

WIPO General Assembly

Thirty-Ninth (20th Extraordinary) Session Geneva, September 20 to 29, 2010

REPORT ON THE WORK OF THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS

prepared by the Secretariat

1. The Standing Committee on Copyright and Related Rights (SCCR) met twice since the Forty–Seventh Series of Meetings of the Assemblies of the Member States of WIPO in September–October 2009, namely in its Nineteenth Session from December 14 to 18, 2009, and its Twentieth Session from June 21 to 24, 2010.
 2. At its Thirty-Eight Session, which took place from September 22 to October 1, 2009, the WIPO General Assembly took note of the current status of the work of the SCCR and requested the Secretariat to report at its 2010 session on the deliberations of the SCCR on the protection of broadcasting organizations, protection of audiovisual performances and limitations and exceptions to copyright and related rights.
 3. This document provides an update on the status of the work related to the above matters.
- A. PROTECTION OF BROADCASTING ORGANIZATIONS
4. It is recalled that the updating of the rights of broadcasting organizations in response to technological developments has been under discussion in the SCCR during its twenty consecutive sessions, from 1998 to 2010, including two special sessions exclusively devoted to that subject in 2007.
 5. At its Nineteenth Session, the SCCR noted the publication of the first part of the Study on the Socio Economic Dimension of the Unauthorized Use of Signals, addressing current market and technology trends in the broadcasting sector.

6. The Committee also reaffirmed its willingness to continue its work on the protection of broadcasting organizations according to the mandate of the 2007 General Assembly.
7. The Committee invited the Secretariat to organize regional seminars upon requests from Member States to ascertain views on the objectives, specific scope and object of protection of a possible draft treaty following a signal-based approach. A report of the seminars would be presented to the Committee at its Twentieth Session.
8. During the Twentieth Session of the SCCR, the Committee noted the first two parts of the Study on "the Socioeconomic Dimension of the Unauthorized Use of Signals" addressing current market and technology trends in the broadcasting sector and unauthorized access to broadcasting signals. Some Member States presented observations and questions on the second part of the Study, and expressed the need to revise the approach on the socio-economic dimension and the problem on the lack of access to information. It noted with satisfaction the forthcoming third part of the study to be presented to the Committee at its Twenty-First Session, and requested that such new study take into account these observations and considerations made by some Member States. It requested the Secretariat to present, at the next session of the Committee, an analytical document outlining the main conclusions of the three studies.
9. The Committee took note of the informal report presented by the Delegation of Mexico on the regional seminar for Latin American and Caribbean countries which took place on May 31 and June 1, 2010, and requested the report to be made available to the delegations.
10. The Committee will continue work towards updated protection for broadcasting organizations. The protection of broadcasting organizations will be maintained on the Agenda of the Twenty-First Session of the SCCR.

B. PROTECTION OF AUDIOVISUAL PERFORMANCES

11. It is recalled that the Diplomatic Conference on the Protection of Audiovisual Performances, held in December 2000, adopted a provisional agreement on a number of issues but was unable to reach agreement on a proposed treaty aimed at strengthening the rights of performers in their audiovisual performances. .
12. According to the conclusions adopted by the Nineteenth Session of the SCCR, the Committee expressed its appreciation for the national and regional seminars organized by the Secretariat and encouraged the Secretariat to continue that activity. The Committee also expressed appreciation for the preparation of the Background Document on the Main Questions and Positions Concerning the International Protection of Audiovisual Performances. The Committee reaffirmed its commitment to continue the work towards developing the international protection of performances in audiovisual media, and decided that the Secretariat organize in Geneva open-ended consultations needed to resolve remaining issues.
13. The Committee noted that the Diplomatic Conference of 2000 adopted a recommendation according to which there was a provisional agreement on nineteen articles. The Committee considered that those articles provided a good basis for negotiations on the treaty. A number of Delegations took the view that the nineteen articles should not be reopened. Other Delegations stressed that the treaty should reflect the changes that have occurred during the last ten years. The Committee decided to consider, at its

Twentieth Session, the next steps and evaluate if there was consensus on a possible recommendation to the General Assembly of WIPO to convene a diplomatic conference with a view to concluding a WIPO treaty for the protection of audiovisual performances.

14. Open-Ended Consultations on Audiovisual Performances took place on May 28, 2010. According to the report presented to the Twentieth Session of the SCCR by the Chair of those consultations, Mr. Ositadinma Anaedu (Nigeria), all Member States accepted that the provisional agreement adopted in 2000 should be the basis for discussion. However, some countries considered that the provisional agreement should remain as it was, without any modification or any addition. Others considered that while the 19 articles should be left unchanged, one additional provision was needed to address the issue of consolidation of rights of performers, with a view to providing greater certainty in the international exploitation of audiovisual content. Another group of countries considered that the provisional agreement of 2000 should be reviewed in the light of the passage of time, taking into consideration issues such as the WIPO Development Agenda. A clear desire was expressed by Member States to establish, during the Twentieth Session of the Standing Committee, concrete deadlines for submitting proposals.
15. At the Twentieth Session of the Standing Committee of Copyright and Related Rights, the Committee noted with approval the calls for a faster pace of work towards concluding a treaty for the protection of audiovisual performances, including a timetable for new proposals, which were expressed by Member States during the Open-Ended Consultations in May. The Committee considered that the 19 articles provisionally agreed in 2000 were a good basis for advancing the negotiations on the treaty, and invited Member States to submit written proposals in language as close as possible to draft legal text to address the outstanding issues from the 2000 Diplomatic Conference, as well as on any additional or alternative elements for a draft treaty by September 15, 2010. The Secretariat was invited to organize in Geneva informal open-ended consultations to examine the new proposals, with a view to making recommendations to the next session of the Committee. These recommendations should include a timetable for concluding the negotiations. The Committee also decided that the protection of audiovisual performances will be maintained on the agenda of the Twenty-First session of the SCCR.
16. National and regional seminars on the protection of audiovisual performances are ongoing, organized in close cooperation with WIPO Member States and private stakeholders. Other initiatives have been developed in order to strengthen such cooperation, including an agreement signed on September 23, 2009 between WIPO, the International Federation of Musicians (FIM) and the International Federation of Actors (FIA), to support efforts to improve recognition of the significant contributions made by actors and musicians around the world and, in particular, to help improve the status of performers in developing countries. The agreement highlights the connection between IP and labor and the special concerns of cultural workers from the viewpoint of development and cultural diversity. It provides for the organization of joint activities to strengthen performers' networks and improve their economic and legal status, as well as for raising awareness of the need to support performers.

