

# WIPO



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## WIPO GENERAL ASSEMBLY

### Thirty-Sixth (18<sup>th</sup> Extraordinary) Session Geneva, September 22 to 30, 2008

#### REPORT ON THE WORK OF THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS (SCCR), INCLUDING THE PROTECTION OF AUDIOVISUAL PERFORMANCES AND PROTECTION OF THE RIGHTS OF BROADCASTING ORGANIZATIONS

*prepared by the Secretariat*

1. This document provides an update on the status of the work related to matters concerning copyright and related rights including the protection of broadcasting organizations and the protection of audiovisual performances.

#### A. PROTECTION OF BROADCASTING ORGANIZATIONS

2. It is recalled that the issue concerning updating of the rights of broadcasting organizations in response to technological developments and the growing use of information and communications networks has been under discussion in the Standing Committee on Copyright and Related Rights (SCCR) during its eighteen consecutive sessions, from 1998 to 2008.

3. At its Thirty-Fourth Session, which took place from September 25 to October 3, 2007, the General Assembly of the World Intellectual Property Organization (WIPO):

“(i) took note of the current status of the work in the SCCR on the protection of broadcasting organizations and cablecasting organizations;

- (ii) acknowledged that progress was made in the process towards better understanding of the positions of the various stakeholders;
- (iii) recognized the good faith efforts of all participants and stakeholder organizations throughout the process;
- (iv) expressed the wish that all the parties continue to strive to achieve an agreement on the objectives, specific scope and object of protection, as mandated by the General Assembly;
- (v) decided that the subject of broadcasting organizations and cablecasting organizations be retained on the agenda of the SCCR for its regular sessions and consider convening a Diplomatic Conference only after agreement on objectives, specific scope and object of protection has been achieved.”

4. At the Sixteenth Session of the SCCR, which took place in Geneva from March 10 to 12, 2008, the SCCR decided to continue to address the issue of the protection of broadcasting organizations, as reflected in the Conclusions adopted by the SCCR, which are reproduced below.

## B. PROTECTION OF AUDIOVISUAL PERFORMANCES

5. It is recalled that the Diplomatic Conference on the Protection of Audiovisual Performances held in December 2000 was unable to reach agreement on all articles of a proposed treaty aimed at strengthening the rights of performers in their audiovisual performances.

6. At its Thirty-Third Session from September 25 to October 3, 2006, the WIPO General Assembly decided that the issue of protection of audiovisual performances would remain on the Agenda of the Assembly for its session of September 2007. The General Assembly also noted the intention of the Director General to organize national and/or regional seminars in order to promote developments on the issue, both at the levels of national legislation and international consensus-building.

7. At its Thirty-Fourth Session from September 25 to October 3, 2007, the General Assembly took note of the intention of the Director General to continue organizing national and/or regional seminars in order to promote developments on the issue, and decided that the issue of protection of audiovisual performances would remain on the Agenda of the General Assembly for its session of September 2008.

8. Following the decision of the 2006 General Assembly, a number of regional and national Seminars have already taken place, and others are scheduled to take place before the end of 2008. In preparing these events the WIPO Secretariat has followed a flexible and balanced approach to the protection of performers at the national level, in such practical areas as contractual relations and collective bargaining, the exercise and transfer of rights and remuneration systems.

9. In order to further promote the development of mechanisms for the protection of audiovisual performers, both at the levels of national legislation and international consensus-building, the WIPO Secretariat intends to continue to organize regional and national seminars on the issue in the coming year.

10. At the Sixteenth Session of the SCCR the protection of audiovisual performers was included in the Agenda. Noting that the issue of protection of audiovisual performances was not within the present mandate of the SCCR for substantive discussions, the Chair admitted an exchange of information on the issue, including on the Secretariat's activities.

### C. THE WORK OF THE SCCR

11. Since the previous Session of the General Assembly the SCCR met once, in its Sixteenth Session from March 10 to 12, 2008. Apart from the protection of broadcasting organizations and the protection of audiovisual performers, the issue of limitations and exceptions to copyright and related rights protection was on the Agenda. The SCCR adopted the following conclusions on its work:

#### “Protection of audiovisual performances

“The outcome of the deliberations in the course of the sixteenth session of the SCCR will be reported to the General Assembly.

“The delegations who took the floor expressed their willingness to take up further discussions on the substance, with the aim of finding a way forward. Some delegations stressed the importance of finding a way to resolve the outstanding substantive issues.

“The Secretariat was requested to prepare a factual document summarizing the outcome of the activities organized in accordance with the request of the General Assembly and a stocktaking of positions of members of the SCCR.

“The Secretariat will continue to organize seminars on the regional and national level, and was requested to organize an information meeting in the context of the next session of the SCCR.

“The matter will be maintained on the Agenda of the next session of the SCCR.

#### “Exceptions and limitations

“Brazil, Chile, Nicaragua and Uruguay presented a proposal, which elaborated further the proposal by the Delegation of Chile (SCCR/13/5). Many of the delegations who took the floor supported the proposal in whole or in part. Other delegations expressed support or opposition to specific elements in document SCCR/13/5. Several delegations requested to be given more time to study the new proposal. Several delegations underlined the need for speedy action to improve the access of visually impaired persons to protected works.

“The Secretariat was requested to make, in addition to the existing study reports, a study on exceptions and limitations for the benefit of educational activities, including distance education and the trans-border aspect in it.

“The Secretariat was requested to organize, in conjunction with the next session of the SCCR, an informative session on existing and forthcoming studies.

“The Committee will consider a more detailed work plan on this item in its next session including the organization of seminars on regional and national level.

“The matter will be maintained on the Agenda of the next session of the SCCR.

“Protection of broadcasting organizations

“The delegations who took the floor expressed their support in continuing the work on this item in consonance with the mandate of the General Assembly, and many delegations showed their interest towards the conclusion of a treaty.

“The Chair will prepare an informal paper, based on the mandate of the General Assembly, rendering his understanding of the main positions and divergences, to be dealt with in the next session of the SCCR.

“The matter will be maintained on the Agenda of the next session of the SCCR.

“Future work of the Committee

“Many delegations expressed their will to tackle and accelerate unfinished business first. Several delegations suggested items for future work. Many delegations expressed a wish to receive further clarification of such proposal before making a decision. Other delegations suggested that the SCCR focus on limitations and exceptions as a priority. Several delegations also expressed the view that the items should be dealt with in a balanced way, and an excessive workload of the Committee should be avoided.

“Consideration on the future work and the work plan of the Committee will continue in the next session of the SCCR, on the basis of the outcome of the discussion in the present session.

“Next session of the SCCR

“The next session of the SCCR will be convened from November 3 to 7, 2008.”

*12. The General Assembly is invited to:*

*(i) take note of the current status of the work in the SCCR;*

*(ii) request the Secretariat to report to the General Assembly on the deliberations of the SCCR on the protection of audiovisual performances at its Session in September 2009.*

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