to the concepts of broadcast, broadcasting and cable casting, retransmission and

traditional broadcasting. The objective of the protection was to provide remedies for broadcasters in respect of unauthorized use of live signals, often complimentary to those enjoyed by other rights holders, and ITA's support to the treaty objectives was conditional on reaching common understanding on those concepts and on agreeing to an appropriate text.

78. A representative of IP Justice recalled the very clear decision of the 2006 General Assembly which had indicated that as a precondition for a diplomatic conference the Committee had to reach consensus on a revised draft basic proposal on a signal based approach. At the international level, broadcasters' rights were regulated not only by the Rome Convention and the TRIPS Agreement, as the Chair's non-papers had suggested, but also by the Satellite Convention which was based on a signal theft approach. The General Assembly referred to those instruments when addressing the signal based approach and had been very clear in requiring that a consensus on the text had to be reached before any convening of a diplomatic conference and that would not be achieved by only changing the definitions contained in the draft proposal, nor in the Chair's non-papers. The exclusive rights approach had raised concerns from many delegations and the only possible way forward was to tie the treaty down to a real signal based approach in the sense of signal theft. The current Revised Draft Basic Proposal was still addressing Internet transmissions of programming in its Articles 9 and 14 and in the definition of retransmission in Article 5, Alternative D. The proposal still contained measures against the circumvention of technological restrictions which had shown their harmful effect on the public domain and on artists' and consumers' rights to use programming. Limitations and exception still were not mandatory even though they were the most important means of balancing the interests of the beneficiaries of the treaty with the interests of the public. Intellectual property rights could force the economic and social development, but the draft treaty in its current form would not help to reach those aims and did not comply with the decision of the General Assembly.

79. A representative of the Canadian Cable, Satellite and Telecom Industries (ACTC), expressed support for the Canadian proposal on possible limits to the application of the retransmission rights and recalled that in the meeting of May 2006 a number of Delegations had expressed some interest in considering the Canadian proposal and therefore, in the spirit of inclusiveness, the Committee was asked to continue considering the Canadian proposal and to support the request expressed by the Canadian Delegation to fairly reflect its proposal in whatever documents that would form the basis of discussions of the Committee.

80. A representative of the European Broadcasting Union (EBU) recalled that the Rome Convention dated back to 1961 and the updating of the protection was not requested because the signal had changed nature since then. The signal was exactly the same as it was in 1961 and even before. What had changed was the means of propagating that signal, in other words transporting the program-carrying signal from the broadcasters' premises to the end user which meant the radio and television receiver. In 1961 it was just terrestrial transmitters that performed that function, but then came as a supplement cable and then satellites and telephone lines, the Internet, broadband and wireless networks. The signal traveled today in many different ways and so did the stolen signal which people intercepted for propagating it for their own purposes. The normal way of using a broadcasters' signal was to record it, to fix it first and then to distribute it through those various means of transportation. The main piracy problem today was the Internet and the misappropriation of the broadcasters' signal by third parties putting it on the Internet. The exclusive right of retransmission was required as one of the minimum exclusive rights to authorize or prohibit. The Chair's non-paper was the right approach to move forward.

81. A representative of the International Federation of Actors (FIA) urged Member States to use the available time to find a common denominator to enable broadcasting and cable casting organizations to fight against the misuse of their signal in the new technological environment. It also reminded the Committee of the urgent need to finalize work on the protection of audiovisual performances. Some delegations had mentioned the successful 1996 update of the rights of performers, but this was unfortunately only one side of the coin since audiovisual performances were not protected in any significant way at the international level and, generally, neither at the national level. If traditional broadcasting and cablecasting organizations were to be granted an upgraded level of protection, then the protection of audiovisual performances would have to be taken up as a matter of priority before any new matter, including webcasting. A clear definition of the object of protection, the content-carrying signal, was needed, as well as a streamlining of the objectives of the protection. The proposals submitted by the Chair had value and would help delegations to clarify outstanding issues and to make progress on the scope of the protection that broadcasters really needed to prevent the misappropriation of their signals.

82. A representative of the International Federation of Musicians (FIM) expressed support for the principle of an instrument allowing broadcasting organizations to effectively combat the piracy of their signals. An approach truly based on the protection of the signal would achieve that objective. The Chair's proposals on terminology, particularly the inclusion of the new concepts of broadcast and signal, would contribute much greater clarity and represented a necessary first step for developing a consistent approach based on the signal.

83. A representative of the Electronic Frontier Foundation (EFF) expressed the Foundation's continuous concern that the Chair's non-papers had been premised on creation of rights applying after fixation of signals rather than on provision of measures against signal theft. The inclusion of legally enforced technological protection measures to enforce such broad rights raised fundamental concerns for the public interest and invasion of privacy. The combination of broadcasters' and cablecasters' technological measures with the broad post fixation and retransmission rights would restrict the public's access to information in the public domain, preclude uses of works permitted under national copyright exceptions and limitations, impeach freedom of speech on the Internet and limit consumers' lawful use of programming after reception in their home. It would also allow broadcasters and cablecasters to control the market for transmission receiving devices, such as digital video recorders and networked in home entertainment devices. The rephrased rights and protections and emphasis on decryption in the Chair's non-papers had not removed those significant concerns and had even broadened some of them since the new provision on encryption would include devices such as personal computers. The treaty had to focus on signal theft meaning unlawful interception of broadcast and cablecast signals. Granting broadcasters and cablecasters legal rights and protections raised the same concerns for both consumers' ability to make legitimate use of lawfully acquired programming and the future of technological innovation and competition policy and had nothing to do with signal theft.

84. A representative of the Copyright Research and Information Center (CRIC) recalled that the treaty's object of protection was the program carrying signals but not the content. Digital technology had brought the challenge of the Internet and if broadcasters could not be armed with new rights, such as the right of retransmission over the Internet and the right of making available, the basic economic structure of a broadcaster would be damaged which would lead to the deterioration of broadcasting itself and result in the lack of information and entertainment for the general public. This would be very unfortunate for the developing

countries which meant that the scope of this new treaty had to include the protection of traditional broadcasting from piracy over the Internet.

85. A representative of the Civil Society Coalition (CSC) stated that the treaty had to address the theft of a broadcaster's service, but not content used by consumers receiving legitimate services. Once a member of the public received a broadcast, his or her ability to use the information, such as to copy or republish the information, should only be limited by copyright legislation and not by the exclusive rights granted to the broadcasting or the cablecasting entity. The General Assembly's decision had pointed to that approach, but the Chair's new non-papers had taken the Rome Convention as a point of departure, whereas today there was a revolution of the technologies existing to record broadcasts, rebroadcast and remix audiovisual works. Therefore, a treaty expanding the Rome Convention rights for broadcasting organizations to cablecasting entities would harm copyright owners and the public in a variety of ways. Too many changes in business models and technology were taking place for regulators to properly appreciate and regulate them.

86. A representative of the Information Society Project at the Yale Law School referred to an abstract made available to delegates which had been premised on the idea that the regulation and revenue structures in the broadcasting industry needed to conform with any approach to broadcasters' right. It analyzed the impact that different regulatory regimes had had on the nature of protection that different countries currently had, whether exclusive rights, signal piracy or unfair competition. Further analysis was required before adopting any single approach as a mandatory option.

87. A representative of the Ibero-Latin-American Federation of Performers (FILAI) referred to the balance between the different rightsholders and stated that as a consequence Articles 9 and 15 had to be deleted in order to maintain a proper balance between the rights of broadcasting organizations and of performers.

88. The representative of European Digital Rights (EDRi) opposed any inclusion of technological protection measure in the treaty and any such provision should be added a strong explicit provision protecting the interest of the general public and measures safeguarding access to information against misuse of technological protection measures would have to be included. The version now proposed had also for effect to make all general-purpose computers illegal since all included designated pieces of software capable of decrypting encrypted broadcasts.

89. The representative of the North American Broadcasters Association (NABA) stated that the new working documents had facilitated the discussion of the Revised Draft Basic Proposal and paved the way for achieving agreement on the framework of the draft treaty. The new documents allowed tackling technological measures in the proper way, since encoding was not the only way of encryption and the broadcast flag was the most common way. A proper protection for technological measures had to be provided, especially as the treaty was evolving into one, based on a signal based approach. The right of retransmission was a necessary part of the protection along with the right of communication to the public which was essential to counter piracy.

90. The representative of the Asian Pacific Broadcasting Union (ABU) welcomed the categorization of rights stated in the Chair's third non-paper. The right of retransmission was extremely important and at the heart and substance of the proposed treaty. The Rome Convention had granted that right in a limited form which was not sufficient in the current

situation of the communications world. Broadcasting organizations should have their legitimate right to protect their program-carrying signals against all means of retransmission that were known, or could emerge in the future. There was nothing novel in protecting a rightsowner against both present and future forms of communication. If the aim of the draft treaty was to update the protection of broadcasters in line with digital reality, the signal had to be protected irrespective of the technical delivery platform that was used. The rights of reproduction, distribution, making available and communication to the public, which in the draft basic proposal had been characterized as exclusive rights, had been provided in the non-paper under the category of protection where broadcasters would enjoy adequate and effective legal production. That categorization provided a good basis for consideration of an amendment of the Revised Draft Basic Proposal, although when a program-carrying signal was stolen it was generally for a further purpose, such as reproduction, distribution, making available and communication to the public. In that respect, adequate and effective legal protection had to be provided for.

