

Standing Committee on Copyright and Related Rights

Forty-First Session
Geneva, June 28 to July 1, 2021

REPORT

adopted by the Standing Committee

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the “Committee”, or the “SCCR”) held its Forty-first Session in hybrid format at WIPO Headquarters in Geneva and via an online platform from June 28 to July 1, 2021
2. The following Member States of the World Intellectual Property Organization (WIPO) and/or members of the Bern Union for the Protection of Literary and Artistic Works were represented in the meeting: Afghanistan, Algeria, Argentina, Australia, Austria, Bangladesh, Belarus, Bolivia (Plurinational State of), Brazil, Burkina Faso, Burundi, Canada, Chile, China, Colombia, Congo, Costa Rica, Côte D'ivoire, Czech Republic, Democratic People's Republic of Korea, Djibouti, Ecuador, Egypt, El Salvador, Estonia, Ethiopia, Finland, France, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Lebanon, Lesotho, Libya, Lithuania, Malawi, Malaysia, Mexico, Mongolia, Morocco, Myanmar, Namibia, Nepal, Netherlands, Nicaragua, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela (Bolivarian Republic of), Viet Nam, Zambia and Zimbabwe (103).
3. The European Union (EU) participated in the meeting in a member capacity.
4. The following Intergovernmental Organizations (IGOs) took part in the meeting in an observer capacity: African Regional Intellectual Property Organization (ARIPO), South Centre (SC), United Nations (UN) and World Trade Organization (WTO) (4).
5. The following non-governmental organizations (NGOs) took part in the meeting in an observer capacity: African Library and Information Associations and Institutions (AfLIA), Alianza de Radiodifusores Iberoamericanos para la Propiedad Intelectual (ARIPI), Asia-Pacific Broadcasting Union (ABU), Association of European Performers' Organizations (AEPO-ARTIS), Authors Alliance, Brazilian Association of Intellectual Property (ABPI), British Copyright Council (BCC), Canadian Copyright Institute (CCI), Canadian Federation of Library Associations (CFLA), Center for Performers' Rights Administration of GEIDANKYO (CPRA), Centre for Internet and Society (CIS), Coalición por el Acceso Legal a la Cultura A.C. (CALC), Communia, Communia International Association on the Public Domain, Copyright Research and Information Center (CRIC), Corporación Latinoamericana de Investigación de la Propiedad Intelectual para el Desarrollo (Corporación Innovarte), Creative Commons Corporation, DAISY Forum of India (DFI), Design and Artists Copyright Society (DACS) Education International (EI), Electronic Information for Librarians (eIFL.net), European Broadcasting Union (EBU), European Federation of Joint Management Societies of Producers for Private Audiovisual Copying (EUROCOPYA), European Visual Artists (EVA), European Writers' Council (EWC), Federazione Unitaria Italiana Scrittori (FUIS), German Association for the Protection of Industrial Property and Copyright Law (GRUR), Ibero-Latin-American Federation of Performers (FILAIE), Independent Alliance for Artists Rights (IAFAR), Intellectual Property Justice, Intellectual Property Latin American School (ELAPI), Inter-American Copyright Institute (IIDA), International Affiliation of Writers' Guilds (IAWG), International Association for the Protection of Intellectual Property (AIPPI), International Association of Scientific Technical and Medical Publishers (STM), International Authors Forum International Chamber of Commerce (ICC), International Confederation of Music Publishers (ICMP), International Confederation of Societies of Authors and Composers (CISAC), International Council of Museums (ICOM), International Council on Archives (ICA), International Federation of Film Producers Associations (FIAPF), International Federation of Journalists (IFJ), International Federation of Library Associations and Institutions (IFLA), International Federation of Musicians

(FIM), International Federation of Reproduction Rights Organizations (IFRRO), International Federation of the Phonographic Industry (IFPI), International Publishers Association (IPA), International Society for the Development of Intellectual Property (ADALPI), International Video Federation (IVF), Italian Audiovisual and Multimedia Content Protection Federation (FAPAV), Karisma Foundation, Knowledge Ecology International, Inc. (KEI), Latin Artis, Library Copyright Alliance (LCA), Max Planck Institute for Innovation and Competition (MPI), Motion Picture Association (MPA), Music Canada, National Intellectual Property Organization (NIPO), National Library of Sweden (NLS), North American Broadcasters Association (NABA), Program on Information Justice and Intellectual Property, American University Washington College of Law, Societe des Auteurs dans les Arts Graphiques et Plastiques (ADAGP), Society of American Archivists (SAA), The Japan Commercial Broadcasters Association (JBA), Union Network International - Media and Entertainment (UNI-MEI) and the Visual Arts Copyright Society in Sweden (BUS) (67).

