

WIPO General Assembly

Forty-Sixth (25th Extraordinary) Session Geneva, September 22 to 30, 2014

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 or Committee) met three times since the Fifty-Second Series of Meetings of the Assemblies of the Member States of WIPO in December 2013, namely in December 2013, and April and June 2014. The Committee expects to hold an ordinary session in December 2014 and two ordinary sessions in 2015.
2. At its Forty-Fourth Session, which took place from December 10 to 12, 2013, the WIPO General Assembly took note of the status of the work of the SCCR, and requested the SCCR to continue its work on the protection of broadcasting organizations 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 all SCCR sessions since 1998, including two special sessions exclusively devoted to that subject in 2007.
5. At its Forty-First Session held in 2012, the WIPO General Assembly approved the recommendation made by the SCCR that “the Committee continue its work toward a text that will enable a decision on whether to convene a diplomatic conference in 2014”. As earlier agreed, the work should remain consistent with the 2007 General Assembly mandate to develop

an international treaty to update the protection of broadcasting and cablecasting organizations in the traditional sense.

6. At its Forty-Fourth Session, held in 2013, the WIPO General Assembly requested the SCCR to continue its work on the issues covered in its report, including work toward a text that will enable a decision on whether to convene a diplomatic conference in 2014.

7. After that meeting and during its 26th Session, the SCCR considered provisions of the “Working Document for a Treaty on the Protection of Broadcasting Organizations” (document SCCR/24/10/Corr.) which, as agreed in its 24th session “constitute[d] the basis of further text-based discussions to be undertaken by the Committee.” The Committee also considered proposals submitted by India, Japan, and the United States of America. The Conclusions for SCCR/26 are attached at Annex I.

8. During its 27th Session, the SCCR further discussed provisions of the revised text, the “Working Document for a Treaty on the Protection of Broadcasting Organizations” (SCCR/27/2 Rev.). Several technical working non-papers were also used in the discussion regarding categories of platforms and activities to be included under the object and scope of protection to be granted to broadcasting and cablecasting organizations in the traditional sense. The Chair’s Conclusions are included in document SCCR/27/REF/CONCLUSIONS attached at Annex II.

9. Based on the outcome and documents of the 27th session of the SCCR, during the 28th Session of the SCCR the Committee pursued discussions on issues relating to the categories of platforms and activities to be included under the object and scope of protection to be granted to broadcasting and cablecasting organizations in the traditional sense, and initiated discussions on definitions. As noted by the Chair in his conclusions, “The discussions contributed to progress on the understanding of the substance concerning the different options for protection of broadcasting organizations in the traditional sense to be addressed by the Committee.” However, “There was no agreement on recommendations to the WIPO General Assembly”. The Chair’s Conclusions are included in document SCCR/28/REF/CONCLUSIONS attached at Annex III.

10. In accordance with its previous decisions, and taking into account the progress achieved in the SCCR sessions since the last meeting of the WIPO General Assembly, the General Assembly is invited to consider what steps to take with respect to convening a diplomatic conference for a treaty on the protection of broadcasting organizations, including considering whether to direct the SCCR to take specific steps towards the development of a text or a recommendation to the 2015 General Assembly.

11. The General Assembly could also provide the SCCR with a decision on a roadmap to work towards a broadcasting treaty. If it were so inclined, for instance, the General Assembly could consider a decision along the following lines:

“The WIPO General Assembly requests that the SCCR expedite its work on the ‘Working Document for a Treaty on the Protection of Broadcasting Organizations’ (SCCR/27/2 Rev.), while taking into account all documents and submissions made to the SCCR, so that the 2015 General Assembly may take stock of the progress made, and decide on the convening of a diplomatic conference in 2016.”

B. LIMITATIONS AND EXCEPTIONS

12. It is recalled that the SCCR has agreed to address the issue of limitations and exceptions to copyright and related rights for libraries and archives, education, and persons with other disabilities. The topic of limitations and exceptions has been discussed at every ordinary SCCR session from the 12th session held in November 2004 up to the present.

LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

13. Regarding the issue of limitations and exceptions for libraries and archives, during the 26th session of the SCCR the Committee based its discussion on the “Working document containing comments on and textual suggestions towards an appropriate international legal instrument (in whatever form) on exceptions and limitations for libraries and archives” (SCCR/26/3). The Secretariat was requested to arrange for the update of the Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2) and for the preparation of a separate study on limitations and exceptions for museums, and to consider additional studies and updates depending on available resources.

14. During the 27th session of the SCCR, the Committee based its discussions on document SCCR/26/3 and “Objectives and Principles for Exceptions and Limitations for Libraries and Archives” (document SCCR/26/8), submitted by the United States of America.

15. During the 28th session of the SCCR, the Committee continued its discussions based on the aforementioned documents and its work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) in relation to limitations and exceptions for libraries and archives.

16. At its Forty-First Session, held in 2012, the WIPO General Assembly encouraged the Committee to continue its work and approved the Committee’s recommendation that the SCCR continue discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms), with the target to submit recommendations on limitations and exceptions for libraries and archives to the General Assembly by the 28th session of the SCCR.

17. As reflected in the Chair’s Conclusions for the 28th session of the SCCR (Annex III), there was no agreement on recommendations to the WIPO General Assembly.

LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND PERSONS WITH OTHER DISABILITIES

18. As to the issues of limitations and exceptions for educational and research institutions and persons with other disabilities, during the 26th session of the SCCR the Committee considered the “Provisional working document towards an appropriate International Legal Instrument (in whatever form) on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with Other Disabilities Containing Comments and Textual Suggestions” (document SCCR/26/4/Prov.).

19. During the 27th session of the SCCR, the Committee continued to discuss the “Provisional working document towards an appropriate International Legal Instrument (in whatever form) on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with Other Disabilities Containing Comments and Textual Suggestions” (SCCR/26/4/Prov.) and started to consider the “Objectives and Principles for Exceptions and Limitations for

Educational, Teaching, and Research Institutions” (SCCR/27/8), submitted by the United States of America.

20. During the 28th session of the SCCR, the Committee continued its discussions based on the aforementioned documents and its work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) in relation to limitations and exceptions for educational and research institutions and persons with other disabilities.

21. At its Forty-First Session, held in 2012, the WIPO General Assembly encouraged the Committee to continue its work and approved the Committee recommendation that the SCCR continue discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms), with the target to submit recommendations on limitations and exceptions for educational, teaching and research institutions and persons with other disabilities to the General Assembly by the 30th session of the SCCR.

C. CONTRIBUTION TO THE IMPLEMENTATION OF THE DEVELOPMENT AGENDA RECOMMENDATIONS

22. Further to the 2010 WIPO General Assembly decision “to instruct the relevant WIPO Bodies to include in their annual report to the Assemblies a description of their contribution to the implementation of the respective Development Agenda recommendations,” the following oral and written statements were made for the 28th Session of the SCCR:

23. The Chair stated in a written statement that the SCCR has undertaken its activities consistent with the WIPO Development Agenda since its last report. In particular he highlighted the decision to hold a diplomatic conference to adopt the text of the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, and Print Disabled. Like the previous Beijing Treaty on Audiovisual Performances, the Marrakesh VIP Treaty has an explicit reference to the Development Agenda in its Preamble, which includes the following provision: "Recalling the importance of the Development Agenda recommendations, adopted in 2007 by the General Assembly of the World Intellectual Property Organization (WIPO), which aim to ensure that development considerations form an integral part of the Organization's work". The adoption of this Treaty focused on limitations and exceptions is consistent with Development Agenda recommendations 15 and 17. Work towards implementing this Treaty continues with the signature of the Treaty by 80 SCCR Members and the announcement of the first ratification, by India, during the 28th meeting of the SCCR.