91. A representative of the Electronic Information for Libraries (EIFL) speaking also on behalf of the International Federation of Library Associations (IFLA), reiterated that any draft treaty on the protection of broadcasting organizations had to limit itself to the prohibition of signal piracy, and the focus had to be set on the protection of the live signal and on signal theft. Any treaty which would allow for broader rights would have to be accompanied by an equally broad set of mandatory exceptions and limitations which represented a necessary but increasingly complex task in the digital age. Today's global digital environment coexisted with exceptions and limitations which had been crafted for the analogue world and librarians had to struggle with unsuitable exceptions and limitations to adequately deliver content and services in the digital age. Further analysis and guidance on the issues was deemed necessary, and the initiative put forward by the Delegation of Chile, which had been backed by the GRULAC yesterday, for the Committee to consider the issue of exceptions and limitations for libraries and education in its regular work, was fully backed.

92. A representative of the International Music Managers Forum (IMMF) expressed concern that the treaty would create new rights for broadcasters and would impinge on or conflict with those held by its members' clients. Although the draft text stated that protection under the Treaty would in no way affect the protection of copyright or related rights in program material incorporated in broadcasts, that protection could by default create rights, conflict with or override rights held in program material, due to the failure to clearly define terms such as broadcast, signal, fixation and transmission. The new signal-based approach was a good step forward, but the lack of definitions and the continued reliance on document SCCR/15/2 Rev. could create further confusion. An approach purely based on signal protection with clearly defined objectives and definitions would provide protection to broadcasting organizations whilst allowing existing content rights holders to retain their interests.

93. The representative of the International Affiliation of Writers Guilds (IAWG) recalled that screenwriters had a clear interest in the proposed treaty since their material was a major component of broadcasts. The Affiliation had been concerned that the draft treaty would have gone beyond concerns of piracy of broadcast signals and would have created rights for broadcasters derogating from authors' rights. It supported the narrower anti piracy focus and it remained opposed to the creation of new rights for broadcasters that would conflict with the pre-existing rights of writers and other authors. A clear statement of intentions or objectives was still lacking, as were clear definitions of essential terms such as signal, transmission and fixation. It urged the Committee not to propose a faulty draft treaty and not to move forward

to a diplomatic conference unless the treaty could be agreed on and such a treaty would have to be limited to those countries that had already acceded to all previous relevant treaties. Webcasting had to remain a separate matter to be dealt with in the near future in a distinct process.

94. A representative of the International Federation of Film Producers Associations (FIAPF) referred to the common position which had been signed by several content owners' organizations which represented a real convergence of views among content providers whose content was incorporated in broadcast signals. It supported the mandate received from the General Assembly for the development of a treaty protecting broadcasting organizations against signal theft. It supported the signal based approach, and any additional protection granted to broadcasters should not weaken the standards which had been set by existing international instruments in terms of limitations and exceptions and in particular the three-step-test which had proven its effectiveness. Protection against circumvention of technological protection measures should be granted in specific provisions.

95. A representative of the United States Telecom Association stated that it remained unconvinced regarding the need for a new treaty since no convincing evidence had been presented that new international norms were required in the area. A focused signal protection based instrument to prevent piracy could however be valuable. The current rights-based approach to the treaty had to be abandoned entirely since rights in any form could not be linked to signal protection or signal-based protection, and their inclusion in any potential new instrument in connection with broadcasting could not be supported. The inclusion of any new rights combined with proposed additional rights regarding technological measures of protection raised questions about whether the beneficiaries of the protection could gain the ability to control signals in the home or personal network environment. Accordingly, the treaty had to include a provision excluding coverage of fixations, transmissions or re-transmissions across the home network or personal network. Network intermediaries could face the threat of direct or secondary liability for infringement to the extent that the treaty continued to include Internet transmissions in its scope. The treaty had to ensure that network intermediaries could not face liability for alleged infringement of rights or violations of prohibitions by virtue of actions they would take in their normal course of business or as a result of the actions of their customers.

96. A representative of the National Association of Broadcasters (NAB) commended the Chair for his innovative new approach in attempting to narrow the differences over the objectives, specific scope and object of protection through the non-papers. It also endorsed the intervention of the European Community and agreed that an essential element of the treaty was to provide broadcasters with tools to prevent free riding which could take a number of different forms and be done by one entity making an unauthorized fixation or by a third entity that could pick up the unauthorized re-transmission and make it available on demand on the Internet. Broadcasters had to be provided with the tools to deal with such free riding whenever it would take place. Technological protection measures were equally essential.

97. A representative of the Computer and Communications Industry Association (CCIA) stated that it had endorsed the joint statement signed by the civil society, private sector and rights holder representatives and stated that the Satellite Convention provided an alternate model of protection which would be entirely congruent with the Rome Convention. A mandatory set of limitations and exceptions had to be included, in case the rights-based approach would be followed, to ensure that lawful uses of broadcast content would not be inhibited by the treaty. As a minimum, limitations and exceptions had to be equivalent to

those that an implementing state granted under its copyright law and had to provide for the necessary flexibility to cope with technological innovation.

98. A representative of the National Association of Commercial Broadcasters in Japan (NAB-Japan) referred to the issue of public access and recalled that protection was claimed for the broadcast signal and not for the content. The general public could have access to and freely enjoy various content on television, even if some of that content incorporated in their broadcast signal was in the public domain. The protection would not conflict with access to the public domain material or information.

99. A representative of the Comité de Seguimiento “Actores, Intérpretes” (CSAI), referred to the situation of audiovisual artists who did not benefit from any international protection. Therefore, before making any progress in regulating the rights of broadcasting organizations, the legal framework applying to all original rightsholders providing the content for the signal had to be completed first. The fight against piracy was important since piracy did not benefit the rightsholders of content of programs either. However, protection granted to broadcasting organizations could not go beyond the necessary scope required to achieve those objectives. The right based approach which had been applied to the other content owners was not justified for broadcasting organizations and the protection had to be based on a system preventing non-authorized uses.

100. The Chair adjourned the session in order that discussions could continue between government delegations in an informal session.

101. The Chair resumed the session and introduced the draft conclusions of the first special session of the SCCR (attached to this Report as Annex VI). The proposal consisted of three parts, first an introduction (technical introduction), then the middle part, preparation of the working documents and then a chapter on the second special session of the SCCR. The first paragraph under the heading Second Special Session should read as follows “The Second Special Session of the SCCR and the Preparatory Committee...” - as of course the possibility of having a diplomatic conference was envisaged - “will meet in the week of June 18 to 22, 2007.”

102. The Secretariat clarified that the relevant working document in English was document SCCR/15/2 Rev., as a consequence of the rectification of a formatting error. However, the rectification had only been necessary in that language version, so the relevant number of the document in other languages was SCCR/15/2.

103. The Chair stated that the middle part of the draft conclusions were not completely elaborated because at the time of their preparation there had been no debate on a number of issues such as protections, limitations and exceptions, term of protection and rights management information. It was not yet clear in what form, if in any, such points should appear in the conclusions and whether a list of items would be advisable or not.

104. The Delegation of Colombia highlighted that the Chair seemed to imply that the conclusions would reflect the agreement reached by the Committee regarding amendments to document SCCR/15/2 Rev. In that context, as regards technological protection measures, there was one proposal in the non-paper, there was another proposal to withdraw any such protection and there was yet another to keep Alternative MM in document SCCR/15/2 Rev. It was unclear how that plurality of views could be reflected in a revised document SCCR/15/2 Rev.

105. The Chair confirmed that document SCCR/15/2 Rev. was based on the principle of inclusiveness and that there had been neither conclusions nor any deletions regarding that document. The principle of inclusiveness should prevail, but in some areas, for instance in the package of rights, it was almost possible to assess the advantages of deleting all the articles on rights and replacing them by a short presentation of those rights and a general reference to their protection. In that way the Revised Basic Proposal would be twenty pages shorter and fifteen alternatives would disappear by one hit. Also, Alternative CCC in Article 1 could be deleted because virtually nobody had supported it. Alternative H in Article 7, Beneficiaries, was one of those areas where one could almost without any risk delete an element. It was not possible to identify other elements that could be deleted without significant controversy, but already with those deletions 17 alternatives would disappear. That possibility could be considered if the Committee allowed any production of a revised document. In that case the whole chapter of rights would be deleted and replaced by simpler formulas as the basis for further work.

106. The Delegation of South Africa stressed that further clarification should be provided regarding the definition of broadcast as the view expressed by the Chair was not convincing. The “broadcast” should not be seen as a program-carrying signal but rather as the package that assembles different aspects like sounds, images and so forth. Clarification in that area was also linked to the discussion on the objectives of a possible treaty.

107. The Delegation of Brazil reiterated that it had reserved its position, in regard of all of the non-papers that had been discussed during the formal and informal sessions. The views expressed on those documents would be further elaborated through adequate internal consultation processes in its country. Regarding the Draft Conclusions of the SCCR it would be advisable not to have any reference to a revised version of SCCR/15/2 Rev. because that document could only be revised when there was an agreement on the relevant parts of the document. The exchange of views had been based on informal non-papers and under that condition the delegations had expressed their positions. Therefore, it was advisable to substitute all references to a revised version of document SCCR/15/2 Rev. in the Draft Conclusions with a reference to a revised version of the Chair’s non-papers that had been circulated during the SCCR. It was also more convenient not to include a list of issues in the Draft Conclusions, because that list did not reflect in which way the issues had actually been dealt with since there was no record of the discussions in the informal sessions. Moreover, the mandate from the General Assembly, when referring to the second special session of the SCCR, should not be rewritten. It was enough to indicate that it would take place in June 2007 for five days to be confirmed. Lastly, it was necessary to establish a process by which Member States intervened in the revision of the non-papers. Under a Member State-driven process, all participants should be able to make their proposals and express their opinions between the two sessions.