AGENDA ITEM 1: OPENING OF THE SESSION

6. The Chair welcomed all stakeholders to the forty-first session of the Standing Committee on Copyright and Related Rights, SCCR.

AGENDA ITEM 2: ADOPTION OF THE AGENDA OF THE FORTY-FIRST SESSION

7. The Chair introduced Agenda Item 2, the adoption of the agenda, document SCCR/41/1 Prov. The annotated draft agenda, SCCR/41/INF/1, indicated the division of time for the different issues, as discussed with regional coordinators and other interested parties. As an indicative agenda, the annotated draft agenda was flexible. If deliberations on a certain agenda item finished early, then the remaining time could be used to deal with the following agenda items.

AGENDA ITEM 3: ACCREDITATION OF NEW NON-GOVERNMENTAL ORGANIZATIONS

8. The Chair referred to Agenda Item 4, the accreditation of new non-governmental organizations. The Chair indicated that the Secretariat had received new requests for accreditation which could be found in document SCCR/41/8 rev. The Chair invited the Secretariat to present the list of organizations which would like to be accredited.

9. The Secretariat listed the non-governmental organizations that had requested accreditation as observers in the Committee including The Artists' Collecting Society, the Latin American Audiovisual Society Federation, The Featured Artists Coalition, the Screen Actors' Guild – American Federation of Television and Radio Artists, The Copyright Society of China, and the Independent Music Publishers International Forum.

AGENDA ITEM 4: ADOPTION OF THE REPORT OF THE FORTIETH SESSION OF THE SCCR

10. The Chair referred to Agenda Item 4, adoption of the report of the fortieth session of the Standing Committee on Copyright and Related Rights, document SCCR/40/9. The Chair invited the Committee to approve the draft report and to send any comments or corrections to copyright.mail@wipo.int.

OPENING STATEMENTS

11. The Deputy Director General welcomed all Member States and delegates to the forty-first session of the SCCR. The Deputy Director General expressed gratitude to the Chair and Vice-Chair for supporting the Secretariat in the preparation and progress of the Committee. She reiterated the importance of the SCCR and commended the Committee for their commitment despite the prevailing circumstances. Despite the prevailing circumstances, she urged the Committee to live up to the call and believed that the Committee would make progress. With regards to the final report on exceptions and limitations presented at the thirty-ninth session, she noted that the onus relied on the Committee to discuss the future steps. She spoke on the analysis of copyright in the digital environment, a study on digital music, the resale right, the rights of theater directors and the right of public lending. Noting the progress made by the Secretariat on the collection of information for digital music, and on the rights of theater directors, the Deputy Director General indicated that a series of studies, reports and video presentations on the subject would be provided. On the issue of the impact of the global pandemic on the sector, she indicated that the Secretariat would be available to Member States to facilitate, exchange and discuss on that important subject. The Deputy Director General assured Member States and participants of their support and commitment to facilitate the work of the Committee.

12. The Chair thanked the Deputy Director General for the show of support. The Chair noted that as agreed in consultation with the group coordinators, and interested members on June 1, 2021, all preliminary statements, including those by regional groups, were to be presented in writing and published on the page of the forty-first session of the SCCR on the WIPO website. The Chair indicated that some NGOs had requested for meetings and was available to those exchanges during the session.

13. The Delegation of China noted that it was very concerned about various issues including the long-standing issue of the protection of broadcasting organizations, where positions of all parties were different and where consensus on some major issues had not been reached. The Delegation urged the Committee to continue to maintain the spirit of understanding, support, tolerance, and cooperation, conduct constructive discussions to reach more consensus, and to promote the early convening of a diplomatic conference. The Delegation reiterated that limitations and exceptions are important for promoting knowledge dissemination, cultural inheritance, and protecting the balance between the rights of authors and the public interest. The Delegation called for determining the priority of related projects, formulating practical work plans, and advancing the discussion process through in-depth research. The Delegation also looked forward to progress of other ongoing work.