24. The Delegation of Kenya, speaking on behalf of the African Group, recalled that the General Assembly recognized in 2010 a mechanism to help mainstream the Development Agenda (DA) recommendations within WIPO's work. The SCCR, especially regarding norm-setting activities, should contribute to the DA and more specifically with its recommendation 15 which calls for all activities to be inclusive and member-driven, to take into account different levels of development and the balance between costs and benefits, and to be a participatory process which takes into consideration the interests and priorities of all WIPO Member States and the viewpoints of stakeholders. The Delegation noted that the Committee had topics reflecting that balance, but that discussions did not seem to be working towards the interests of all Member States. It was necessary to look carefully at how the Committee was handling discussions, especially where there was no balance in terms of weight and manner in which discussions had been carried out: While some topics gained or had a lot of weight, others seemed to be treated casually. This was exemplified during that day, when at the same time the plenary took place a regional coordination meeting also occurred, preventing Member States from actively participating in a topic of discussion. There had been no similar

mechanism in the first two days of the SCCR. While the Development Agenda Group (DAG) stated that all DA recommendations should be mainstreamed in WIPO's work, that did not seem to happen. The Member States and the General Assembly should emphasize the need to have a balance, and that balance should be reflected in terms of outcomes and not only in terms of the topics on the table. The Delegation concluded that the weight and importance given to the different topics should be equal.

25. The Delegation of India stated that appropriate time should be allocated to all agenda items and associated itself with the statement delivered by the Delegation of Kenya on behalf of the African Group.

26. The Delegation of Brazil supported the statements made by the Delegation of Kenya on behalf of the African Group and India. There were concerns about how important issues of the DA were being handled at the Committee and in the Organization as a whole. The SCCR's contribution to the implementation of the DA was very relevant. The work program on limitations and exceptions and the clear reference to the DA included in the Beijing Treaty were concrete examples. It was important to mainstream to a more development-oriented perspective in WIPO. The SCCR's agenda items on limitations and exceptions were one of the most important contributions to the DA because they directly contributed to the more balanced intellectual property system in a practical way. The work undertaken by the SCCR comes from the value of copyright. Encouraging creative cultural developments while recognizing the need to establish limitations and exceptions in key areas strikes the necessary balance in the intellectual property system and assures that those rights do not adversely affect access to knowledge and culture for the disadvantaged segments of the population. The Delegation encouraged Member States to stay committed to advance the limitations and exceptions' agenda.

27. The Delegation of Indonesia supported the statements made by the Delegations of Kenya on behalf of the African Group, India, and Brazil regarding the allocation of time. The Delegation proposed to include the discussion on the contributions to the DA as the first agenda item.

28. The Delegation of Iran (Islamic Republic of) endorsed the statement delivered by the Delegation of Indonesia.

29. The Delegation of Japan, on behalf of Group B, believed that development considerations formed an integral part of WIPO's work in the field of copyright, including the SCCR. The work relating to a treaty for the protection of broadcasting organizations at the SCCR also contributed to the DA relating to norm setting and in particular to recommendation 15. The negotiation was being conducted in an inclusive and member-driven manner that gave due consideration to levels of development. The Delegation stated that the work done at the Committee on limitations and exceptions also contributed to an increased understanding, including on copyright flexibilities. The DA could continue to be implemented in a positive way in the work of the SCCR.

30. *The WIPO General Assembly is invited to:*

(i) take note of the information contained in document WIPO/GA/46/5;

(ii) direct the SCCR to continue its work regarding the

*issues reported on in document
WIPO/GA/46/5;*

*(iii) consider appropriate
action towards convening a
diplomatic conference for the
adoption of a treaty on the
protection of broadcasting
organizations;*

and

*(iv) encourage progress on
limitations and exceptions
consistent with the
recommendations approved by
the WIPO General Assembly
in 2012, namely to continue
discussions to work towards an
appropriate international legal
instrument or instruments
(whether model law, joint
recommendation, treaty and/or
other forms), with the target to
submit recommendations on
limitations and exceptions for
libraries and archives as well as
on educational and research
institutions and persons with
other disabilities to the WIPO
General Assembly in 2015.*

