

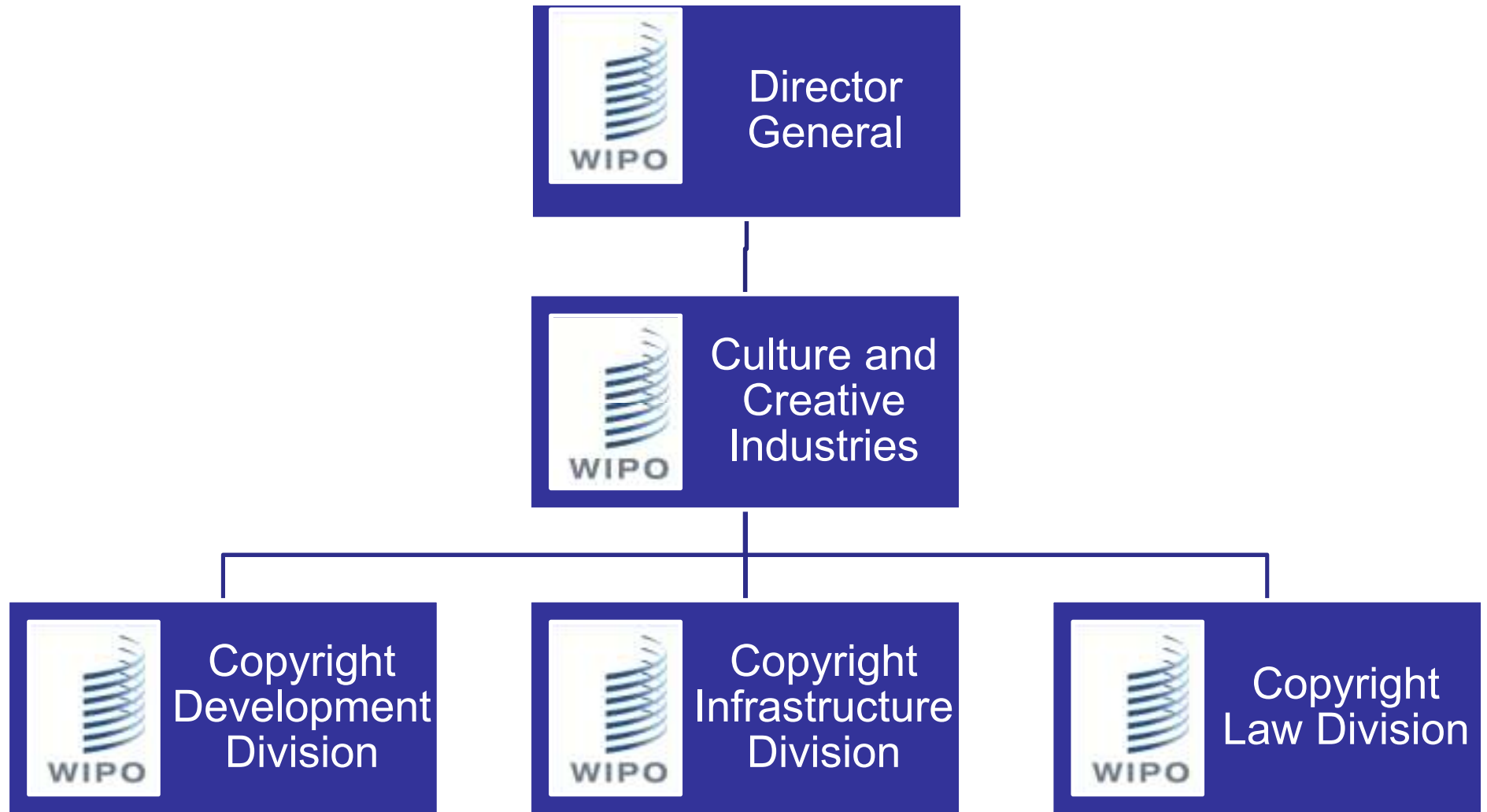


Intellectual Property Focal Persons of the African Regional Economic Communities and Executive Bodies of the African Union