14. The Delegation of the United Kingdom speaking on behalf of Group B thanked the Chair and Vice-Chair for their fruitful work in convening that Committee. Group B looked forward to working together with all stakeholders to explore the agenda items. The Delegation acknowledged the Secretariat for convening the session and for preparing the relevant documents in light of the changing situation presented by the COVID-19 pandemic. The Delegation expressed appreciation to delegations for their commitment to making that session a success. Group B noted that the continued adaptability of all involved, including the Member States, was essential to ensuring that the important intergovernmental work of WIPO continues. Group B re-emphasized the importance of negotiating a treaty on the protection of broadcasting organizations. Additionally, Group B stressed its commitment to working towards a practical and meaningful solution, which fit with the overall broadcasting environment, and took into account a broad range of Member State and stakeholder views, and reflected technological developments. Group B thanked the Chair for the update on ongoing informal work and the opportunity to provide inputs on possible following steps. On limitations and exceptions, Group B welcomed the opportunity to continue discussions on the report setting out the outcomes of

the regional seminars and international conference on limitations and exceptions, which was presented during SCCR 40. Group B emphasized that evidence-based policy-making was essential. In light of its position on building an evidence base on which to continue discussions, the Group welcomed the contribution of experts to discussions on copyright in the digital environment, resale right and rights of theater director. Group B acknowledged the value in further investigating the area of public lending right, noting a need for balance with work already being pursued under the SCCR agenda. Group B expressed its support for the work of the Committee.

15. The Delegation of Bangladesh speaking on behalf of the Asia and the Pacific Group (APG) expressed confidence in the leadership of the Chair and Vice-Chair. APG commended the Secretariat for their preparation and facilitation of that meeting. The Delegation supported the agenda and program of that SCCR session, which reflected the expectations of the Member States under current circumstances. Though APG bemoaned that the current circumstances did not allow for extensive discussions on substantial issues like the textual discussion on broadcasting matters, it was happy to observe that the Member States were in a common understanding in terms of finalizing the agenda and modalities of the meeting to advance the Committee's works. The Delegation hoped that the Committee would be able to achieve consensus on fundamental issues like concluding an international treaty on broadcasting issues through a diplomatic conference in due course. On the broadcasting issue, APG looked forward to hearing the update on ongoing informal work and was keen to engage in discussion on updates. APG reiterated its position on the broadcasting treaty. The Delegation believed that the modality in which intellectual property rights should apply was a delicate developmental issue requiring careful balancing. APG recalled the mandate of the 2007 General Assembly to provide protection on the signal-based approach for cablecasting and broadcasting organizations in the traditional sense. The Delegation looked forward to the finalization of a balanced treaty on the protection of broadcasting organizations based on that mandate. However, APG indicated that some of its members may have a different position based on their national policies. For the APG, limitations, and exceptions for libraries, archives, museums, educational and research institutions, as well as persons with other disabilities were of critical importance to individuals and the collective development of societies. Though APG acknowledged the work done, the Group noted there was more work to be done. COVID-19 has made a profound impact on the copyright ecosystem and its stakeholders; not only rights-holders, but users too, have had to respond to the pandemic's increased demands for creating, distributing, and accessing works remotely. APG called for finalizing a program of work to move forward on that particularly important matter. In that regard, APG welcomed the idea of holding regional consultations with the participation of Member States and relevant stakeholders after SCCR 41. APG recognized the emergence of new and important issues such as resale rights, copyright in the digital environment, and rights of theater directors. The Delegation also recognized the progress made by the Secretariat and Experts on those issues and looked forward to further discussions at that session. APG looked forward to updates on the proposal for a study on public lending right from the key components.

16. The Delegation of Georgia speaking on behalf of Central European and Baltic States Group (CEBS) acknowledged the leadership of the Chair, Vice-Chair and the Secretariat for their excellent leadership in steering the affairs of that Committee meeting. CEBS noted that a treaty on the protection of broadcasting organizations remained a priority for its members. The Group found discussions on the broadcasting treaty being the central element of the Committee. CEBS emphasized commitment to working towards a solution, which would reflect the current needs of broadcasting organizations and would take into account the latest technological developments. The Delegation hoped for further progress on issues like: definitions, object of protection, rights to be granted, and other matters. Constructive discussions on those topics could result in broader consensus on the complex issues of the protection of broadcasting organizations. CEBS acknowledged the fundamental role played by

the libraries, archives, and museums in social and cultural development. CEBS also attached importance to the support of educational and research institutions and for people with other disabilities. CEBS also highlighted the existing international frameworks on limitations and exceptions. The Delegation believed that the current international legal framework already allowed the Member States to adopt or amend the national laws to ensure adequate protection. CEBS expressed readiness to engage constructively in the discussions on those topics. The Delegation also supported the proposal of the Delegations of Senegal and Congo to include the resale right in the agenda of the SCCR. The Delegation pledged its support to the work and discussions of the Committee.

