

Standing Committee on Copyright and Related Rights

Thirty-Third Session
Geneva, November 14 to 18, 2016

SUMMARY BY THE CHAIR

AGENDA ITEM 1: OPENING OF THE SESSION

1. The Thirty-Third Session of the Standing Committee on Copyright and Related Rights (SCCR or Committee) was opened by Ms. Sylvie Forbin, Deputy Director General, who welcomed the participants. Ms. Michele Woods (WIPO) acted as Secretary.

AGENDA ITEM 2: ADOPTION OF THE AGENDA OF THE THIRTY-THIRD SESSION

2. The Committee adopted the draft agenda (document SCCR/33/1 PROV.).

AGENDA ITEM 3: ACCREDITATION OF NEW NON-GOVERNMENTAL ORGANIZATIONS

3. The Committee approved the accreditation as SCCR observers of the non-governmental organizations referred to in the Annex to document SCCR/33/2, namely the African Library and Information Associations and Institutions (AfLIA), the Canadian Federation of Library Associations (CFLA), the European University Association (EUA), the Federación de Músicos Asociados (FEMA), and the National Library of Sweden (NLS).

AGENDA ITEM 4: ADOPTION OF THE DRAFT REPORT OF THE THIRTY-SECOND SESSION

4. The Committee approved the draft report of its thirty-second session (document SCCR/32/5) as proposed. Delegations and observers were invited to send any comments on their statements to the Secretariat at copyright.mail@wipo.int by December 15, 2016.

AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

5. The documents related to this agenda item were SCCR/27/2 REV., SCCR/27/6, SCCR/30/5, SCCR/31/3, SCCR/32/3, SCCR/33/3 and SCCR/33/5 as well as informal charts and non-papers prepared by the Chair.

6. The Committee welcomed and considered document SCCR/33/3 prepared by the Chair, entitled *Revised Consolidated Text on Definitions, Object of Protection, and Rights to be Granted*, and took note of document SCCR/33/5 entitled *Note on the Draft Treaty to Protect Broadcasting Organizations*, presented by the delegations of Argentina, Colombia and Mexico.

7. The chair introduced to the Committee the topics contained in the informal chart on "Other Issues", notably beneficiaries, term of protection, limitations and exceptions, technological protection measures and rights management information.

8. Some delegations requested further clarification and exchanged views regarding document SCCR/33/5.

9. Discussions based on document SCCR/33/3 were held in informal sessions of the Committee. Textual proposals were made during those sessions with a view to achieve a common understanding on definitions, object of protection and rights to be granted.

10. The Committee decided to continue discussions on a revised version of document SCCR 33/3 that will be prepared by the Chair for the next meeting of the Committee considering the textual proposals and clarifications made during the session with respect to definitions, object of protection and rights to be granted, as well as the other issues mentioned in the Chair's chart,

with a view to achieving the consensus required for convening a diplomatic conference on the protection of broadcasting organizations.

11. This item will be maintained on the agenda of the thirty-fourth session of the SCCR.

AGENDA ITEM 6: LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

12. The documents related to this agenda item were SCCR/26/3, SCCR/26/8, SCCR/29/4, SCCR/30/2, SCCR/30/3, and SCCR 33/4, as well as an informal chart prepared by the Chair.

13. Discussions were based on the informal chart introduced by the Chair on “exceptions and limitations for libraries and archives”. This chart was designed to serve as a useful tool to provide structure to discuss the substance of each topic, drawing on the many resources before the Committee. This allows the Committee to have an evidence-based discussion respecting differing views and understanding that the goal is not to guide the discussion toward any particular or undesired outcome, but instead to lead to a better understanding of the topics and of their actual relevance to the discussions and the intended outcome.

14. The Chair highlighted some of the elements that were drawn from the views expressed in comments and submissions of Members of the Committee during previous SCCR sessions on the topics of preservation, the right of reproduction and safeguarding copies, legal deposit, library lending, parallel importations, cross-border uses, and orphan works, retracted and withdrawn works, and works out of commerce.

15. Members of the Committee also exchanged views regarding several of the topics listed on the Chair’s chart, namely limitations on liability of libraries and archives, technological measures of protection, contracts, and the right to translate works. In addition, concerns that could arise when considering limitations and exceptions related to these topics and possible measures to address such concerns were expressed. Suggestions were also made for alternative approaches.

16. The Chair introduced a revised version of the Chair’s informal chart on limitations and exceptions for libraries and archives based on discussions in the Committee and invited comments from Member States and observers. Member States requested further time and reserved the ability to comment at SCCR/34. Some Members requested further discussion on the proposals contained in documents SCCR/29/4 and SCCR/33/4 in the next session of the Committee.