108. The Delegation of the European Community, speaking also on behalf of its member States, stated that in the draft conclusions there were several references to broadcasters and cablecasters, which should be replaced by the terms “broadcasting organizations” and “cablecasting organizations” as they were the beneficiaries of protection as defined in document SCCR/15/2 Rev. As indicated by the Delegation of Brazil there was a discrepancy between the description of the initial mandate of the special sessions of the SCCR and the concluding paragraph. It was very important to see the mandate to define the objectives, specific scope and object of protection with a view to submitting a revised basic proposal. The two sessions of the SCCR had a mandate to possibly clarify the three matters, objectives,

scope and object, and possibly come up with a revised text proposal, but the sessions of the SCCR had no mandate to recommend or not to recommend the convening of a diplomatic conference. The decision to go to a diplomatic conference had to be taken by the General Assembly. Accordingly, it was necessary to delete the final paragraph of the Draft Conclusions. Otherwise, subject to coordination among the Community's member States, the Draft Conclusions were acceptable. Some preliminary opinions had already been expressed in the informal meetings that constituted major steps forward in the process of agreeing to a revised document SCCR/15/2 Rev. As the position on all of those elements had not yet been coordinated, a general reservation had to be taken regarding all the non-papers, but it was not a negative reserve as they constituted a good working basis. However, further coordination was required in order to elaborate the non-papers with a potential view of including them in a revised draft basic proposal.

109. The Delegation of India recalled that in the second segment of the Draft Conclusions it was stated that the revised version of the Draft Basic Proposal should reflect a number of aspects. There was a list of eight such matters, which had been discussed not only during the current session of the SCCR but for the last decade. It was therefore unnecessary to reiterate what was stated in the draft proposal in document SCCR/15/2 Rev. itself. If something had to be reflected, it should be any particular agreements concluded during the course of the discussions. However there had been no agreement on any of the items because the discussions had been informal, about non-papers, non-recorded, in a sort of virtual discussion. The mandate of the General Assembly was to agree upon those three aspects, the objectives, the scope and the object of protection with a view to moving forward if agreement was found.

110. The Chair stated that the last part of the Draft Conclusions should contain only the following sentence: "The Second Special Session will take place in June 2007." In the reformulated form, all the rest should be deleted, including the list of items in the middle of the document. He asked whether the group coordinators would be ready to start reporting about the proposals from the groups regarding the draft conclusions of the SCCR.

111. The Delegation of Bangladesh, speaking on behalf of the Asian Group, proposed the deletion of the second paragraph in the Working Document section, dealing with a list of matters and aspects to be included in the revised version of the Draft Basic Proposal. It also proposed deleting the last sentence of the penultimate paragraph and final paragraph, dealing with the purpose of the next special session, as it had been decided by the General Assembly. Moreover, it proposed, in the third paragraph, the deletion of the word "considerable". The paragraph would then read: "The Committee made progress in its work and decided the following", thus avoiding any value judgment. Regarding the working document, the Group stressed the need to involve the Member States more in the process and assist the Chair. Since no agreement had been reached on any substantive matter, a drafting committee of limited membership with appropriate regional representation should be formed to prepare a new working document that would reflect the discussions of the Committee in the Session and would be presented during the second special session. In the same paragraph, the Group also proposed deletion of three words in the second line, "outcome of the" so the sentence would read, "...will reflect the discussions of the Committee". Deletion of the word "outcome" was justified because it implied that there had been some agreement, which was not the case. In line with the Group's position to have a new working document to be presented to the second special session, the Group considered that the words "version" and "revised version" in the last two paragraphs under the working document section had to be replaced by "new working document" and the reference to SCCR/15/2 Rev. should also be deleted. Finally, the Group could agree with the dates of June 18 to 22, 2007, as orally proposed by the Chair.

112. The Delegation of Italy, speaking on behalf of Group B, proposed a number of amendments. The first referred to the quotation in the second paragraph of the decision of the General Assembly. It would be preferable to include also the part of the decision that stated that the diplomatic conference would only be convened if the agreement was achieved. Second, the word “considerable” should be deleted from the third paragraph, so the sentence would read that “the Committee made progress in its work and decided the following”. Third, in the following paragraph, it would be advisable to replace “revised version of document” with “draft for revision of document”. So the Committee would request the Chair to prepare “a draft for a revision of document SCCR/15/2 Rev”.

113. The Delegation of Algeria, speaking on behalf of the African Group, indicated that it would like to see clarified and specified the various areas in which the Committee had made considerable progress in its work or perhaps to amend the text to remove the word “considerable”. It could accept “the Committee made progress in its work and decided the following”. Second, the Group would like to see the Member States involved in the process of revising document SCCR/15/2 Rev., together with the Chair. Accordingly, it proposed the following amendment: “The Committee decided that the Chair, in coordination with the Member States, should prepare a revised version of document SCCR/15/2 Rev. that will reflect the outcome of the discussion of the Committee in the first special session.” It was suggested that the work should take place involving an exchange of written submissions or e-mails.

114. The Delegation of Barbados stated that it was not in a position to speak on behalf of GRULAC, as one Delegation had not received authorization in that regard.

115. The Delegation of El Salvador stated that it would like to see reflected in the conclusions that the Committee had carried out some work, but it would rather not describe that work as considerable progress or even progress at all. The SCCR first special session had developed in a satisfactory manner, and the Delegation hoped that at the June meeting the same constructive atmosphere would continue.

116. The Delegation of Colombia indicated that it would rather replace the term “broadcasting organizations” in the first paragraph and in the last paragraph before the list, for the expression “traditional broadcasting and cable casting organizations” in both of those instances.

117. The Delegation of Brazil expressed its support for including more of the General Assembly resolution text in the draft conclusions of the SCCR so as to clarify the different aspects that had already been decided upon by the General Assembly. The Delegation endorsed the general thrust of the proposal made, namely, that the Chair should coordinate with Member States, perhaps by means of some form of open-ended working group that could be made operational between the two sessions. It was understood that new avenues towards a consensus and a workable basis for a successful diplomatic conference were being explored and for that reason ideas that were considerably different from those in document SCCR/15/2 Rev. had to be discussed. In order to feel comfortable participating in such exploration of new avenues, it was preferable to leave for the time being document SCCR/15/2 Rev. as it was, in accordance also with the decision of the General Assembly. Consequently, a revised version of that document was not required for the next SCCR meeting. Instead, it would be convenient to consider a revised version of the non-papers from the Chair, which would allow delegations to be bolder and more flexible in their views. Consequently, the wording in the draft conclusions that referred to a revised

version of document SCCR/15/2 Rev. should be changed in the first paragraph as well as in the paragraph that followed. It was also understood that the itemized list had been crossed out as well as those explanations in the bottom regarding the second special session of the SCCR. The new version of the non-papers should reflect the outcome of discussions held during the first SCCR special session.

118. The Chair summarized the situation, noting that there was a proposal from Group B and also from the Delegation of Brazil that the quotation of the General Assembly's decision in paragraph two should be extended so it would tentatively continue until: "The Diplomatic Conference will be convened if such agreement is achieved." The next proposal was to delete the word "considerable", at least from the next paragraph, so the one-sentence paragraph would read "The Committee made progress..." There was also a proposal from the Asian Group and an emerging understanding, referred to also by the Delegation of Brazil, to delete the whole paragraph with the points listing the various items. In fact, the discussions were non-conclusive and the emphasis was manifested in the notes taken by delegates and in the Report from the formal parts of the session. Moreover, such deletion would shorten considerably the document. Regarding the first paragraph under "Working documents", there was a proposal to amend the mandate of the Chair to prepare a draft for a revision of document SCCR/15/2 Rev. In the same area, there was another proposal that document SCCR/15/2 Rev. should be maintained as it was. The third proposal concerning that area was the proposal from the Asian Group that referred to a drafting committee to be established. There was also the proposal from the African Group on the modalities of work, that there should be participation by the Member States in the preparation of the revised working document and even the method was referred to, i.e. by letter or even by e-mails. It was advisable to try to combine those proposals. A number of delegations had proposed to prepare a revised non-paper or working paper, the name of which was a matter of taste. If the proposal from Brazil was followed, there would be no revision of document SCCR/15/2 Rev. Instead the, Committee would request the Chair to prepare a revised non-paper to supplement document SCCR/15/2 Rev. A possible formula would simply state that the Committee requested the Chair to prepare a revised non-paper.

119. The Delegation of India stated that it found no major problem with the suggested amendments as described by the Chair, including the position stated by Brazil, which was also in conformity with the decision of the General Assembly. Accordingly, document SCCR/15/2 Rev. was the default document in case there would be no agreement on any new text for a treaty. Therefore, any attempt to revise that document was inappropriate. However, there was a need for preparing a new working document which could, if agreed to by the second special session of the SCCR, become the working document for the diplomatic conference. If there was no such working document which was acceptable to the SCCR, the fall back position of document SCCR/15/2 Rev. would be retained. The only question that remained was that almost all the group representatives had indicated their strong desire to share the burden of preparing that new document with the Chair. Somebody had said that it should be done by a drafting committee. Another Group had said that it should be done through e-mails. In the morning session the Delegation of Brazil had also indicated an open-ended contribution by Member States. It would add tremendous value if a drafting committee of whatever number was established. Therefore, it was necessary to focus the attention on the modalities of constituting that drafting committee so that the work plan and the work method could be finalized.