17. The Delegation of Peru speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC) thanked the Secretariat for its intense work on the preparation of the many documents that would be presented and discussed in that session, which were organized at a time when local authorities were adjusting the restrictions imposed by the COVID-19 pandemic. GRULAC hoped for improvement in the health crisis and believed that the following session of the Committee would be held as close as possible to the usual conditions. GRULAC reiterated its position on the importance of maintaining a balanced work program with regard to the issues of the protection of broadcasting organizations, and limitations and exceptions for libraries and archives, for educational and research institutions and persons with other disabilities. GRULAC believed that the presentation of the Consolidated and Revised Text on Definitions, Object of Protection, Rights to be Granted and Other Issues (document SCCR/39/7) would provide a better understanding of the formulations contained therein and could enhance further discussions under better conditions at the following session. GRULAC considered relevant the information provided by WIPO on the regional seminars and the international conference on limitations and exceptions. GRULAC showed critical importance to the topic of copyright in the digital environment. GRULAC looked forward to more details on the results of the studies carried out on that subject by WIPO, in particular, those related to market and contracting conditions, as well as alternatives for achieving better protection of the rights of authors and creators. GRULAC stated that it would submit a separate statement under the relevant agenda item. GRULAC looked forward to presentations on the issues of resale participation, the rights of theater directors and the right to public lending. GRULAC reiterated its continued readiness to work with other members to make progress on all the issues on the SCCR's agenda.

18. The Delegation of South Africa speaking on behalf of the African Group acknowledged the leadership for their strenuous efforts in preparing for the forty-first session of the SCCR, including through consultations with Member States ahead of that session. The African Group was keen to see substantial progress being made during that session of the SCCR. Despite the limitations presented as a result of the COVID-19 pandemic, the African Group explained that the meeting was an opportunity to find convergence among all delegations on those important issues on the agenda of the SCCR. The Delegation noted that the work of the SCCR had not been spared from the devastating impact of the COVID-19 pandemic. Rightsholders and users alike had encountered a myriad of challenges as a result of the pandemic. The Africa Group believed that the challenges brought about by the COVID-19 pandemic needed to be examined thoroughly and, therefore, the African Group supported the holding of an information session on the impact of COVID-19 on copyright, including on limitations and exceptions to be held in the forty-second session. The Delegation believed that such exchange of information would be of benefit to the Committee. The Africa Group stressed that a balanced copyright system was essential for the promotion of culture, science, education and for sustainable development. The African Group believed that such a balanced copyright system, which affords the necessary protection to creators while allowing sufficient access to users, was indispensable and should inform the work of the Committee. Limitations and Exceptions were critical in ensuring the said balance and welcomed the extensive work that had gone into understanding the limitations and exceptions landscape better, including the regional conferences and the international conference on limitations and exceptions that took place in 2019 – the report of which was

considered in the previous session of the SCCR and was discussed in that session. The African Group believed that concrete progressive future work on limitations and exceptions should be a priority for the Committee. The Delegation noted that the formal work on the Broadcasting Treaty had not progressed as a result of not engaging in negotiations, as agreed to by all Member States. The African Group looked forward to the progress on the informal work that had been conducted through the friends of the Chair process and how that fit into the formal work of the Committee. The African Group remained committed to working constructively with all members to ensure the successful conclusion of the Broadcasting Treaty, in accordance with the mandate of the 2007 WIPO General Assembly. The Delegation added that other agenda items were equally important and looked forward to an update and presentation on the agenda item: copyright in the digital environment. The African Group looked forward to the presentation by the Task Force Representatives on the Resale Royalty Right as well as presentations by the authors of the Study on the Rights of Stage Directors of Theatrical Productions. The Delegation hoped that the Committee would have productive deliberations on the proposal by the Delegations of Sierra Leone, Malawi and Panama for a study on Public Lending Right (PLR) to be undertaken by WIPO. The Delegation also hoped for mutual consensus on the proposal. The African Group pledged support for the continued work of the SCCR.