[Annexes follow]

World Intellectual Property Organization (WIPO)
Standing Committee on Copyright and Related Rights (SCCR)
Twenty-sixth Session
Geneva, December 20, 2013

Conclusions

Protection of Broadcasting Organizations

1. The Committee considered Articles 5, 6, 7 and 9 of the working document SCCR/24/10 Corr., as well as the proposal submitted by the government of Japan on the protection of signals transmitted over computer networks, document SCCR/26/6. In addition, the Committee took note of the working document from the government of India rephrasing some textual proposals of document SCCR/24/10 Corr., as well as the proposal for discussion from the government of the United States of America.
2. During the discussions held on Article 7, it was understood that broadcasting organizations and cablecasting organizations in the traditional sense will be the beneficiaries (to be defined) of the proposed Treaty, subject to clarification of the inclusion of cablecasting organizations in the definition of broadcasting organizations in national laws.
3. It was understood that broadcasting and cablecasting are included in the scope of application of the proposed Treaty on a signal based approach, subject to clarification of the inclusion of cablecasting organizations in the definition of broadcasting organizations in national laws and of the effect of that inclusion on the scope of application.
4. On Article 6, discussions took place on the inclusion, in the scope of application, of transmissions over the Internet, with the understanding that such transmissions, if they are to be included, would be limited to those transmissions originating from broadcasting organizations and cablecasting organizations in the traditional sense. If such protection is to be included, further discussions will be held on whether the protection would be mandatory or optional.
5. Discussions took place on transmission over the Internet of simultaneous and unchanged transmissions of broadcasts, and it was understood that if transmissions over the Internet originating from beneficiaries of the proposed Treaty are included in the scope of application of the proposed Treaty, then at least such simultaneous and unchanged transmissions should be included.
6. Further discussions will take place in relation to the possible inclusion in the scope of application of transmissions over the Internet, when originating from the beneficiaries of the proposed Treaty, of Internet originated transmissions, on-demand transmissions (to be defined), or deferred and unchanged transmissions of broadcasts.
7. Further discussions will take place in relation to the protection of pre-broadcast signals under the proposed Treaty.
8. Discussions took place on the protection to be granted to the beneficiaries and delegations exchanged views on various approaches, which will be further examined at the next session of the Committee.
9. In relation to Article 9, a proposal was made in relation to the prohibition of unauthorized rebroadcasting of signals over the Internet to the extent of rights acquired by beneficiaries.

10. Discussions took place on the definitions contained in Article 5. Delegations exchanged views and the definitions will be further examined at the next session of the Committee.

11. The proposals on Articles 5, 6, 7, 9 and 12 discussed during the Session will be included in an Annex to document SCCR/24/10 Corr. and will be discussed further at the next session of the SCCR with the view to integrating them into document SCCR/24/10 Corr. based on a decision by the Committee.

Limitations and exceptions: libraries and archives

12. The Committee considered the "Working document containing comments on and textual suggestions towards an appropriate international legal instrument (in whatever form) on exceptions and limitations for libraries and archives", document SCCR/26/3, and took note of the modifications made by the Secretariat based on the suggestions made in the 25th session of the SCCR.

13. It was recognized that libraries and archives are vital institutions, which aim to support and develop education and culture by offering well-organized access to works and information sources.

14. The Committee was reminded that the terms of the work program adopted by the 2012 General Assembly recommended that the SCCR continue discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms), with the target to submit recommendations on limitations and exceptions for libraries and archives to the General Assembly by the 28th session of the SCCR.

15. Different points of view were expressed with regard to the nature of the appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) referred to in the 2012 General Assembly mandate to the SCCR for text-based work. With regard to fulfilling that mandate, some Member States expressed interest in discussing national laws, capacity building, technical assistance, the development of studies, and the exchange of national experiences, while other Member States did not agree.

16. The Committee proceeded to discuss the topics in Document SCCR/26/3 in order, using a text-based approach. At this meeting, the Committee discussed Topics 1, 2, and 3, and initiated discussions on Topic 4.