Culture&Creative Industries Sector

**Geneva
May 2016**

Culture and Creative Industries Sector



Copyright Law Division

- Secretariat for the Standing Committee on Copyright and Related Rights
- Administers WIPO copyright Treaties and assists new members
- Provides Legislative Advice
- Lectures on copyright topics and provides informational tools and materials

Deputy Director
General
Culture and
Creative
Industries



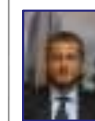
Michele
Woods



Carole Croella



Geidy Lung

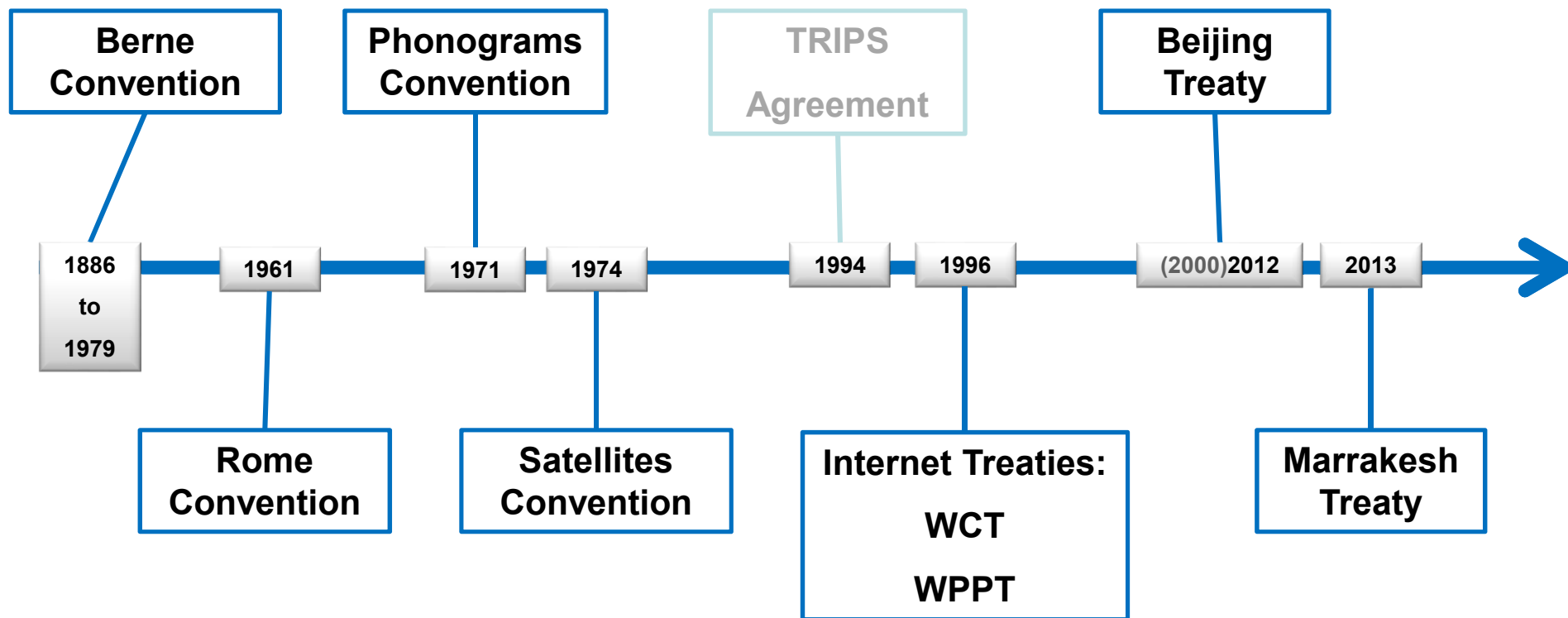


Paolo Lanteri



Rafael Ferraz

International Framework in Copyright



Recent Copyright and Related Rights Treaties

- Beijing Treaty on Audiovisual Performances (2012)
- Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled (2013)
- Both are in the process of obtaining enough ratifications or accessions to go into force

The Beijing and Marrakesh Treaty

**WHY WERE THEY
NECESSARY?**

Neighboring Rights / Related Rights

- Beneficiaries of protection:
 - Broadcasting Organization
 - Producer of Phonogram
 - **Performing artists**

Performing Artists

- International Legal Framework:
 - Rome Convention (1967)
 - Trips Agreement (1994)
 - WPPT (1996)