19. The Representative of the Society of American Archivists (SAA) reiterated the need for clear legal path for archives in order to make rare and unique works available to the world by digital technologies. The Representative expressed that those non-commercial works should never have been swept into the copyright web. The Representative added that limiting the ability to preserve archives would invite disaster. The pandemic has shown that the model of the Berne Convention no longer fits today's reality. The Representative explained the need to adapt to the times. SAA reiterated the unfairness caused by travel costs that impede people from access to their own heritage documents. With the pandemic, no one has access, and yet, archives, whose sole purpose is to preserve and facilitate use of rare works, are expected to fulfill their mission—a nearly impossible task in today's unbalanced copyright system. Likewise with climate change. SAA bemoaned the recent wildfire in Cape Town that destroyed its university library and called for the exclusion of preservation copying from an antiquated copyright framework. Surely, no one benefits if the one and only copy of something is burned to ashes because an archivist feared a lawsuit. SAA expressed concern at the challenges the pandemic had presented to people all over the world with limited access to such documents. The COVID and climate crises called for the SCCR to create a pathway that empowers archives, libraries, and museums to make preservation copies and make them available across borders. The global need for the unique knowledge in archives requires an international solution that only WIPO's leadership can provide. If wildfires and pandemics don't prove the urgency for global action on preservation now, what would?

20. The Representative of the International Authors Forum (IAF) referred to Article 27 of the Universal Declaration of Human Rights that stated that “everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.” Therefore, the ability of professional authors everywhere to make a living was vital if this participation in culture was to proliferate across the world. Article 27 further stated that everyone “has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he [or she] is the author.” Ultimately, it was authors' works being considered in the matters discussed at the World Intellectual Property Organization (WIPO). There were individual authors whose rights were involved in all countries. Those rights should be given primary consideration to ensure the continued creation of the culture. Authors should be rewarded for their contribution to society and maintain rights to control how their work was used. In recent years, IAF had witnessed a growing pressure to devalue copyright and the mechanisms by which authors were remunerated for their work. That had been argued on the basis that the author would be

somehow rewarded otherwise, having gone unpaid for their work. Such measures were also proposed simply as an easy cost to cut without consideration for the long-term consequences of not compensating the author. That happened when multiple studies and surveys from around the world had found that the earnings of authors were in significant decline. It was more important than ever that the Committee recognized the impact those policies could have on authors and a nation's culture and found ways to ensure that the work of WIPO helped authors share in the global growth of creative industries in the digital age. Authors around the world played an essential role in ensuring the prosperity of their societies. That made it imperative that they had a conducive environment in which to work, were valued for their diverse creations, retained the right to make a decent living from their work, and were supported by a robust copyright framework. Yet, numerous studies and surveys from developed countries across the world had found that the earnings of authors were in significant decline, despite international growth in the creative industries that made use of their works. There was an urgent need for a better understanding of the issues authors worldwide currently faced when it came to earning a creative living. In many countries, authors had seen an overall decline in their earnings in recent years. It was hoped that opportunities could be taken to reverse the decline in authors' incomes and better remuneration rights could be established that ensured authors' earnings reflected the way their work was enjoyed. Potential measures for that included rights such as the Public Lending Right (PLR), resale right, also known as *droit de suite*, and a remuneration right for online uses of work. Understanding the issue of authors' earnings would be an ongoing challenge, in many countries there were no in-depth studies on authors' earnings, and far more could be done to understand the international situation of the author. As the COVID-19 pandemic continued to have an ongoing effect around the world there would be even more challenges to contend with. The Representative hoped that the IAF study on authors' earnings would help to illustrate the need for action to ensure authors in every country could sustainably create and contribute to diverse cultures around the world. The IAF report, *Creating a Living: challenges for authors' incomes*, was available in English, French and Spanish. In the face of the COVID-19 pandemic authors earnings had struggled significantly through a huge range of opportunities to work, while society had continued to rely on the content that they had created. IAF noted that it was more important than ever to consider ways to support creators around the world, it was good to see that was being considered in areas such as resale right and public lending right, which could both be important measures to reward and support the development of creators around the world.

AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

21. The Chair invited the Vice-Chair for the presentation of the formal work being conducted on the issue of the protection of broadcasting organizations.