17. The Secretariat was requested to arrange for the update of the Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2) prepared by Kenneth Crews. The Secretariat was also asked to arrange for a separate study on limitations and exceptions for museums. It is understood that the preparation of these studies would not delay discussion on the limitations and exceptions agenda item on libraries and archives. These studies will serve as information resources for the Committee.

18. As to the topic of preservation, it was considered that in order to ensure that libraries and archives can carry out their public service responsibility for the preservation, including in digital form, of the cumulative knowledge and heritage of nations, limitations and exceptions for the making of copies of works may be allowed so as to preserve and replace works under certain circumstances.

19. As to the topic of the right of reproduction and safeguarding copies, concern was expressed regarding the scope of the concepts under consideration and the possible overlap

with other topics. Suggestions were made to modify the title of the topic. The Committee considered that arrangements such as limitations and exceptions for libraries and archives, among others, play an important role in allowing the reproduction of works for certain purposes, including research. Further discussion took place concerning the supply and distribution of those reproduced works.

20. As to the topic of legal deposit, Delegations expressed differing views on the need to address this topic within the framework of limitations and exceptions.

21. As to the topic of library lending, the Committee recognized the importance of addressing this issue and various Delegations suggested different alternatives for providing this service, including the use of limitations and exceptions, the exhaustion of rights, and/or licensing schemes. The Committee expressed different views on digital distribution in the scope of library lending.

22. The working document, including new text proposals, will be a basis for the future text-based work to be undertaken by the Committee in its 27th session.

Limitations and Exceptions: educational and research institutions and persons with other disabilities

23. The Committee considered the “Provisional working document towards an appropriate International Legal Instrument (in whatever form) on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with Other Disabilities Containing Comments and Textual Suggestions”, document SCCR/26/4 Prov., and took note of the modifications made by the Secretariat based on the suggestions made in the 25th session of the SCCR.

24. The Committee discussed and recognized the importance of the subject of limitations and exceptions for educational, teaching and research institutions.

25. Different points of view were expressed with regard to the nature of the appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) referred to in the 2012 General Assembly mandate to the SCCR for text-based work. With regard to fulfilling that mandate, some Member States expressed interest in discussing national laws, licensing schemes, capacity building, technical assistance, the development of studies, and the exchange of national experiences, while other Member States did not agree. Different views were also expressed on which topics should be included in Document SCCR/26/4 Prov. and on how the document should be organized.

26. Several Delegations expressed the importance of distance education, digital learning, and cross-border exchange of works for educational purposes as efficient tools to be considered with respect to universal access to education and the use of the copyright system to contribute to that goal.

27. The Secretariat was asked to examine the available resources and if possible arrange to update the regional studies on limitations and exceptions for educational, research and teaching institutions, with the understanding that their preparation would not delay discussion on limitations and exceptions agenda item. The Secretariat was also asked to examine the possibility, consistent with available resources, of commissioning a scoping study on copyright and related rights limitations and exceptions for persons with other disabilities (than blindness, visual impairment, or print disabilities). These studies would serve as information resources for the Committee.

28. The provisional working document will be a basis for future text-based work to be undertaken by the Committee in its 27th session.

Other Matters

29. It was announced that the reports of the Stakeholders' Platform, documents SCCR/26/5 and SCCR/26/7, which were not discussed at SCCR/26, are available on the web page for SCCR/26.

30. Suggestions were raised for additional topics to be considered at future meetings of the SCCR.

Next Session of the SCCR

31. The Committee agreed that at SCCR/27 two and one-half days will be devoted to the agenda item on the Protection of Broadcasting Organizations, two days will be devoted to the agenda item on Limitations and Exceptions, starting with libraries and archives, and one-half day will be devoted to the preparation of conclusions and discussion of future work of the Committee and any other matters, including consideration of whether to hold an inter-sessional meeting on limitations and exceptions for libraries and archives to comply with the goals established by the Committee.