**Rights Recognized to
Audiovisual Performers
in the Relevant
Instruments**

WIPO Rome Convention (1961)

Unfixed Performances

- Moral rights
- Fixation
- Broadcasting
(no rebroadcasting)
- Communication to the public

Fixed Performances

- Moral rights
- Reproduction
- Distribution
- Rental
- Making available
- Broadcasting (no reb.)
- Communication to the public

WTO TRIPS Agreement (1994)

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WIPO Beijing Treaty (2012)

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Beijing Treaty

- Recognize their moral rights
- Recognize the need for performers to be adequately remunerated for their performances
- Allow flexible implementation at the national level:
 - Rights recognized
 - National legal systems
 - Transfer of rights

Beijing Treaty

- Benefits at the national and international level
- For example National Treatment in the Directive 2006/116 of the European Union

Article 7 - Protection vis-à-vis third countries

2. The terms of protection laid down in Article 3 shall also apply in the case of rightholders who are not Community nationals, **provided Member States grant them protection.**

Beijing Treaty

■ 11 Ratifications:

Botswana, Chile, China,
Democratic People's Republic of
Korea, Japan, Qatar, Republic of
Moldova, Russian Federation,
Slovakia, Syrian Arab Republic,
United Arab Emirates

The Marrakesh Treaty

WHY WAS IT NECESSARY?

Why was it necessary?

- Visual Impairment in the world:
 - 285 million visually impaired people
 - 90% in developing countries
 - Africa: 27 million people

Source: WHO, 2013

Why was it necessary?

VIPs may have access to between 1 and 7% of the published works in the world depending where they live.

Study by Judith Sullivans, 2006

What are the solutions in the MVT?

■ Core Principles:

- Creation of accessible works at the national level (Art. 4)

- Cross-border exchange of accessible-format works (Art. 5)

Who may make use of the limitations and exceptions?

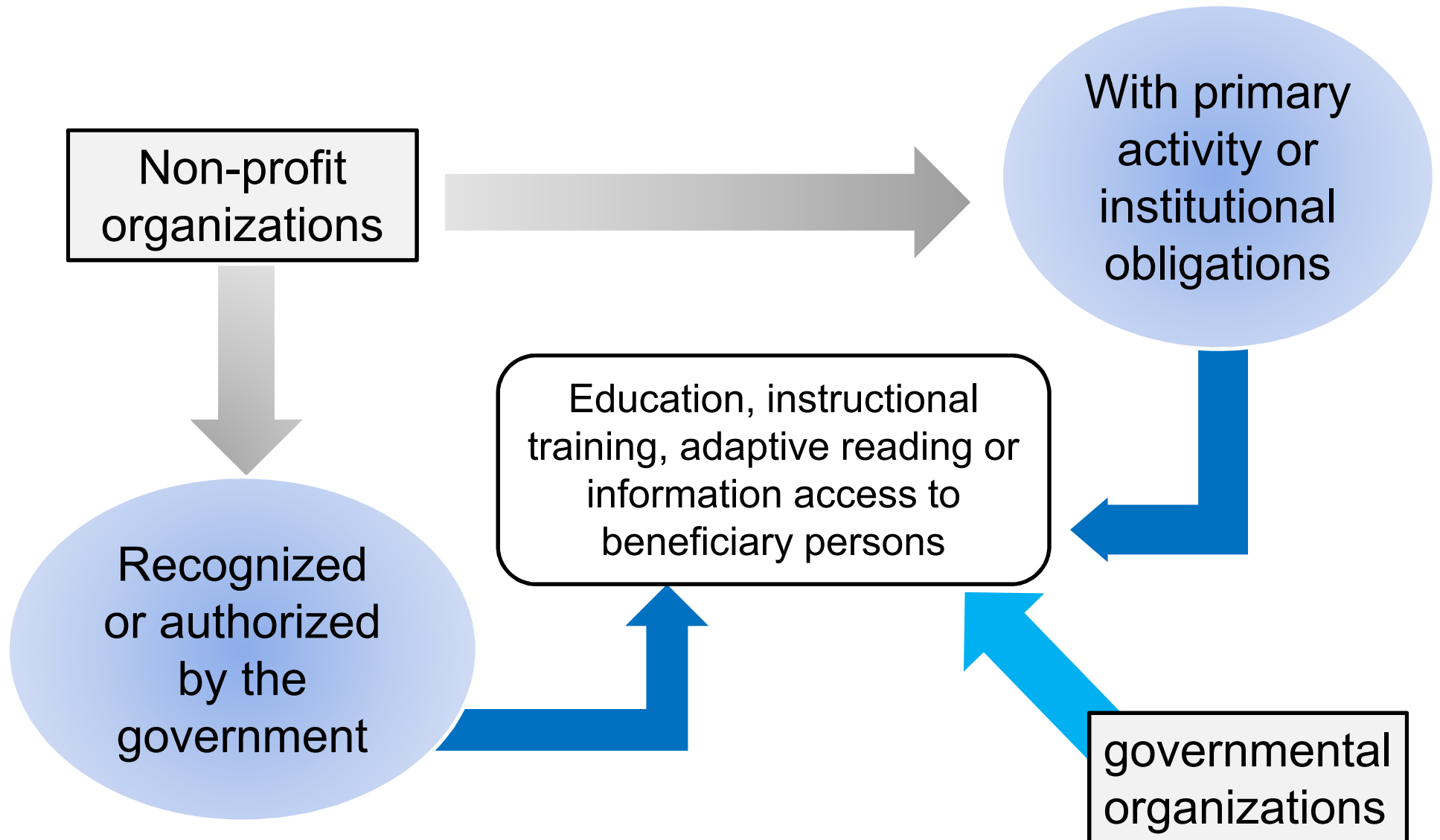
- The “**Beneficiaries**”