120. The Delegation of Bangladesh requested from the Chair the exact wording of the proposal on the working document.

121. The Chair stated that the suggested text was in line with the Brazilian proposal. It made clear that there was no revision yet of document SCCR/15/2 Rev. It read as follows: “The Committee requested the Chair to prepare a revised non-paper.” On the other hand it would be advisable that Bangladesh reiterated the position of the Asian Group regarding involvement of Member States in the process.

122. The Delegation of Bangladesh stated that the Asian Group had proposed the formation of a drafting committee. The actual wording of its proposal was the following: “The Committee approved the formation of a Drafting Committee comprising representatives of Member States and with adequate regional representation, to prepare a new working document that will reflect the discussions of the Committee in the first special session”. Any mention of document SCCR/15/2 Rev. had been avoided in order to preserve the special status of that document in the General Assembly’s decision. Furthermore, mentioning the discussions of the Committee in the First Special Session helped to understand the non-paper under discussion.

123. At the invitation of the Chair, the Delegation of Algeria reiterated that the African Group had made the following proposal: “The Committee decided that the Chair, in coordination with the Member States, shall prepare a revised version of document SCCR/15/2 Rev. that will reflect the outcome of the decision of the Committee in the first special session”.

124. The Chair indicated that the African proposal implied the revision of document SCCR/15/2 Rev. and questioned whether it was possible to reconsider that position in light of the discussions of the Committee. In that case document SCCR/15/2 Rev. would, according to the decision of the General Assembly, remain available and when necessary be used, but the preparatory work would take place between now and June not on the basis of that document but a separate working paper. If that could be agreed on, then the second question should be addressed. The proposal which went further was to establish a drafting committee. If a drafting committee were to be established, it would replace the need to have any other mechanism or communication method among Member States. If no drafting committee would be established, consideration should be given to what kind of communication mechanism should be put in place.

125. The Delegation of Algeria indicated that if it was not possible to obtain consensus on the revision of document SCCR/15/2 Rev., it could be possible to envisage revision of what had been qualified as a non-paper. As far as the drafting committee was concerned, the question asked within the African Group was the feasibility of such a group. In what manner and context should the task be undertaken? Should experts be convened? If so, for how long? And other such questions. The feasibility of that exercise seemed uncertain so a solution could lie in a process by which Member States concerned would transmit their contributions to the Chair in writing or by e-mail. The possibility of an exchange of viewpoints would operate in two directions, namely from Member States to the Chair, and from the Chair towards Member States in order to inform them about the actual preparation of the non-paper.

126. The Chair noted that there seemed to be a tentative agreement regarding the preparation of a separate revised non-paper.

127. The Delegation of Egypt requested clarification regarding the meaning of some terms used by different parties. The Asian Group mentioned the preparation of a working document; the African Group asked for revision of document SCCR/15/2 Rev. and proposals from other delegations asked that document SCCR/15/2 Rev. remained as such and that a new non-paper be prepared. The Chair spoke about a non-paper and an informal document. It would be greatly appreciated if the Chair could clarify the exact meaning of all those various terms so that an informed decision could be adopted.

128. The Delegation of Bangladesh was of the opinion that it was a mere question of terminology more than of substance. If it was called a “non-paper”, then the reference would be to a “previous non-paper plus a non-paper”. Probably, “working document” was a better term.

129. The Chair proposed to call the new document a “revised non-paper”, although as a matter of fact it was a working paper.

130. The Delegation of El Salvador thought that the mention of document SCCR/15/2 Rev. should not be excluded from the text of the revised non-paper.

131. The Delegation of the United States of America supported the statement made by the Delegation of Italy, on behalf of Group B, with regard to the draft conclusions. Extensive discussions in both formal and informal settings had taken place during three days trying to fulfill the mandate of the General Assembly. The Committee was tasked to hold two special sessions so as to agree on and finalize a signal-based approach to the objectives, specific scope and object of protection with a view to submitting to a diplomatic conference a revised basic proposal which would amend the agreed relevant parts of the Revised Draft Basic Proposal in document SCCR/15/2 Rev. Moreover, the diplomatic conference would be convened if such agreement were achieved. Despite considerable efforts, the Delegation believed that Member States were still nowhere near agreement on any revision of document SCCR/15/2 Rev. It wondered how that document would be streamlined to reflect the intentions of the General Assembly. The Delegation had stated on several occasions that it did not support moving to a diplomatic conference on the basis of a 108-page document. While it recognized the wide latitude given to the Chair to facilitate an agreement, for example, through the preparation of non-papers and discussion drafts, the Delegation was very concerned that an agreement was to be achieved by Member States, something that frankly was not seen yet. The status of the non-papers and the outcome of the informal sessions on them were also cause of some concern. For example, with respect to Article 1 on the relation to other conventions and treaties, there was no support for paragraph (1), so it should be withdrawn in a future non-paper. Furthermore, if the process were to remain member-driven, it was imperative that Member States made every effort to reach agreement on fundamental aspects identified in the General Assembly decision. The Delegation recalled that it had demonstrated a great deal of flexibility in putting aside protection for webcasting and netcasting in the treaty. Unfortunately, it did not see the same kind of flexibility from all other Member States. It encouraged the Chair to conduct consultations and to seek agreement on those key fundamental issues before the second special session of the SCCR. With regard to the proposal for creation of a drafting group, the Delegation thought it went beyond the General Assembly’s mandate which only called for two special sessions of the SCCR. Under that decision, Member States must then reach consensus on major issues of contention contained in document SCCR/15/2 Rev., namely the objectives, specific scope and object of protection. Those areas together with Articles 2, 3 and 4, had to be addressed before the Delegation could support the moving to a diplomatic conference.

132. The Delegation of India recalled that the non-papers had been presented and discussed only during the informal discussions of the session, for which no record had been kept, and no conclusions had been drawn. If the SCCR agreed to produce a new document, that document would be a formal official document. It could not be treated as a non-paper. The Delegation therefore suggested that a new document be termed as a “working document” or “working paper”. Document SCCR/15/2 Rev. was the default document in case there was no agreement on its modification. It recalled that in previous cases the past documents prepared by the Chair had been treated as non-papers and had ended up being discussed in informal sessions. That process could not go on. A Member State-driven process and the nomination of a drafting committee was the most appropriate form of taking forward the process. A drafting committee was necessary in the event there was a general consensus on the three issues, namely the objectives, specific scope and object of protection. However, the current situation was that there was no agreement so that any attempt to produce another document without the involvement of the Member States would be fraught with the same level of uncertainty and confusion as it had been in the past with the previous non-papers.

133. The Chair said that the non-paper procedure replaced an oral presentation of ideas. However, if the Committee authorized the production of a document, as the Delegation of India had suggested, then the document would be called a working paper. The bigger issue was whether a drafting committee should be established and whether, as suggested by the African Group, other kind of communication mechanism should be organized.

134. The Delegation of Japan thought that the most important objective and goal of the two special sessions of the SCCR was to agree and finalize the basic proposal, so as to proceed to a diplomatic conference in November, based on the conclusion of the General Assembly. In that regard, it supported the draft conclusion of the SCCR prepared by the Chair concerning the preparation of the revised non-paper which would refer to the outcome of the discussions of the special session. The Delegation was willing to participate in a drafting committee in case such a body was set up. A draft basic proposal had to be finalized in the second special session of the SCCR in June. For that purpose, delegations should discuss more actively, positively and constructively in order to reach an agreement to proceed to a diplomatic conference.

135. The Delegation of Algeria did not have any objection regarding a drafting committee. It asked whether experts from capitals could participate in the discussions or whether the said committee would be confined to the diplomats based in Geneva, something the Delegation did not encourage.

136. The Chair noted that there were technical possibilities and constraints regarding the operation of a drafting committee.

137. A representative of the Secretariat said that a drafting committee with the participation of members from capitals would involve a considerable expense in transportation and would be an extremely time-consuming operation. There was no budget or funds available to support an effort of that magnitude.

138. The Delegation of the United States of America said it had some concerns with regard to what would be the status of the outcome of a drafting group and whether the revision would be based on the non-paper or on document SCCR/15/2 Rev. It recognized the Chair’s latitude in issuing non-papers with no official status in order to promote discussions and try to

garner consensus. However, that was not something seen yet after a three-day meeting. Embarking on a drafting exercise without a clear objective would not be particularly fruitful and not within the mandate given by the General Assembly, which was to have two special sessions. It supported and encouraged the Chair's efforts to try and bridge differences, as well as to issue revised non-papers or non-official documents that were meant to promote discussion.

139. The Chair noted that there were many constraints from the logistic point of view to establish a drafting committee, as pointed out by the Secretariat. He asked whether there could be other alternative ways to hold discussions.

140. The Delegation of India suggested dispensing with the efforts of creating more non-papers which only led to more hackles being raised and more alarm bells ringing elsewhere. If any further documentation needed to be prepared, it should only be confined to the three elements set by the General Assembly's mandate, and circulated among Member States before the next session.

141. The Delegation of Nigeria expressed the same concerns stated by the Delegation of the United States of America regarding the direction of the discussion and the ultimate outcome of the process. The status of the Chair's non-papers was unclear, as they had come out without warning or prior consultation. All consultations that had taken place before the current session had been predicated upon document SCCR/15/2 Rev. in consonance with the General Assembly's mandate. It was difficult and awkward to freeze consideration of document SCCR/15/2 Rev. and to anticipate a new working paper or a non-paper as the new basis of work of the Committee in future.