22. The Vice-Chair presented the ongoing work on the recent process of preparation of a new treaty on the protection of broadcasting organizations. Since 2015, the Committee had worked with various versions of a consolidated document on definitions, objective protection, rights to be granted and other issues prepared and/or maintained by the preceding Chairs. The methodology for the preparation of those consolidated texts had always been the same, namely that apart from the Chair's considerations, those documents contained documents for Member States of the Committee and also the result of informal meetings carried out during the SCCR sessions. In order to pave the way toward possible compromises on key technical questions, in 2019, the preceding Chair of the Committee established an informal format called the Friends of the Chair group, with the objective to facilitate technical work and assist in preparing textual solutions in relation to the broadcasting dossier. That informal format, which consisted of the two Vice-Chairs and experts from different Member States, met in person for the first time in the course of 2019. Between the thirty-ninth SCCR session held in October 2019 and the fortieth held in November 2020, more than a year passed due to the travel and meeting restrictions caused by the COVID-19 pandemic. The Vice-Chair noted that due to this challenge, the group

was unable to carry out substantive discussions on important and technical topics related to the broadcasting treaty. Nonetheless, the agenda remained intact and the need to act for the sake of the international corporate community and the vast stakeholders had become more pressing. With this in mind, the current Chair decided to invite the members of the Friends of the Chair Group at the beginning of 2021 to start the informal work. The idea was backed by the previous expert who participated in proceeding meetings, and also by some of the expert delegates who joined the work of the informal group. The list of the members of the group included: Argentina, Colombia, the European Union, Finland, Germany, Japan, Kenya, Mexico, the Philippines, the Republic of Korea, the Russian Federation, and the United States of America. The members had met twice, once in April and then in June 2021, and during their second meeting agreed to work on a text that could assist the acting Chair and possibly provide a new basis for formal discussions during the following SCCR session to be held in a face-to-face format. The revised and consolidated text of October 2019 and the document the Committee, document SCCR/39/7 had been taken as a basis for the ongoing preparation of that new text which would remain a text of the Chair and yet to be presented and considered by the Committee. The Vice-Chair revealed that the work within the group of the Friends of the Chair was developing at a good and safe pace and its degree of expectation that any text could be submitted to the Committee in a timely manner, that would allow all delegations to properly prepare for discussions during the following physical SCCR session. The Vice-Chair hoped that the Committee would benefit from that informal preparation process and aid in ongoing substantive discussions.

23. The Chair thanked the Vice-Chair for the report and outlined a few ground rules for submissions and statements.

24. The Delegation of the United Kingdom reiterated the importance of updating the protection of broadcasting organizations with the view to reflect the current circumstances for the stakeholders and the crucial services they provided, perhaps ever more important or noticeable than during the current pandemic, as well as the diverse legal regimes and experiences of Member States. The Delegation observed the need to consider the challenges of adapting to working in the hybrid format and the difficulty it posed on text-based negotiations during the SCCR. Notwithstanding, the Delegation welcomed the opportunity to take stock of progress made in order to facilitate future work. The Delegation thanked the Chair and Vice-Chair for the update to the status of work, in particular ongoing informal work. The Delegation hoped that the work would foster further progress in the short-term and food for thought for the consideration of all Member States thus contributing to finding agreeable solutions in order to bring the treaty to a successful outcome. The Delegation believed that mutual understanding of the significant technological changes faced by broadcasting organizations, as well as the varying regimes and experiences of fellow Member States, was crucial to tackle those three meaningful, related treaty texts. The Delegation called for an approval of that SCCR to consolidate the understanding of the issues presented. The Delegation looked forward to the following SCCR and hoped to resume substantive discussions on that topic. The Delegation remained committed to discussions related to the protection of broadcasting organizations and towards a meaningful outcome that would reflect the interests and expense of Member States and their stakeholders as well as technological developments.

25. The Chair noted the essential role the understanding of technological revolution could undertake.

26. The Delegation of Georgia speaking on behalf of the Central European and Baltic States (CEBS) reiterated the importance of the treaty on the protection of broadcasting organizations. CEBS considered the discussions on the broadcasting treaty to be the central element of the SCCR. At the same time, CEBS noted the progress made on that issue at the previous SCCR sessions. CEBS thanked the Chair and Vice-Chair for the update on ongoing informal work. CEBS acknowledged the latest technological developments and the need to protect different

types of transmissions from possible acts of piracy, especially in relation to the transmissions of traditional broadcasting organizations, or computer networks such as simultaneous or catch-up transmissions. The Delegation found it extremely important to reach a common understanding on all the outstanding issues. Only a broad consensus on what kind of protection would be granted to the broadcasting organizations could result in a meaningful and future proof treaty. CEBS reiterated its commitment to the future work, and the treaty producing a meaningful outcome.