[Annex II follows]

World Intellectual Property Organization (WIPO)
Standing Committee on Copyright and Related Rights (SCCR)
Twenty-seventh Session
Geneva, May 2, 2014

Chair's Conclusions

Protection of Broadcasting Organizations

1. Based on the outcome of the 26th Session of the SCCR, the Committee considered Articles 6 and 9 of the Working document for a treaty on the protection of broadcasting organizations (SCCR/27/2 Rev.), and the Proposal on a Treaty on the Protection of Broadcasting and Cablecasting Organizations (SCCR/27/6) presented by the Delegations of Armenia, Azerbaijan, Belarus, Kazakhstan, Kyrgyzstan, Russian Federation, Tajikistan, Turkmenistan, Ukraine and Uzbekistan.
2. Following a proposal submitted by the Delegation of the United Kingdom contained in document SCCR/27/3, a technical presentation was made to the Committee by an expert of the British Broadcasting Corporation (BBC) on types of advanced technology being used by broadcasting organizations.
3. Technical working non-papers which addressed issues relating to the categories of platforms and activities to be included under the object and scope of protection to be granted to broadcasting organizations in the traditional sense were taken into account in informal discussions. These discussions were instrumental in helping to clarify various technical issues and delegations' positions.
4. During the discussions it was understood that broadcasting (wireless or by wire), cablecasting subject to clarification of the legal treatment of cablecasting organizations in national laws, and pre-broadcast signals should be included in the scope of application of the proposed Treaty on a signal-based approach. Some delegations were of the view that such protection should be mandatory under the Treaty.
5. Different points of view were expressed with regard to simultaneous and near simultaneous unchanged transmission of broadcasts. Some delegations considered such transmission closely connected to broadcasting, while some other delegations were of the view that such transmissions required further discussion in the Committee to consider possible inclusion in the object of protection of the proposed treaty.
6. Discussions took place in relation to the possible inclusion of deferred linear transmissions of broadcasts and on demand transmissions of broadcasts (catch up) and program related material, which will be further examined at the next session of the Committee. If such protection is to be included, further discussions will be held on whether the protection would be mandatory or optional.
7. Several delegations did not agree with the possibility of including Internet originated linear transmissions in the object of protection while other delegations expressed a preference for its inclusion.
8. In relation to the protection to be granted to beneficiaries, various approaches were discussed which will be further examined at the next session of the Committee. Some delegations expressed support in favor of rights relating to the transmission of the broadcast signal from a fixation while some delegations strongly questioned the granting of rights for

activities taking place after the fixation of a broadcast signal, such as reproduction of fixations of broadcasts, distribution of fixations, and performance of a broadcast signal in places accessible to the public. A number of delegations considered that there should be exclusive rights for broadcasting organizations while others considered there should be a right to prohibit when third parties intercept signals by any means.

9. Some delegations requested presentation and further discussion with experts on some technical issues at the next session of the SCCR.

10. This item will be maintained on the agenda of the 28th session of the SCCR.

Limitations and exceptions: libraries and archives

11. The Committee based its discussions on the “Working document containing comments on and textual suggestions towards an appropriate international legal instrument (in whatever form) on exceptions and limitations for libraries and archives”, adopted by the Committee, (document SCCR/26/3), and to some extent on the “Objectives and Principles for Exceptions and Limitations for Libraries and Archives”, submitted by the United States of America (document SCCR/26/8).

12. Different points of view remained in terms of the nature of an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) referred to in the 2012 General Assembly mandate to the SCCR. Some delegations expressed their support for a binding instrument or instruments; other delegations did not support a binding instrument or instruments. The Committee continued the discussions on the pending topics in Document SCCR/26/3 in order, using a text-based approach.

13. The Secretariat informed the Committee of the state of the on-going work regarding the update of the Study on Copyright Limitations and Exceptions for Libraries and Archives (document SCCR/17/2) by Professor Kenneth Crews.