- “**Authorized Entities**”

The Beneficiaries

- Are those who are:
 - Blind;
 - print disabled (visual function not substantive equivalent);
 - unable to hold or manipulate or to focus or move the eyes to the extent that would be normally accepted for reading

The Authorized Entities



What is covered by the MVT?

■ “Works”

- As understood in the Berne Convention

- But limited in the form of **text, notation and/or related illustrations**, whether published or otherwise made publicly available in any media

- **Agreed Statement:**

includes such works in **audio form**, such as audiobooks

- **Article 5(5)**

Nothing in this Treaty shall be used to address the issue of **exhaustion of rights**.

What can be created through MVT

- Accessible format copy:

- Criteria: functional activities of beneficiaries

- Enable access as feasibly and comfortable as a person without print disability

- Restrictions:

- used exclusively by beneficiary persons

- must respect the integrity of the work

National Law Limitations and Exceptions

- Create limitations and exceptions (L&E) to:
 - Right of reproduction
 - Right of distribution
 - Right of making available
 - Right of public performance (optional)

- Scope of L&E
 - The limitation or exception provided in national law should permit **changes needed** to make the work accessible in the alternative format.
 - Related rights *mutatis mutandis*

National Law Limitations and Exceptions

- Options for a Member State:
 - Commercial availability under reasonable terms
 - Remuneration Right

Governments and the Marrakesh Treaty

- Adopt the necessary measures for the beneficiaries (Art. 10(1); (3) and Art. 12)
- Freedom to implement the Marrakesh Treaty (Art. 10(2) and Arts. 4 and 5)
- Respect the boundaries for the implementation of limitations and exceptions (Art. 11)
- Harmonize with other international obligations (Berne Convention, WCT, TRIPS and others)

Marrakesh VIP Treaty

- Benefits – implement an infrastructure for works in accessible format to:
 - Increase efficiency in adapting works;
 - Avoid duplicity of efforts;
 - Remove barriers at national level;
 - Remove barriers for cross-border exchange of works
 - Increase the availability of accessible format works
 - Make the best use of new technologies for the benefit of VIP.