142. The Delegation of Egypt referred to the logistical difficulties involved in setting up a drafting group. The next working paper could be prepared with the comments from Member States provided by e-mail, not with the purpose of negotiating a written text but to obtain their views on the various different points which then could be adopted by the informal working paper after having ironed out the difficulties.

143. The Delegation of Bangladesh supported the proposal of setting-up a drafting committee. It requested to suspend the meeting for a few minutes so that the Asian Group could further consult on that matter.

144. The Chair asked whether delegations were ready to accept the preparation of a new working document through a consultation held by e-mail with a purpose to have the views of Member States on the different items. The new document would be released by May 1, 2007, so that meaningful considerations in the capitals could take place. He called for a short break.

145. After the discussions resumed, the Delegation of Bangladesh stated that the Asian Group had engaged in serious considerations and reported the following: "First, the Asian Group considered the technical constraints for the establishment of the drafting committee and it is in a position to reconsider its earlier position. Second, the working method through communication is not viewed as a very feasible one by the Group. The Group feels that the focus should remain on the three elements, the objectives, the scope of protection and the object of protection as mandated by the General Assembly and, therefore, the working paper with relevant text on the relevant articles, with regard to these three elements, should be prepared and circulated by the May 1, 2007, so that Delegations can comment on it and come back prepared for the next special session."

146. The Chair read the revised text taking into consideration the previous statement from the Delegation of Bangladesh: “The Committee requested the Chair to prepare a new working paper. To facilitate this process, the Chair will, through the e-mail address <copyright.mail@wipo.int>, invite the coordinators of the regional groups and the Member States of WIPO to submit their comments for developing the working paper before its finalization. The working paper shall focus on the objective, specific scope and object of protection, as well as the provisions of the future instrument relevant in the light of these items.” He indicated that there would be a deadline for comments, so he asked for the delegations’ tolerance and flexibility to leave that aspect open. He considered that the last sentence was badly drafted but still clear.

147. The Delegation of the European Community, speaking also on behalf of its member States, asked the Chair to ensure that the formulation also included the European Community.

148. The Delegation of Brazil said that it had no difficulties with the issue of timeframes. It preferred to call the document a “non-paper” as the term “working paper” would make sense if Member States were directly involved in the revision of it. The term “working paper” set a presumption of an agreement.

149. The Delegation of India noted that the Asian Group had indicated its preference for a new working paper, while the Delegation of Brazil had reverted back to the status of a non-paper. It asked whether the new non-paper would focus only on the three elements, namely the scope, objective and object of protection, or would cover all articles of the proposed treaty.

150. The Chair said that if the non-paper would focus on those items or provisions that were relevant in the light of the object, specific scope and object of protection, then probably it would also be useful for delegations to see what kinds of consequences could be expected for the rest of the provisions.

151. The Delegation of India noted that if the whole paper was to be discussed in the special session, then a lot of discussions could take place face to face. If comments were provided via e-mail instead, there would be considerable difficulty in getting all the ramifications of the complete text with the reiteration of many of the issues that had been discussed for several years so far. It would be almost like responding to the whole draft treaty all over again.

152. The Chair said that the part that would be subject to consultation and comments would be exactly those provisions that were relevant in light of the said three elements. An annex or other part of the document might present the rest of the provisions and how they would be influenced technically by the revision. If the latter was not possible then the focus of the non-paper would be only on the provisions that were relevant in the light of the said three elements. The text of the conclusion would read as follows: “The Committee requested the Chair to prepare a new non-paper. To facilitate this process, the Chair, through the e-mail address <copyright.mail@wipo.int>, will invite the coordinators of the regional groups, Member States and the European Community, to submit their comments for developing the non-paper before its finalization. The focus of the non-paper will be on the provisions that are relevant in the light of the objectives, specific scope and object of protection of the treaty being under preparation.” The next paragraph which read “The overall aim ...” would be deleted as suggested by the Delegation of Brazil. The next paragraph “The new non-paper should be distributed by May 1, 2007.” would remain and there were no other amendments to

make in the document. The Chair noted that the Standing Committee adopted those conclusions and declared the meeting closed.

[Annex follows]

ANNEXE/ANNEX

LISTE DES PARTICIPANTS/ LIST OF PARTICIPANTS

I. MEMBRES/MEMBERS

(dans l'ordre alphabétique des noms français des États/
in the alphabetical order of the names in French of the States)

AFRIQUE DU SUD/SOUTH AFRICA

Ingrid PONI (Ms.), Counsellor, Department of Communications, Embassy of South Africa, Paris

Themba PHIRI, Director, Policy and Regulatory Impact Assessment Department, Pretoria

Patrick KRAPPIE, Deputy Director, Economic Relations and Trade, Department of Foreign Affairs, Pretoria

Johan W. VAN WYK, Counsellor, Permanent Mission, Geneva

ALGÉRIE/ALGERIA

Hakim TAOUSAR, directeur général de l'Office national des droits d'auteur et des droits voisins (ONDA), Ministère de la culture, Alger

Boumediene MAHI, premier secrétaire, mission permanente, Genève

ALLEMAGNE/GERMANY

Irène PAKUSCHER (Ms.), Head, Division, Copyright and Publishing Law, Federal Ministry of Justice, Berlin

Jens STÜHMER, Richter, Division, Copyright and Publishing Law, Federal Ministry of Justice, Berlin

ARGENTINE/ARGENTINA

Inés Gabriela FASTAME (Sra.), Segundo Secretario, Misión Permanente, Ginebra

AUSTRALIE/AUSTRALIA

Chris CRESWELL, Copyright Law Consultant, Copyright Law Branch, Attorney-General's Department, Canberra

Mark DUNSTONE, Manager, Copyright and Technology, Content and Media Division, Information Technology and the Arts, Department of Communications, Canberra

AUTRICHE/AUSTRIA

Günter AUER, Chief Public Prosecutor, Ministry of Justice, Vienna

AZERBAÏDJAN/AZERBAIJAN

Abutalib SAMEDOV, Chairman, Baku

Vugar ISMAYILOV, Counsellor, Department of Internal Cooperation, State Copyright Agency, Baku

BANGLADESH

Toufiq ALI, Ambassador, Permanent Representative, Permanent Mission, Geneva

Nayem U. AHMED, Second Secretary, Permanent Mission, Geneva

Muhammed Enayet MOWLA, Counsellor, Permanent Mission, Geneva

BARBADE/BARBADOS

Corlita BABB-SCHAEFER (Ms.), Counsellor, Permanent Mission, Geneva

BELGIQUE/BELGIUM

Gunther AELBRECHT, attaché, SPF Économie, Office de la propriété intellectuelle, Bruxelles

Selma EL KENZ (Ms.), assistante, mission permanente, Genève

BÉNIN/BENIN

Samuel AHOKPA, directeur du Bureau béninois du droit d'auteur (BUBEDRA), Ministère de la culture, de l'artisanat et du tourisme, Cotonou

BOLIVIE/BOLIVIA

Luis Fernando ROSALES LOZADA, Primer Secretario, Misión Permanente, Ginebra

BOSNIE-HERZÉGOVINE/ BOSNIA AND HERZEGOVINA

Anesa KUNDUROVIC, First Secretary, Permanent Mission, Geneva

BOTSWANA

Rhee HETANANG, First Secretary, Permanent Mission, Geneva

BRÉSIL/BRAZIL

Henrique CHOER MORAES, Diplomat, Ministry of External Relations, Brasilia

Jeferson NACIF, Head, International Affairs, Ministry of Communications, Brasilia

Marcos ALVESZ DE SOUZA, Copyright Coordination, Copyright Coordinator, Brasilia

BULGARIE/BULGARIA

Georgi Alexandrov DAMYANOV, Director, Copyright and Related Rights Department, Sofia

BURKINA FASO

Léonard SANON, directeur du d'exploitation, perception et contentieux, Bureau Burkinabé du Droit d'Auteur, Ouagadougou

CAMBODGE/ CAMBODIA

Bunthon THAY, First Secretary, Permanent Mission, Geneva

Tauch SOPHANN, Intern (Expert), Permanent Mission, Geneva

CANADA

Albert CLOUTIER, Director, Intellectual Property Policy Division, Department of Industry, Ottawa

Bruce COUCHMAN, Legal Adviser, Intellectual Property Policy Directorate, Marketplace Framework Policy Branch, Department of Industry, Ottawa

Patricia NERI (Ms.), Director General, Copyright Policy Branch, Department of Canadian Heritage, Ottawa

Danielle BOUVET (Ms.), Director, Copyright Policy Branch, Department of Canadian Heritage, Ottawa

Sara WILSHAW (Ms.), First Secretary, Permanent Mission, Geneva

CHILI/ CHILE

Maximiliano SANTA CRUZ, Counsellor, Permanent Mission to the World Trade Organization (WTO), Geneva

CHINE/CHINA

ZHAO Xiuling (Ms.), Director, Copyright Enforcement Division, Copyright Department, National Copyright Administration of China (NCAC), Beijing

ZHANG Ling (Ms.), Division Director, General Office (Legal Affairs), State Administration of Radio, Film and Television (SARFT), Beijing

ZHAO Yangling, First Secretary, Permanent Mission, Geneva

COLOMBIE/COLOMBIA

Clemencia FORERO UCROS (Sra.), Embajadora, Representante Permanente, Misión Permanente, Ginebra

Martha Irma ALARCÓN LOPEZ (Sra.), Ministro Consejera, Misión Permanente, Ginebra

Oscar Iván ECHEVERRY VASQUEZ, Tercer Secretario, Ministerio de Relaciones Exteriores, Bogota