17. This item will be maintained on the agenda of the thirty-fourth session of the SCCR.

AGENDA ITEM 7: LIMITATIONS AND EXCEPTIONS FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND FOR PERSONS WITH OTHER DISABILITIES

18. The documents related to this agenda item were SCCR/26/4 PROV., SCCR/27/8, SCCR 32/4, SCCR 33/4 and SCCR 33/6, as well as an informal chart prepared by the Chair and an informal outline prepared by Professor Blake Reid.

19. The Committee heard the presentation by Professor Daniel Seng on the *Study on Copyright Limitations and Exceptions for Educational Activities*, contained in document SCCR/33/6. The Committee welcomed the presentation and delegations and observers participated in a question-and-answer session with Professor Seng. Amendments and clarifications should be sent to the Secretariat (copyright.mail@wipo.int) by February 1, 2017. Professor Seng stated that in response to additional suggestions and requests from Member

States he was willing to continue work on the study for SCCR/34. The Committee requested the updating of the information contained in the presentation of Professor Seng for the next session of the Committee.

20. The Committee held discussions on the topic of limitations and exceptions for educational, teaching and research institutions and their relationship with the fundamental role of education in society, with reference to the existing documents, including the study prepared by Professor Seng and document SCCR/33/4, *Proposal Concerning Limitations and Exceptions for Libraries and Archives and Limitations and Exceptions for Educational and Research Institutions and for Persons with Other Disabilities*, which was introduced and described by the Delegation of Argentina. The Committee took note of document SCCR/33/4.

21. The Chair presented and described a chart on limitations and exceptions for educational and research institutions, similar to the limitations and exceptions chart for libraries and archives, to be used as a tool to focus discussions on this topic. The Chair explained that the chart included the categories identified in the draft study prepared by Professor Seng as well as elements contained in previous discussions and documents. The Chart will allow the Committee to have an evidence-based discussion respecting differing views and understanding that the goal is not to guide the discussion toward any particular or undesired outcome, but instead to lead to a better understanding of the topics related to this agenda item and of their actual relevance to the discussions and the intended outcome. Member States and observers commented on the chart and made suggestions for additional topics to be added. Some Member States requested the inclusion of the new topics in Professor Seng's study and there were no objections. GRULAC suggested a study assessing the effects of the limitations and exceptions established in national legislation on the cross-border use of works and reproductions carried out within the framework of educational and research needs.

22. A preliminary presentation of the scoping study on limitations and exceptions for persons with disabilities other than print disabilities and a description of topics to be covered in a questionnaire was given by Professor Blake Reid and student attorneys Kiki Council and Sean Doran. The complete study, which will be done in collaboration with Professor Caroline Ncube of the University of Cape Town, will be presented at SCCR/34. A short questionnaire on topics discussed in the presentation will be sent to Member States.

23. This item will be maintained on the agenda of the thirty-fourth session of the SCCR.

AGENDA ITEM 8: OTHER MATTERS

24. The documents related to this agenda item were SCCR/31/4 and SCCR/31/5.

25. The Committee discussed the *Proposal for Analysis of Copyright Related to the Digital Environment*, document SCCR/31/4, submitted by the Group of Latin American and Caribbean Countries (GRULAC). Members of the Committee and observers acknowledged the importance of the subject and offered further comments on and reactions to the proposal. The Committee supported the proposals that were made by some delegations to commission a scoping study on the impact of digital developments on the evolution of national legal frameworks over the last ten years. A proposal was made to add the topic to the SCCR agenda as a standing agenda item.

26. The Committee discussed the *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 SCCR/31/5. Members of the Committee and observers welcomed a videoconference presentation on the resale right by Professor Sam Ricketson of the University of Melbourne. Members of the Committee and observers acknowledged the importance of the subject and offered comments

on and asked questions about the presentation. The Committee supported the proposals that were made by some delegations to hold a conference before the 34th session of the SCCR on the issues raised by the application of *droit de suite* from both legal and economic perspectives, including its potential effects on art markets, as well as to commission a study, which would notably address the economic implications of the right.

27. These topics will be maintained on the agenda of the thirty-fourth session of the SCCR.

SUMMARY OF THE CHAIR

28. The Committee took note of the contents of this Summary by the Chair. The Chair clarified that this summary reflected the Chair's views on the results of the thirty-third session of the SCCR and that, in consequence, it was not subject to approval by the Committee.

AGENDA ITEM 9: CLOSING OF THE SESSION

29. The next session of the Committee will take place from May 1 to 5, 2017.

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