Marrakesh Treaty

■ 17 Ratifications:

Argentina, Australia, Brazil, Chile, Democratic People's Republic of Korea, El Salvador, India, Israel, Mali, Mexico, Mongolia, Paraguay, Peru, Republic of Korea, Singapore, United Arab Emirates, Uruguay



The Standing Committee on Copyright and Related Rights (SCCR)

- Set up in the 1998-1999 biennium to examine matters of substantive law or harmonization in the field of copyright and related rights
- It is composed of:
 - member states of WIPO and/or of the Berne Union
 - observers (certain member states of the United Nations (UN) which are non-members of WIPO and/or the Berne Union, intergovernmental and non-governmental organizations)
- Usually holds two sessions per year

Agenda items

- Protection of broadcasting organizations
- Limitations and exceptions
- Other topics
 - Analysis of copyright related to the digital environment
 - Resale right

Broadcasting



WIPO Broadcasting Treaty

- Update the 1961 Rome Convention: Broadcasting has changed dramatically over the past few years. So as piracy.
- Cross border nature of signal piracy requires an international instrument including for online signals
- Proposals including from South Africa and Mexico
- SCCR working toward a text that will enable a decision of the WIPO General Assembly on convening a diplomatic conference
- **The threat of signal piracy is increasing and has potential to harm broadcasters in Africa engaged in digital migration who are offer new services and promoting local content creation**

Strengthening the Audiovisual Industry in Africa

- The African television market switching to digital TV. It is also experiencing insatiable demand for original, culturally edifying African content.
- CDIP project for Burkina Faso, Senegal, Cote d'Ivoire, Morocco and Kenya

Support the development of a sustainable African audio-visual eco-system through enhanced use of the copyright system in the film making process notably financing and distribution



SCCR /Limitations and Exceptions

Need to balance the rights of authors of creative works and the public interest, by allowing some uses of copyrighted material to be exempted from the requirement to seek authorization from the right-holder or to pay royalties.

Since 2004, SCCR has been discussing to provide increased international understanding on :

- visually impaired and persons with print disabilities
- Uses by libraries and archives
- Uses for educational purposes

SCCR/Limitations and Exceptions

- Numerous studies
- Requests for Régional Seminars
- No agreement on the nature of the instrument:

“an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms)”

SCCR : Other Topics

- **Analysis of copyright related to the digital environment : Brazil/GRULAC proposal**
- Adaptation of rights to new business models (e.g. right of making available; right of remuneration);
- Global licensing agreements. Exhaustion of rights and territoriality;
- Creation of a global database. Compulsory sharing of information;
- Application of the 3-step test. Balance with the protection of technical measures;
- Recognition of the interests of users.



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SCCR/31//5
ORIGINAL: ENGLISH FRENCH
DATE: DECEMBER 4, 2015

Standing Committee on Copyright and Related Rights

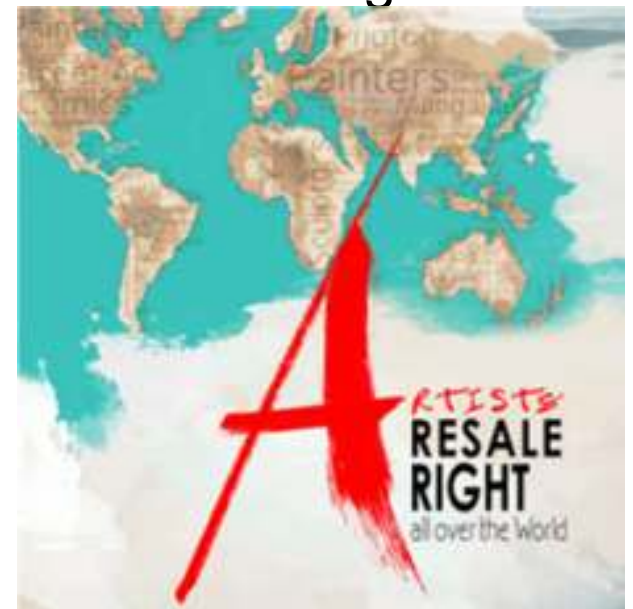
Thirty-first Session
Geneva, December 7 to 11, 2015

PROPOSAL FROM SENEGAL AND CONGO TO INCLUDE THE RESALE RIGHT (DROIT DE SUITE) IN THE AGENDA OF FUTURE WORK BY THE STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS OF THE WORLD INTELLECTUAL PROPERTY ORGANIZATION

document presented by Senegal and Congo

Droit de Suite/Resale Right

- Ensuring compensation to visual artists for the resale of their artistic works
- Proposal from Congo and Senegal to include it in the agenda
- International campaign
(Study by Prof. Sam Ricketson)
- Support from Member States from different regions
- Concern: allocation of time at SCCR