CONGO

Delphine BIKOUTA (Mme), premier secrétaire, Mission permanente, Genève

CROATIE/CROATIA

Vesna STILIN (Ms.), Assistant Director General, State Intellectual Property Office, Zagreb

Tajana TOMIĆ (Ms.), Head, Copyright Department, State Intellectual Property Office,
Zagreb

CUBA

Miguel JIMENEZ ADAY, Director General, Centro Nacional de Derecho de Autor
(CENDA), La Habana

DANEMARK/DENMARK

Anne Sophie G. SCHRØDER, Head of Section, Ministry of Culture, Copenhagen

ÉGYPTE/EGYPT

Mohammed Nour FARAHAT, Chief, Permanent Office for Copyright Protection, Cairo

Ragui EL-ETREBY, First Secretary, Permanent Mission, Geneva

EL SALVADOR

Silvia Estrella NASSER ESCOBAR (Sra.), Negociadora de Propiedad Intelectual, Dirección
de Política Comercial, Ministerio de Economía, San Salvador

Francisco Alberto LIMA MENA, Ministro Consejero, Misión Permanente, Ginebra

ConsejerMartha Evelyn MENJIUAR CORTEZ (Sra.), Consejera, Misión Permanente,
Ginebra

ÉQUATEUR/ECUADOR

Mauricio MONTALVO, Embajador, Representante Permanente, Misión Permanente, Ginebra

Luis VAYAS, Primer Secretario, Misión Permanente, Ginebra

ESPAGNE/SPAIN

Pedro COLMENARES SOTO, Subdirector General de Propiedad Intelectual, Ministerio de Cultura, Madrid

ESTONIE/ESTONIA

Katrin SIBOUL, Third Secretary, Permanent Mission, Geneva

ÉTATS-UNIS D'AMÉRIQUE/UNITED STATES OF AMERICA

Paul E. SALMON, Senior Counsel, Office of International Relations, Patent and Trademark Office, Department of Commerce, Alexandria, VA

David O. CARSON, Associate Register for Policy and International Affairs, Copyright Office, Library of Congress, Washington, D.C.

Ann E. CHAITOVITZ (Ms.), Attorney Advisor, Office of International Relations, Patent and Trademark Office, Department of Commerce, Alexandria, VA

Marla C. POOR (Ms.), Attorney Advisor to the Register, Office of Policy and International Affairs, Library of Congress, Washington, D.C.

David MORFESI, Intellectual Property Attaché, U.S. Mission to the World Trade Organization (WTO), Geneva

FÉDÉRATION DE RUSSIE/RUSSIAN FEDERATION

Ivan BLIZNETS, Rector, Russian State Institute of Intellectual Property, Federal Service for Intellectual Property, Patents and Trademarks (ROSPATENT), Moscow

Zurbek ALBEGONOV, Principal Specialist, Federal Service for Intellectual Property, Patents and Trademarks, Rospatent, Moscow

Natalia BUZOVA (Ms.), Researcher, Federal Institute of Industrial Property (FIPS), Rospatent, Moscow

Natalia ROMASHOVA (Ms.), Chief, Law Division Ministry of Culture, Moscow

Ilya GRIBKOV, Third Secretary, Permanent Mission, Geneva

FINLANDE/FINLAND

Jukka LIEDES, Director, Division of Culture and Media Policy, Ministry of Education and Culture, Helsinki

Jorma WALDÉN, Government Counsellor, Legal Affairs, Culture and Media Division
Ministry of Education and Culture, Helsinki

Anna VUOPALA (Ms.), Government Secretary, Secretary General, Copyright Commission,
Division of Culture and Media Policy, Ministry of Education, Helsinki

FRANCE

Anne LE MORVAN (Mme), chargée de mission, Bureau de la propriété littéraire et artistique,
Direction de l'administration générale, Sous-direction des affaires juridiques, Ministère de la
culture et de la communication, Paris

Gilles BARRIER, premier secrétaire, Mission permanente, Genève

GÉORGIE/GEORGIA

Marina MGALOBlishvili (Ms.), First Deputy Director General, Georgian State Agency of
Copyright and Neighboring Rights, National Intellectual Property Centre (SAKPATENTI),
Tbilisi

GRÈCE/GREECE

Evangelia VAGENA (Ms.), Counsellor-at-Law, Hellenic Copyright Office, Ministry of
Culture, Athens

GUATEMALA

Carlos Eduardo ILLESCAS RIVERA, Director General, Registro de la Propiedad Intelectual,
Ministerio de Economía, Guatemala City

Lorena BOLÁNOS, Misión Permanente, Ginebra

HAÏTI/ HAITI

Jean-Claude JUSTAFIORT, conseiller, Mission permanente, Genève

HONGRIE/HUNGARY

Péter MUNKÁCSI, Deputy Head, Copyright Section, Hungarian Patent Office, Budapest

INDE/INDIA

Surinder Kumar ARORA, Secretary, Ministry of Information and Broadcasting, Government of India, New Delhi

Rohit KANSAL, Registrar, Copy Rights, Ministry of Human Resources Development, Government of India, New Delhi

N. S. GOPALAKRISHNAN, Professor, School of Legal Studies, Cochin University of Science and Technology, Kerala

M.S. GROVER, Deputy Permanent Representative, Permanent Mission, Geneva

INDONÉSIE/INDONESIA

Emmy YUHASSARIE (Ms.), Expert Staff of the Minister, Ministry of Communication, Information and Technology, Jakarta

I Gusti Agung PUJA, Ambassador, Deputy Permanent Representative, Permanent Mission, Geneva

Dian WIRENGJURIT, Minister Counsellor, Permanent Mission, Geneva

Widya SADNOVIC, Third Secretary, Permanent Mission, Geneva

IRAN (RÉPUBLIQUE ISLAMIQUE D’)/IRAN (ISLAMIC REPUBLIC OF)

Mohammad Reza SAIDABADI, Director General, Department of International Cooperation, Islamic Republic of Iran Broadcasting (IRIB), Tehran

Hekmatollah GHORBANI, Legal Counsellor, Legal Department, Ministry of Foreign Affairs, Tehran

Gholamreza RAFIEI, Attorney-at-Law, Legal Department, Islamic Republic of Iran Broadcasting (IRIB), Tehran

Changiz HASSANI, Head, International Affairs, Saba Animation Center Affiliated to Islamic Republic of Iran Broadcasting (IRIB), Tehran

Yazdan NADALIZADEH, Second Counsellor, Permanent Mission, Geneva

IRAQ

Ahmed AL-NAKASH, Third Secretary, Permanent Mission, Geneva

IRLANDE/IRELAND

Brian McCABE, Assistant Principal Officer, Department of Enterprise, Trade and Employment, Dublin

Órla MAHER, Third Secretary, Permanent Mission, Geneva

ITALIE/ITALY

Vittorio RAGONESI, Legal Advisor, Ministry of Foreign Affairs, Rome

Augusto MASSARI, First Secretary, Permanent Mission, Geneva

JAPON/JAPAN

Masashi AKIBA, Director, International Affairs Division, Agency for Cultural Affairs, Commissioner's Secretariat, Tokyo

Koichi CHIYO, Deputy Director, International Affairs Division, Agency for Cultural Affairs, Commissioner's Secretariat, Tokyo

Kuniko TERAMOTO (Ms.), Assistant Director, Contents Development Office, Information Policy Division, Information and Communications Policy Bureau, Ministry of Internal Affairs and Communications, Tokyo

Kiyoshi SAITO, Second Secretary, Permanent Mission, Geneva

KENYA

Emma Muthoni NJOGU (Ms.), Principal State Counsel, Office of the Attorney General, Nairobi

Joseph MBEVA, Chief, Patent Examiner, Ministry of Trade and Industry, Kenya Industrial Property Institute (KIPI), Nairobi

Michael Moses OTIENO, Permanent Mission, Geneva

LETTONIE/LATVIA

Iona PETERSONE, Deputy Head, Copyright Unit, Ministry of Culture, Riga

Ieva DREIMANE (Ms.), First Secretary, Permanent Mission, Geneva

LIBAN/LEBANON

Hanna EL AMIL, chef du service des affaires culturelles, Ministère de la culture, Beyrouth

Maya DAGHER, premier secrétaire, Mission permanente, Genève

LITUANIE/LITHUANIA

Nijolė Janina MATULEVIČIENĖ (Ms.), Head, Copyright Division, Ministry of Culture, Vilnius

Lina VILTRAKIENĖ (Ms.), First Secretary, Permanent Mission, Geneva

LUXEMBOURG

Christiane DALEIDEN DISTEFANO (Mme), représentant permanent adjoint, Mission permanente, Genève

MALAISIE/MALAYSIA

AMASI Manisekaran, Director of Copyright Division, Intellectual Property Corporation of Malaysia, Kuala Lumpur

AZWA, Affendi Bakhtiar, Second Secretary, Permanent Mission, Geneva

MAROC/MOROCCO

Mohammed SIDI EL KHIR, conseiller, Mission permanente, Genève

MAURITANIE/MAURITANIA

Abdallah OULD ISHAQ, Counsellor, Permanent Mission, Geneva

MEXIQUE/MEXICO

Juan Manuel SANCHEZ CONTRERAS, Segundo Secretario, Misión Permanente, Ginebra

Jorge Rafael CUEVAS RENAUD, Consejero Consultivo, Cámara Nacional de la Industria de Telecomunicaciones por Cable (CANITEC), Ciudad de México