27. The Delegation of China emphasized the importance of protecting broadcasting organizations. The Delegation reaffirmed its commitment to support and enhance the work of the Committee. The Delegation looked forward to in-person discussions to reach greater consensus so that we can promote the general assembly that may facilitate a treaty to protect the broadcasting organizations.

28. The Chair thanked the Delegation of China for reaffirming their availability.

29. The Delegation of South Africa speaking on behalf of the African Group thanked the Chair and Vice-Chair for the briefing which discussed the importance of the work that was being done by the informal group of the Friends of the Chair. While the group was fully aware of the full work that had been conducted, it was important to receive an update on the informal work that had been carried out by the Friends of the Chair and to know how that work fits into the formal processes of the Committee. The African Group considered transparency, a key principle on which the work of the Committee should be based, and as such, the Group acknowledged the information provided to all Member States and hoped for consensus. The African Group noted that though Friends of the Chair was an informal group established by the Chair, and did not necessarily require the Committee's approval, the Group believed that the makeup of the group should be diverse and reflect the makeup of the Member States of WIPO. The Committee found itself unable to conduct the necessary discussions and negotiations that would allow progress on the text of the broadcasting treaty. That created added delays to the already protracted negotiations on the subject. The African Group hoped that when the normal sessions of the SCCR resumed, the Committee would return to the negotiating table with renewed impetus to renew the draft treaty. The African Group stressed that the text of the broadcasting treaty should be balanced and take into consideration the interests of various stakeholders, while remaining true to the mandate demanded by the general assembly. The protection of broadcasting organizations remained an important priority, adding the need to keep in mind the important role of broadcasters in transmitting information and knowledge, despite the proliferation of other platforms, millions of people still rely on traditional broadcasting organizations for their everyday consumption of a variety of content. The text of the broadcasting treaty should therefore not negatively impact on the access to information, culture and education. The African Group pledged support to work with other delegations to reach consensus on the remaining issues.

30. The Chair thanked the Delegation of South Africa for the recommendations and the importance of access to education.

31. The Delegation of the Russian Federation expressed readiness to work towards a constructive discussion of the issue. The Delegation believed that the Committee needed to work further on that. Despite the current conditions, delegations could still get closer to consensus on the issues of future work. The Delegation underlined that the agreement ought to be on the formulation of general directions and principles of protection for broadcasting organizations given the issue of official and we just need to confirm accurate conformity of the draft for languages for the program of the formulation and wording for the protection of broadcasting organizations. The Delegation observed the need to strengthen the rights of broadcasting organizations to re-endow themselves for rights and read translations. The

Delegation noted that there was a need to look again at protection for the exceptional right of broadcasting organizations within the number of television channels that were currently working. The Delegation noted that there was a need to work on issues of translation and also on the rights for keeping videos of the original translation for re-translation. The Delegation also added that there was a need to take into account current and future technologies in order to future proof the documents.

32. The Chair thanked the Delegation of the Russian Federation for their recommendations, the importance of the treaty to be taken into account and the harmonization of forthcoming texts readings in their different packages.

33. The Delegation of Indonesia thanked the Chair and the Secretariat for the preparation of that session. The Delegation aligned itself with the opening statement submitted by the Delegation of Bangladesh on behalf of the Asia and Pacific Group (APG). The Delegation was of the view that the broadcasting treaty was a delicate developmental issue which required careful balance. The Delegation supported the current signal-based approach and hoped that the broadcasting treaty could be completed in due course and thanked the Chair and Vice-Chair for the briefing on the informal works undertaken within the Friends of the Chair mechanism. In light of the ongoing COVID-19 pandemic where Members had agreed not to have a text-based negotiation, should there be any informal process, the Delegation hoped that such processes would be done in a transparent, open, and inclusive manner, without prejudice to any formal discussion within the SCCR session, especially if such informal process was done without any formal mandate from the committee. Hence, in the interest of transparency and inclusivity, the Delegation urged that such future discussions should include all the regional coordinators and interested members. The Delegation also cautioned that no formal agreements should be taken outside of the SCCR formal sessions. That was to ensure that concerns of all members were taken into consideration and there would be greater acceptability to the results of those informal sessions. With regard to the Delegation's area of interest, it hoped that one of the following steps in the deliberation on the broadcasting treaty would also address the Limitations and Exceptions provisions within the Chair's text. Limitations and Exceptions to broadcast rights were essential, including but not limited to, for the purpose of digital preservation, online education and research. The Delegation hoped that the treaty, as was the case with all WIPO copyright and related rights treaties would achieve a balance of exclusive rights and exceptions, taking into account the larger public interest, particularly on access to information.