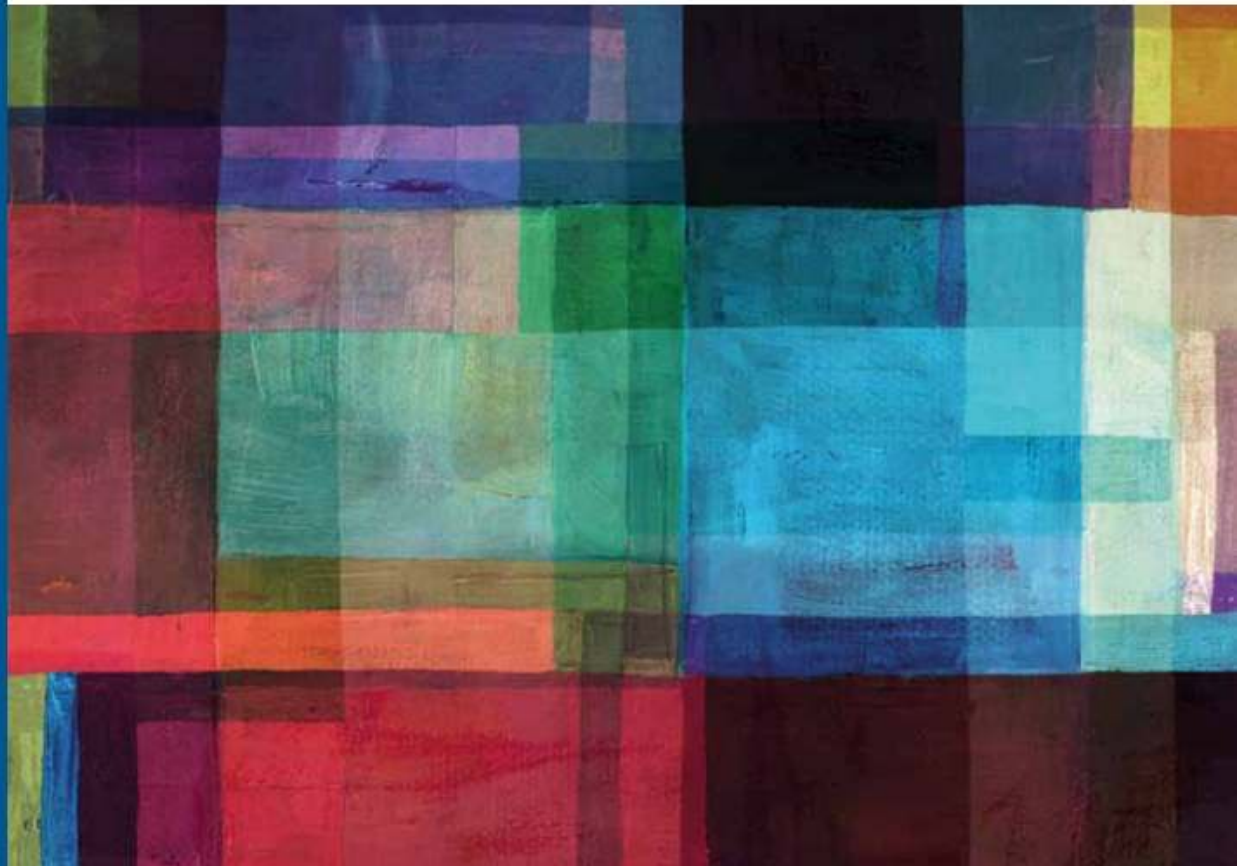
WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

Studies

**Managing
Intellectual Property
for Museums**

Guide

by Ms. Rina Elster Pantalony



Studies

The Legal Status of Video Games

by Mr. Andy Ramos,
Ms. Laura López,
Mr. Anxo Rodríguez,
Mr. Tim Meng and
Mr. Stan Abrams

Comparative Analysis in National Approaches



Copyright Infrastructure Division

Study Visit, May 18, 2016

Anita Huss

Collective Management

“It is in the public interest that CMOs continue to play an important role in a future world dominated by the new media.”