14. Several delegations proposed that the Secretariat organize regional workshops to address the challenges faced by libraries and archives in relation to the 11 issues identified in document SCCR/26/3, including the application of existing international treaties. During the preliminary discussions, some delegations expressed interest, while others were not in a position to support the proposal. The Secretariat was asked about the available resources to organize such meetings but no further action was agreed. One delegation asked for a presentation during the SCCR by technical experts on the complex issues faced by libraries and archives.

15. During the discussions on Document SCCR/26/3 there was a rich exchange of information on national practices and practical experiences, including detailed information and figures, as well as proposals to merge the different texts on various topics. The proponents of texts agreed to work on their proposals for each of the topics discussed, taking into account other suggestions on those texts made during the 27th Session. This time, the Committee discussed Topics 5, 6, 7, 8, and 9, and started discussion of Topic 10.

16. As to topic 5, on parallel importations, some delegations recognized that it was a cross-cutting sensitive issue. Some delegations emphasized that the choice for international,

regional or national exhaustion was left to national law by international copyright treaties. A number of aspects of the topic were explored by delegations and observers.

17. As to topic 6, on cross-border uses, a number of delegations expressed different views on how to enable libraries and archives to exchange works and copies of works across borders as part of their public service mission, particularly for education and research. A number of aspects of the topic were explored by delegations and observers.

18. As to topic 7, on orphan works, retracted and withdrawn works, and works out of commerce, the importance of addressing this issue was discussed, as that subject matter was under development and consideration in many countries. Some delegations were of the view that these categories of works should be treated separately bearing in mind their own particularities. A number of aspects of the topic were explored by delegations and observers.

19. As to topic 8, on liability of libraries and archives, several delegations stated this was a complex topic that needed further consideration. Some were of the view that a limitation on liability would empower libraries and archives to fulfill their mission. A number of aspects of the topic were explored by delegations and observers. Some delegations expressed their concerns about cross-cutting principles of civil law and international obligations on that matter.

20. As to topic 9, technological protection measures (TPMs), a number of delegations recognized that technological measures of protection should not represent barriers for libraries and archives in fulfilling their missions. Other delegations believed that the existing international treaties already provided a flexible framework enabling appropriate solutions at the national level. Various approaches were discussed on how to address the relationship between TPMs and limitations and exceptions for libraries and archives. A number of aspects of the topic were explored by delegations and observers.

21. As to topic 10, on contracts, a number of delegations expressed views as to whether contractual practices should override the operation of exceptions and limitations at the national level. Different views were expressed regarding the need for international norms regulating the issue. Legal and practical implications of the relationship between licensing schemes and new technologies and services were also discussed.

22. There was no agreement in relation to the preparation of a new document by the Secretariat and on the basis for the future work of the Committee on this agenda item.

23. This item will be maintained on the agenda of the 28th session of the SCCR.

Limitations and Exceptions: educational and research institutions and persons with other disabilities

24. The Committee based its discussions on the “Provisional Working Document Towards an Appropriate International Legal Instrument (in whatever form) on Limitations and Exceptions for Educational, Teaching and Research Institutions and Persons with Other Disabilities Containing Comments and Textual Suggestions” (document SCCR/26/4/Prov.).

25. The importance of the subject of limitations and exceptions for educational, teaching, and research institutions and persons with other disabilities was discussed and recognized. The Delegation of the United States of America introduced a document entitled “Objectives and Principles for Exceptions and Limitations for Educational, Teaching and Research Institutions” for future consideration by the Committee.

26. There was no agreement in relation to the preparation of a new document by the Secretariat and on the basis for the future work of the Committee on this agenda item.

27. This item will be maintained on the agenda of the 28th session of the SCCR.

Other Matters

28. Two delegations suggested the inclusion of a new topic on the resale royalty right in the future work of the SCCR.

29. The Committee took note of the Eighth Interim Report of the Stakeholders' Platform (SCCR/27/4).

Next Session of the SCCR

30. Chair's proposal for the future work to be considered at the 28th Session of the SCCR: At SCCR/28 the first half of the session will be devoted to the agenda item on the Protection of Broadcasting Organizations, and the second half of the session will be devoted to the agenda item on Limitations and Exceptions. It is understood that the SCCR/28 session will start and finish with the standard procedural agenda items¹.