C. LIMITATIONS AND EXCEPTIONS

17. It is recalled that the SCCR has agreed to address the issue of exceptions and limitations to copyright and related rights for the purposes of education, libraries and persons with disabilities. The issue has been discussed at every ordinary SCCR session from the Twelfth Session in November 2004 up to the present.

18. During the Nineteenth Session of the SCCR, five new regional studies were prepared on the issue of limitations and exceptions for educational activities. Four of these studies were presented during an Information Meeting organized on the first day of the meeting. The Secretariat also presented the first analytical document on limitations and exceptions, identifying the most important features of the first studies on this topic commissioned by WIPO between 2003 and 2008, as well as addressing the international dimension and categorizing the main legislative solutions regarding limitations and exceptions for visually impaired persons, libraries and archives.
19. The Committee also examined the Second Draft Questionnaire on Limitations and Exceptions, and invited Member States to provide their comments to the Secretariat in order to prepare and submit a final version for reply.
20. The Committee reaffirmed its commitment to continue without delay its work on limitations and exceptions in a global and inclusive approach, including the multifaceted issues affecting access of persons with print disabilities to protected works. It welcomed the Second Interim Report of the Stakeholders' Platform, held in Alexandria (Egypt) on November 3, 2009, and encouraged the Secretariat to continue the work of the platform and report on its activities during the Twentieth Session of the SCCR.
21. The Committee examined the Proposal by Brazil, Ecuador and Paraguay Relating to a WIPO Treaty for Improved Access for Blind, Visually Impaired and other Reading Disabled Persons, which included the text prepared by the World Blind Union (WBU). Many delegations expressed their support for working towards the establishment of an appropriate international instrument. Other delegations, while not opposing the proposal, expressed their preference for a global approach. Some delegations made comments, suggestions and asked questions about the substantive content of the proposed text, and the proponent countries provided responses.
22. During the Twentieth Session of the SCCR, a series of documents related to limitations and exceptions were submitted for the consideration of Member States, namely: i) a second analytical document on limitations and exceptions, which integrated the five studies on limitations and exceptions on educational activities prepared in 2009; ii) supplementary information on the studies on limitations and exceptions for educational activities provided by Member States; iii) examples of practices and other measures at national level for the benefit of persons with print disabilities.
23. The Committee welcomed the Third Interim Report of the Stakeholders' Platform, held in Geneva on May 26, 2010, and encouraged the stakeholders to continue the work of the Platform. The Secretariat will report on the activities of the Platform during the Twenty-First Session of the SCCR.
24. The Secretariat presented a report on the questionnaire on limitations and exceptions based on the information gathered from the replies received from 40 Member States. The Committee requested the Secretariat to update the document to include any additional responses submitted by Member States.
25. The Committee also welcomed the report on the Open-ended Consultations on Copyright Limitations and Exceptions for Persons with Print Disabilities, which took place in Geneva on May 26 and 27, 2010, presented by the Chair of those consultations, Mr. Muhammad Enayet Mowla (Bangladesh), and aimed at producing an international consensus regarding copyright limitations and exceptions for persons with print disabilities.

26. The Committee took note of new documents related to the international discussions on an enabling legal regime on exceptions and limitations, including those for the benefit of the blind and persons with print disabilities, namely: i) Timetable for the Adoption of a WIPO Treaty for an Improved Access for Blind, Visually-Impaired and Other Reading-Disabled Persons, submitted by Brazil, Ecuador, Mexico and Paraguay; ii) Draft Consensus Instrument, submitted by the United States; iii) Draft WIPO Treaty on Exceptions and Limitations for the Disabled, Educational and Research Institutions, Libraries and Archive Centers, submitted by the African Group; iv) and Draft Joint Recommendation Concerning the Improved Access to Works Protected by Copyright for Persons with a Print Disability, submitted by the European Union. All these proposals, including the substantive Proposal by Brazil, Ecuador and Paraguay, relating to Limitations and Exceptions: Treaty Proposed by the World Blind Union (WBU), were presented and Member States commented thereon.
27. The Committee agreed to continue its work towards an appropriate international legal instrument or instruments, taking into account the proposals currently tabled or any additional submissions.
28. The issue of limitations and exceptions, together with the issues of protection of broadcasting organizations and of audiovisual performances, will be maintained on the Agenda of the Twenty-First Session of the SCCR.

29. *The General Assembly is invited to:*

(i) take note of the information contained in this document; and

(ii) encourage the Standing Committee on Copyright and Related Rights to continue its work regarding the issues reported on in this document.

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