WIPO remains committed to collective management as being a solution for creators, publishers, governments and users.

Transparency, accountability and governance (TAG)

- Focus on collective management in copyright and related rights
- Full array of repertoires (film, music, visual arts, textual works)
- CMOs in different stages of development
- All regions

TAG will seek to improve and maintain the standard of transparency, accountability and governance within CMOs worldwide; regardless of level of development, repertoire, etc.



TAG Compendium

*of Good Practices Concerning the Collective Management of Copyright
and Related Rights*

- Manual, guide as a basis for training and education
- Checklist, benchmark
- Reference tool of best practices in the sector



Upcoming events in Africa on TAG

Regional Consultation on *TAG* in English-speaking African countries, Botswana, July 2016

Regional Consultation on *TAG* in French-speaking African countries, Cameroon, September 2016



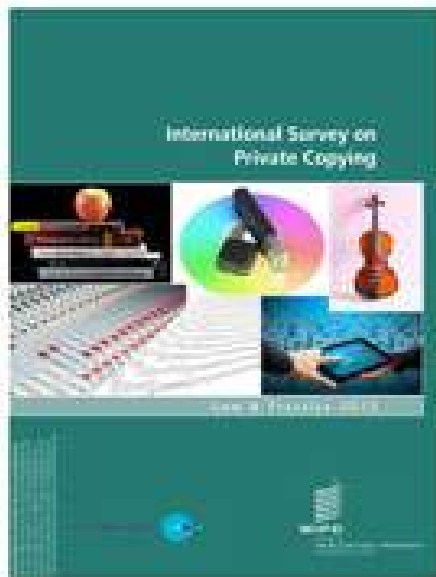
Creative Industries: Economic Contribution

- Over 40 national studies on the economic contribution of the copyright-based industries have been done worldwide
- In Africa: Ethiopia, Kenya, Malawi, South Africa, Tanzania
- Value added by cultural industries is, on average, 5.4% of GDP

→ “COPYRIGHT + CREATIVITY =
JOBS AND ECONOMIC GROWTH”

Creative Industries: Publications

- International Survey on Private Copying; Text and Image Copyright Levies
- “How to Make a Living” Series





The Copyright Development Division

Sonia Cruickshank
Senior Program Officer

WIPO Strategic Goals

WIPO STRATEGIC GOALS

STRATEGIC GOAL I: BALANCED EVOLUTION OF THE INTERNATIONAL NORMATIVE FRAMEWORK FOR IP

Program 3: Copyright And Related Rights

STRATEGIC GOAL II: PROVISION OF PREMIER GLOBAL IP SERVICES

STRATEGIC GOAL III: FACILITATING THE USE OF IP FOR DEVELOPMENT

STRATEGIC GOAL IV: COORDINATION AND DEVELOPMENT OF GLOBAL IP INFRASTRUCTURE

WIPO Strategic Goals, continued

WIPO STRATEGIC GOALS

STRATEGIC GOAL V: WORLD REFERENCE SOURCE FOR IP INFORMATION AND ANALYSIS

**STRATEGIC GOAL VI
INTERNATIONAL COOPERATION ON BUILDING RESPECT FOR IP**

STRATEGIC GOAL VII: ADDRESSING IP IN RELATION TO GLOBAL POLICY ISSUES

STRATEGIC GOAL VIII: A RESPONSIVE COMMUNICATIONS INTERFACE BETWEEN WIPO, ITS MEMBERS AND ALL STAKEHOLDERS

STRATEGIC GOAL IX: EFFICIENT ADMINISTRATIVE AND FINANCIAL SUPPORT

S.G. I – BALANCED EVOLUTION OF THE INTERNATIONAL NORMATIVE FRAMEWORK FOR IP

- This **Goal aims to ensure that the development of international IP law** keeps pace with the rapidly evolving global technological, geo-economic, social and cultural environment, while taking into account...the Development Agenda on norm-setting.

PROGRAM 3

COPYRIGHT AND RELATED RIGHTS

- Planning Context ...[support countries] challenged by rapid technological developments and the interface of these new technologies with copyright protection systems
- **Sustainable** technical assistance programs designed to assist countries to meet the challenges.