[Annex III follows]

¹ Namely opening of the session, adoption of the agenda, possible accreditation of observers, adoption of the report of the 27th session of the SCCR, and respectively all other matters and closing of the session.

World Intellectual Property Organization (WIPO)
Standing Committee on Copyright and Related Rights (SCCR)
Twenty-eighth Session
Geneva, July 4, 2014

Chair's Conclusions

Protection of Broadcasting Organizations

1. Based on the outcome and documents of the 27th session of the SCCR, the Committee pursued discussions on issues relating to the categories of platforms and activities to be included under the object and scope of protection to be granted to broadcasting organizations in the traditional sense, and initiated discussions on definitions.
2. The discussions were based on technical working non-papers addressing these issues submitted at the 27th and 28th sessions of the SCCR. Technical explanations submitted by stakeholders in relation to some specific issues considered in the informal discussions which took place during the session were compiled into an informal document.
3. The discussions contributed to progress on the understanding of the substance concerning the different options for protection of broadcasting organizations in the traditional sense to be addressed by the Committee.
4. The Secretariat was requested by some Members to provide an update of the 2010 study on "Current Market and Technology Trends in the Broadcasting Sector" (Document SCCR 19/12), focusing on the use of digital technology by cablecasting and broadcasting organizations in the traditional sense whether public or commercial, including in developing countries, with the aim of presenting the results of the study and providing opportunities for technical discussion at the 29th session of the SCCR.
5. This item will be maintained on the agenda of the twenty-ninth session of the SCCR.
6. There was no agreement on recommendations to the WIPO General Assembly (WIPO/GA/46).

Limitations and exceptions: libraries and archives

7. Based on the outcome of the 27th session of the SCCR and documents SCCR/26/3 and SCCR/26/8, the Committee continued discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) in relation to limitations and exceptions for libraries and archives. The discussions focused on general subjects related to such limitations and exceptions, namely adoption of national exceptions, support for research and human development, and exceptions and limitations in a digital environment; as well as on specific subjects related to the 11 topics identified in previous SCCR sessions, namely preservation, right of reproduction and safeguarding copies, and legal deposit.

8. Reference was also made by delegations to general and specific subjects from other general principles when they were understood as such.
9. Proponents of certain text proposals in document SCCR/26/3 announced that they had prepared and submitted consolidated versions as substitutes for the previous versions of those text proposals.
10. The discussions contributed to improve the understanding on the need for limitations and exceptions for libraries and archives, in particular in the digital environment.
11. This item will be maintained on the agenda of the 29th session of the SCCR.
12. There was no agreement on recommendations to the WIPO General Assembly (WIPO/GA/46).

Limitations and Exceptions: educational and research institutions and persons with other disabilities

13. Based on the outcome of the 27th session of the SCCR and documents SCCR/26/4 and SCCR/27/8, the Committee exchanged views on limitations and exceptions for educational and research institutions and for persons with other disabilities, and reiterated the importance of these subjects.
14. This item will be maintained on the agenda of the 29th session of the SCCR.

Contribution of the SCCR to the implementation of the respective Development Agenda recommendations

15. Several delegations made statements regarding this agenda item. The Chair stated that all statements including those submitted to the Secretariat in writing by July 11, 2014 in relation to the contribution of the SCCR to the implementation of the respective Development Agenda recommendations would be recorded in the report of the 28th session of the SCCR and would be transmitted to the WIPO General Assembly in line with the decision taken by the WIPO General Assembly related to the Development Agenda Coordination Mechanism.

Next session of the SCCR

16. The 29th session of the SCCR will take place from December 8 - 12, 2014.
17. Chair's proposal for future work: The allocation of time at SCCR/29 will be the same as the allocation for SCCR/28.

[End of Annex III and of document]