Héctor Hugo HUERTA REYNA, Director Jurídico y de Asuntos Internacionales, Cámara Nacional de la Industria de Telecomunicaciones por Cable (CANITEC), Ciudad de México

Alejandro NAVARRETE TORRES, Director del Centro de Investigación e Innovación en Telecomunicaciones, Cámara Nacional de la Industria de Telecomunicaciones por Cable (CANITEC), Ciudad de México

Rogelio ESPINOSA CANTELLANO, Asesor Regulatorio, Cámara Nacional de la Industria de Telecomunicaciones por Cable (CANITEC), Ciudad de México

MOLDOVA

Dorian CHIROȘCA, Deputy Director General, Copyright, State Agency on Intellectual Property (AGEPI), Kishinev

NÉPAL/NEPAL

Kiran SHAKYA, Section Officer, Ministry of Culture, Tourism and Civil Aviation, Government of Nepal, Kathmandu

Lila Dhar ADHIKARI, Section Officer, Permanent Mission, Geneva

NICARAGUA

Norman SOMARRIBIA FONSECA, Primer Secretario, Misión Permanente, Ginebra

NIGÉRIA/NIGERIA

Usman SARKI, Minister, Permanent Mission, Geneva

NORVÈGE/NORWAY

Bengt O. HERMANSEN, Deputy Director General, Department of Media Policy and Copyright, Ministry of Cultural Affairs and Church Affairs, Copenhagen

Tore Magnus BRUASET, Senior Advisor, Department of Media Policy and Copyright, Ministry of Cultural Affairs and Church Affairs, Copenhagen

OMAN

Fatima AL-GHAZALI (Mrs.), Economic Counsellor, Permanent Mission, Geneva

PARAGUAY

Patricia FRUTOS (Ms.), Counsellor, Permanent Mission, Geneva

PAYS-BAS/NETHERLANDS

Cyril VAN DER NET, Legal Adviser, Ministry of Justice, The Hague

PÉROU/PERU

Alejandro NEYRA, Primer Secretario, Misión Permanente, Ginebra

PHILIPPINES

Raly TEJADA, First Secretary, Permanent Mission, Geneva

POLOGNE/POLAND

Malgorzata PEK (Ms.), Deputy Director, Legal Department, National Broadcasting Council, Warsaw

Dariusz URBANSKI, Specialist, Legal Department, Ministry of Culture, Warsaw

Sergiusz SIDOROWICZ, Second Secretary, Permanent Mission, Geneva

PORTUGAL

Nuno Manuel GONÇALVES, directeur du cabinet du droit d'auteur, Direction du droit d'auteur et des droits connexes, Ministère de la culture, Lisbonne

José GUEDES DE SOUSA, premier secrétaire, Mission permanente, Genève

RÉPUBLIQUE DE CORÉE/REPUBLIC OF KOREA

WOO Mee-Hyung (Ms.), Deputy Director, Copyright Division, Ministry of Culture and Tourism, Seoul

LEE Dong-Ki, Director, Legislative Affairs Team, Ministry of Culture and Tourism, Seoul

KIM Hyung-Chol, Senior Researcher, Copyright Commission for Deliberation and Conciliation, Seoul

YOON Jong-soo, Judge, Northern District Court, Seoul

PARK Joo-ik, Counsellor, Permanent Mission, Geneva

RÉPUBLIQUE DOMINICAINE/DOMINICAN REPUBLIC

Marino FELIZ TERRERO, Director, Oficina Nacional de Derechos de Autor (ONDA), Secretaria de Estado de Cultura, Santo Domingo

RÉPUBLIQUE TCHÈQUE/CZECH REPUBLIC

Pavel ZEMAN, Head, Copyright Department, Ministry of Culture, Prague

Andrea PETRÁNKOVÁ (Ms.), Third Secretary, Permanent Mission, Geneva

ROUMANIE/ROMANIA

Rodica PÂRVU (Ms.), Director General, Romanian Copyright Office, Bucharest

Livia PUSCARAGIU (Ms.), Second Secretary, Permanent Mission, Geneva

ROYAUME-UNI/UNITED KINGDOM

Duncan WEARMOUTH, Director of Copyright, Intellectual Property and Innovation Directorate, The Patent Office, Newport

Ceri WITCHARD (Ms.), Senior Policy Advisor, Intellectual Property and Innovation Directorate, The Patent Office, Newport

SAINT-SIÈGE/HOLY SEE

Anne-Marie COLANDREA (Ms.), Legal Advisor, Permanent Mission, Geneva

Giacomo GHISANI, Legal Advisor, Vatican Radio, Permanent Mission, Geneva

SÉNÉGAL SENEGAL

Mamadou SECK, premier secrétaire, Mission permanente, Genève

SERBIE/SERBIA

Ljiljana RUDIĆ-DIMIĆ (Ms.), Head, Copyright and Related Rights Department, Intellectual Property Office, Belgrade

Tea TERZIC, Third Secretary, Permanent Mission, Geneva

SINGAPOUR/SINGAPORE

Elaine Siew Fong LEONG (Ms.), Legal Counsel, Copyright Department, Intellectual Property Office, Singapore

SLOVAQUIE/SLOVAKIA

Zeljko SAMPOR, Copyright and Media Division, Ministry of Culture, Banská Bystrica

SLOVÉNIE/SLOVENIA

Petra BOŠKIN (Ms.), Senior Advisor, Legal Department, Slovenian Intellectual Property Office (SIPO), Ministry of Economy, Ljubljana

Dusan VUJADINOVIČ, Counsellor, Permanent Mission, Geneva

SOUDAN/SUDAN

Gihad Abdrahman AHMED, Director, Copyright Department, Federal Works Council for Literary and Artistic Works, Khartoum

SRI LANKA

Sisira KOTALAVALA, Director General, Sri Lanka Rupavahini (TV) Corporation, Colombo

SUÈDE/SWEDEN

Henry OLSSON, Special Government Advisor, Division for Intellectual Property and Transport Law, Ministry of Justice, Stockholm

SUISSE/SWITZERLAND

Carlo GOVONI, chef de la Division du droit d'auteur et des droit voisins, Institut fédéral de la propriété intellectuelle, Berne

THAÏLANDE/THAILAND

Jittima SRITHAPORN (Ms.), Senior Legal Officer, Copyright Office, Department of Intellectual Property, Ministry of Commerce, Nonthaburi

TUNISIE/TUNISIA

Chiheb MOKNI, secrétaire général, Organisme Tunisien de Protection des Droits d'Auteurs (OTPDA), Tunis

Mohamed Abderraouf BDIQUI, conseiller, Mission permanente, Genève

UKRAINE

Tamara DAVYDENKO (Ms.), Head, Division of Copyright and Related Rights Issues (SDIP), State Department of Intellectual Property, Ministry of Education and Science, Ukraine, Kyiv

ZIMBABWE

Richard CHIBUWE, Counsellor, Permanent Mission, Geneva

II. AUTRES MEMBRES/
NON-STATE MEMBERS

COMMUNAUTÉ EUROPÉENNE (CE)* /EUROPEAN COMMUNITY (EC)*

Tilman LÜDER, Head of Unit, Internal Market and Services Directorate-General, European Commission, Brussels

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

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

Julie SAMNADDA (Ms.), Legal Policy Advisor, Copyright and Knowledge-Based Economy,
Internal Market and Services Directorate-General, European Commission, Brussels

Sergio BALIBREA SANCHO, Counsellor, Permanent Delegation, Geneva

III. ORGANISATIONS INTERGOUVERNEMENTALES/
INTERGOVERNMENTAL ORGANIZATIONS

ORGANISATION DES NATIONS UNIES POUR L'ÉDUCATION, LA SCIENCE ET LA
CULTURE (UNESCO)/UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND
CULTURAL ORGANIZATION (UNESCO)

Rita CORSETTI (Ms.), Intern, GLO, Rome, Italy

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

Hannu WAGER, Counsellor, Intellectual Property Division, Geneva

ORGANISATION INTERNATIONALE DE LA FRANCOPHONIE (OIF)

Sandra COULIBALY LEROY (Mme), représentante permanente adjointe, Genève

SOUTH CENTRE

Sisule MUSUNGU, Coordinator, Innovation and Access to Knowledge Programme, Geneva

Viviana MUÑOZ (Ms.), Programme Officer, Innovation and Access to Knowledge
Programme, Geneva

Marumo Lubabalo NKOMO, Intern, Geneva

UNION AFRICAINE/AFRICAN UNION

Faouzi GSOUMA, premier secrétaire, Délégation permanente, Genève

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

Lyes BELARIBI, directeur, Centre d'échanges, Alger

IV. ORGANISATIONS NON GOUVERNEMENTALES/
NON-GOVERNMENTAL ORGANIZATIONS

Association brésilienne des émetteurs de radio et de télévision (ABERT):
Isabella GIRÃO BUTRUCE SANTORO (Ms.) (Legal Manager, Brasilia);
João Carlos MULLER CHAVES (Lawyer, Brasilia)

Association canadienne des télécommunications par câble (ACTC)/Canadian Cable
Telecommunications Association (CCTA): Gerald KERR-WILSON (Legal Counsel to the
Canadian Broadcasting Distribution Alliance, Ottawa)

Association de l'industrie de l'informatique et de la communication (CCIA)/Computer and
Communications Industry Association (CCIA): Matthew SCHRUEERS (Senior Counsel for
Litigation and Legislative Affairs, Washington, D.C.); Sage CHANDLER (Ms.) (Senior
Director, International Trade, Arlington, Virginia)