GOAL III: FACILITATING THE USE OF IP FOR DEVELOPMENT (Indirect)

■ *Implementation Strategy CDD:*

- ...Assistance to developing countries and LDCs...focus on building technical and knowledge capacity within institutions...to facilitate the effective use of the copyright system for social, cultural and economic development.

WIPO Approved P&B 2016/17, p35

Services and Support Provided

Legislative support	Training	Public Awareness	Other
New Acts or Amendments	Study visits Regional or international	Workshops National Regional Sub-regional	Country Projects
Supporting stakeholder consultations	In-house training Expert		Needs assessment
	Interregional Programs SIDA FIT/Korea	Outreach Tools	Copyright Policies or National Frameworks
		WIPO Publications	Supporting the work of other Divisions

Countries Supported



■ 2015 – 34

■ 2016 - so far 13

■ Upcoming

■ OAPI event (18 invited)

■ Study visit to Kenya (5 countries)

OBJECTIVE

Technical assistance to developing countries and LDCs will continue to focus on building technical and knowledge capacity within institutions, such as national copyright offices....

Expected Results

III.2 Enhanced human resource capacities able to deal with the broad range of requirements for the effective use of IP for development in developing countries, LDCs and countries with economies in transition

1st Indicator

% of participants in copyright related capacity building workshops reporting practical use of knowledge nine months after the workshop

2nd Indicator

% of participants' positive rating of the usefulness of copyright and related rights capacity building meetings and workshops

3rd Indicator

% of participants with improved knowledge and skills (in conducting training activities in their respective countries)

Allocated Resources by Result

<i>Expected Result No. and Description</i>	<i>2014/15 Approved Budget</i>	<i>2014/15 Budget after transfers</i>	<i>2016/17 Proposed Budget</i>
I.1 Enhanced cooperation among Member States on development of balanced international normative frameworks for IP	3,916	2,699	3,339
I.2 Tailored and balanced IP legislative, regulatory and policy frameworks	1,841	3,273	2,325
III.2 Enhanced human resource capacities able to deal with the broad range of requirements for the effective use of IP for development in developing countries, LDCs and countries with economies in transition	4,188	3,936	8,409
IV.2 Enhanced access to, and use of, IP information by IP institutions and the public to promote innovation and creativity	2,536	3,276	2,640
IV.4 Enhanced technical and knowledge infrastructure for IP Offices and other IP institutions leading to better services (cheaper, faster, higher quality) to their stakeholders and better outcome of IP Administration	2,883	2,479	-
V.2 Wider and better use of WIPO economic analysis in policy formulation	1,065	1,018	-
VIII.1 More effective communication to a broad public about intellectual property and WIPO's role	-	123	20
Total	16,430	16,805	16,733

WIPO P&B 2016/17 p. 38

Project Approach for Copyright Offices

- Idea – moving away from Ad Hoc activities
 - Holistic approach to services
 - Have links between activities
 - A building block approach towards an agreed outcome
 - Activity B should build Activity A....
- Building Capacity + Public awareness + IT Support???

How we get there?

- Using Country Plans
 - How many of your countries have plans?
 - Is Copyright included?
- Needs Assessment
 - Need to include wide range of stakeholders
 - (governments, creators, users, etc.)



Dakar Meeting- Cluster II

1. Copyright as a growth driver for digital development
2. IP and Sport
3. Music and Audiovisuals at the Crossroads : The Beijing Treaty
4. Promoting Social Inclusion and Building a Learning Landscape: The Marrakesh Treaty
5. Television Goes Digital: the Role of Broadcasters
6. Transparency, Accountability, Governance in CM
7. Harnessing the Participation of Africa in the Digital Economy

Dakar Declaration and Report

- Ministers and Experts recognized the role that IP and creativity can play in the transformation of economies in an emerging Africa. They stressed the need to integrate creativity, copyright and related rights into national development plans and to place greater emphasis on those issues in the context of the work and activities
- *Participants acknowledged the strategic importance of the legal and regulatory framework in order to promote creativity and growth and to strengthen rights in the digital environment. They identified the need to transpose international texts as soon as possible*
- African governments, WIPO and international institutions working in the field of intellectual property were requested to work towards the generalization and reinforcement of collective management in all areas of artistic and literary creation on the African continent



THANK YOU