Association des organisations européennes d'artistes interprètes (AEPO-ARTIS)/Association
of European Performers' Organisations (AEPO-ARTIS): Guenaële COLLET (Ms.) (Head,
AEPO-ARTIS Office, Brussels)

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

Association internationale de radiodiffusion (AIR)/International Association of Broadcasting
(IAB): Edmundo RÉBORA, Chairman, Copyright Committee, Buenos Aires)

Association littéraire et artistique internationale (ALAI)/International Literary and Artistic
Association (ALAI): Silke VON LEWINSKI (Ms.) (Head, International Law Department,
Munich)

Central and Eastern European Copyright Alliance (CEECA): Mihály FICSOR (Chairman,
Budapest)

Centre pour le droit international de l'environnement (CIEL)/Center for International
Environmental Law (CIEL): Dalindyebo Bafana SHABALALA (Director, Intellectual
Property and Sustainable Development Project, Geneva)

Centre d'administration des droits des artistes interprètes ou exécutants (CPRA du

GEIDANKYO/Centre for Performers' Rights Administrations (CPRA) of GEIDANKYO:
Yoshiji_NAKAMURA (Vice Chairman, Executive Committee, Tokyo);
Samuel Shu MASUYAMA (Director, Legal and Research Department, Tokyo)

Centre de recherche et d'information sur le droit d'auteur (CRIC)/Copyright Research and Information Center (CRIC): Shin-ichi UEHARA (Co-Director, General Affairs, Asahi Broadcasting Corporation, Tokyo); Tomoki ISHIARA (Member, Copyright Information Center of Japan, Tokyo); Atsushi YAMAMOTO (Member, Copyright Information Center of Japan, Tokyo)

Centre international pour le commerce et le développement durable (ICTSD)/International Center for Trade and Sustainable Development (ICTSD): Fleur CLAESSENS (Ms.) (IPRs Programme Officer, Geneva)

Chambre de commerce internationale (CCI)/International Chamber of Commerce (ICC):
David FARES (Vice-President, E-Commerce Policy, News Corporation, New York)

Civil Society Coalition (CSC): James LOVE (Director, Consumer Project on Technology, Washington, D.C.); Manon RESS (Ms.) (Director, Information Society Projects); Thiru BALASUBRAMANIAM (Geneva Representative); Nick ASHTON-HART (Fellow, Geneva); Nicoletta DENTICO (Ms.) (Fellow, Geneva)

Comité "acteurs, interprètes" (CSAI)/Actors, Interpreting Artists Committee (CSAI):
Abril MARTÍN VILLARGO, Madrid

Confédération internationale des sociétés d'auteurs et compositeurs (CISAC)/International Confederation of Societies of Authors and Composers (CISAC): David UWEMEDIMO, Director, Legal Affairs, Paris

Digital Media Association (DiMA): Lee KNIFE (General Counsel, Washington, D.C.)

Digital Video Broadcasting (DVB): Carter ELTZROTH (Legal Director, Geneva)

Electronic Frontier Foundation (EFF): Gwen HINZE (Ms.) (International Affairs Director, San Francisco, CA); Jennifer MCGREW (Ms.) (Fellow, Portland, Oregon, U.S.A.)

European Digital Rights (EDRi): Ville OKSANEN (Co-Chair EDRI IPR-Working Group, European Digital Rights, Helsinki); Mikko VÄLIMÄKI, Senior Policy Analyst, Helsinki

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

Fédération ibéro-latino-américaine des artistes interprètes ou exécutants (FILAIÉ)/Ibero-Latin-American Federation of Performers (FILAIÉ): Miguel PÉREZ SOLIS (Asesor Legal, Madrid); Aurora MELLADO MASCARAQUE (Sra.) (Asesora Jurídica, Madrid)

Fédération internationale de l'industrie phonographique (IFPI)/International Federation of the Phonographic Industry (IFPI): Shira PERLMUTTER (Ms.) (Executive Vice-President, Global Legal Policy, London); Ute DECKER (Ms.) (Deputy Director, Global Legal Policy, London)

Fédération internationale de la vidéo/International Video Federation (IVF): Theodore Michael SHAPIRO (Legal Advisor, Brussels); Bradley SILVER (Counsellor, Intellectual Property, TimeWarner, New York); Vincent ARTIS (Legal Advisor, Legal Department, Brussels)

Fédération internationale des acteurs (FIA)/International Federation of Actors (FIA): Dominick LUQUER (General Secretary, London)

Fédération internationale des associations de bibliothécaires et des bibliothèques (FIAB)/International Federation of Library Associations and Institutions (IFLA): Harald V. HIELMCRONE (Head, Research and Special Collection, StatsBiblioteket, Universitetsparken, Aarhus)

Fédération internationale des associations de distributeurs de films (FIAD)/International Federation of Associations of Film Distributors (FIAD): Gilbert GRGOIRE (président, Paris)

Fédération internationale des associations de producteurs de films (FIAPF)/International Federation of Film Producers Associations (FIAPF): Valérie LÉPINE-KARNIK (Ms.) (Director General, Paris); Scott MARTIN (Executive Vice-President, Intellectual Property and Associate General Counsel, Paramount Pictures, Hollywood, CA); Alessandra SILVESTRO (Ms.) (Advisor, Brussels); Sylvie FORBIN (Ms.) (Vice President, Public and European Affairs, Vivendi, Paris)

Fédération internationale des journalistes (FIJ)/International Federation of Journalists (IFJ): Céline SIMONIN (Ms.) (Authors' Rights Assistant, Brussels)

Fédération internationale des musiciens (FIM)/International Federation of Musicians (FIM):
Benoît MACHUEL (General Secretary, Paris)

Groupement international des artistes interprètes ou exécutants (GIART)/ International Organization of Performing Artists (GIART): Francesca Greco (Mme) (Managing Director, Brussels)

Independent Film and Television Alliance (IFTA): Lawrence SAFIR (Vice President - European Affairs, Los Angeles)

Institut Max-Planck pour la propriété intellectuelle, le droit de compétition et de fiscalité (MPI)/Max-Planck-Institute for Intellectual Property, Competition and Tax Law (MPI):
Silke VON LEWINSKI (Ms.) (Head of Unit, Munich)

International Affiliation of Writers' Guilds (IAWG): Bernie CORBETT (General Secretary), London)

International Intellectual Property Alliance (IIPA): Fritz ATTAWAY (Executive Vice-President, Special Policy Advisor, Motion Picture Association of America, Washington, D.C.)

International Music Managers Forum (IMMF): Gill BAXTER (Ms.) (Legal Advisor, London)

IP Justice: Petra BUHR (Ms.) (Global Policy Fellow, San Francisco, CA)

National Association of Broadcasters (NAB): Benjamin F. P. IVINS (Senior Associate General Counsel, Washington, D.C.)

National Association of Commercial Broadcasters in Japan (NAB-Japan):
Seijiro YANAGIDA (Associate General Manager, Copyright Administration, Nippon Television Network Corp. (NTV), Tokyo); Yoshino TANAKA (Copyrights Intellectual Properties Center, Fuji Television Network, Inc., Tokyo); Kaori KIMURA (Assistant Manager, Copyright Department, Asahi Broadcasting Corporation (ABC), Osaka)

North American Broadcasters Association (NABA): Erica REDLER (Ms.) (Chair, NABA Legal Consultant, Canadian Association of Broadcasters); Luis Alejandro BUSTOS OLIVARES (Director General Jurídico Corporativo, Televisa, México)

Public Knowledge: Sherwin SIY (Staff Attorney, Director, Global Knowledge Initiative, Washington, D.C.)

Third World Network (TWN): Riaz Khalid TAYOB (Representative, Geneva)

Union de radiodiffusion Asie-Pacifique (ABU)/Asia-Pacific Broadcasting Union (ABU): Fernand ALBERTO (Legal Counsel, ABU, Quezon City); Shun HASHIYA (Copyright and Contracts, Copyright and Archives Center, Japan Broadcasting Corporation, Tokyo); Bülent Hüsü ORHAN (Lawyer, Turkish Radio-Television Corporation (TRT), Ankara); Chimoon JUNG (Copyright Team, Korean Broadcasting System, Seoul)

Union européenne de radio-télévision (UER)/European Broadcasting Union (EBU): Werner RUMPHORST (Director, Legal Department, Geneva); Heijo RUIJSENAARS (Legal Advisor, Legal Department, Geneva)

Union international des éditeurs (UIE)/International Publishers Association (IPA): Jens BMMEL (Secretary General, Geneva)

Union Network International – Media and Entertainment (UNI-MEI): Johannes STUDINGER (Deputy Director, UNI-MEI, Media, Entertainment and Arts, Brussels)

United States Telecom Association: Kevin G. RUPY (Director, Policy Development, US Telecom, Washington, D.C.); Sarah B. DEUTSCH (Ms.) (Vice President and Associate General Counsel, Verizon Communications, Arlington, Virginia); Marilyn S.MCCADE (Ms.) (Advisor, ICT Strategic Consulting, Internet and Internet Governance Issues, Falls Church, VA); David NIMMER (Counsel, Washington, D.C.)

V. BUREAU/OFFICERS

Président/Chair: Jukka LIEDES (Finlande/Finland)

Vice-présidents/
Vice-Chairs: ZHAO Xiuling (Ms.) (Chine/China)
M'hamed SIDI EL KHIR (Maroc/Morocco)

Secrétaire/Secretary: Jørgen BLOMQVIST (OMPI/WIPO)

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

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