34. The Chair thanked the Delegation for their support and noted their recommendation to include the representatives of all the regional groups to the friends of the Chair group and also ensure a balance achieved with all the interests concerned by the treaty of the protection of broadcasting organizations.

35. The Delegation of Mexico welcomed the opportunity to express comments to the work proposed for that session, with the desire that each of the projects make headway and the reflections which were outlined were fruitful for the short to medium-term outcomes. There was no doubt that the broadcasting organizations, asked for and required protection for all signal media transmissions which used new technologies, and in that regard, the Delegation was focused on key points in order to efficiently and fairly think and debate on aspects of the technical nature. Therefore, under certain principles already defined and with the proposed procedure the Delegation could cooperate to obtain a mature text for a posterior formal session of the Committee. The Delegation expressed readiness to contribute to the work required with great enthusiasm and under the methodology proposed and, in that way, to fulfill the objective of achieving a text with a greater consensus on the protection of broadcasting organizations. The Delegation observed that the protection of broadcasting organizations was an issue where the Committee would make headway. The Delegation stated that the Member States needed to reach a consensus on fundamental issues, including specific scope. The object of protection

and the rights would have to be granted to convene a diplomatic conference for the adoption of the treaty posteriorly. The Delegation welcomed the great effort made to continue with the consideration of that topic and the Committee and also recognized the work of the Chair and the Vice-Chairs to achieve this.

36. The Chair thanked the Delegation of Mexico for their readiness and availability to support the work of the Committee.

37. The Delegation of the European Union and its Member States stressed that the treaty on the protection of broadcasting organizations remained a high priority for the European Union and its Member States. In that respect, the Delegation recalled the 2019 WIPO General assembly mandated to the SCCR to continue its work, convening a diplomatic conference subject to certain conditions. The Delegation noted its readiness to advance work on the agenda item despite the prevailing circumstances. The Delegation added that it was imperative to assess the progress of ongoing discussions, including informal discussions held prior to that meeting. The Delegation also looked forward to having in-depth discussions again in the near future. The Delegation commended the Chair and Vice-Chair for the ongoing informal work and showed solidarity for the ongoing Friends of the Chair's work. The Delegation believed that would assist in making further progress in finding solutions for the remaining issues to be decided by the Committee. The European Union reaffirmed its stance that the Committee's work should result in a meaningful treaty that reflected the technological developments of the twenty-first century. Particularly, the transmissions of traditional broadcasting networks including over the internet or in international detection against acts of piracy. The Delegation also attached great importance to adequate rights to be granted which would allow the necessary protection for broadcasting organizations against acts of piracy, whether they occurred simultaneously with the protective transmissions, or after those transmissions had taken place. The Delegation called for meaningful discussions during that meeting and set the tone for subsequent months, despite the challenging circumstances, in order to reach a successful outcome on broadcasting organizations in the near future.

38. The Chair thanked the Delegation of the European Union and its Member States for reaffirming their position on the subject of the treaty.

39. The Delegation of Trinidad and Tobago applauded the tireless work of the SCCR and the Secretariat for its work in the preparation of the session. The Delegation revealed that Act 14 of 2020 of Trinidad and Tobago was proclaimed on June 15, 2020, to incorporate the provisions of the treaty into law. The Delegation indicated that that was being finalized with the national library and information systems authority of Trinidad and Tobago and the accessible books consortium of WIPO, to ensure that the authorized entity under the copyright act, could provide the large library of accessible format copies of works to the beneficiary persons in Trinidad and Tobago, in pursuance of the Marrakesh treaty. The Delegation thanked WIPO for their continuous support in making it a reality for beneficiary persons around the world. The Delegation applauded the focus of the SCCR and its relation to the protection of broadcasting organizations and was particularly appreciative of the update provided regarding the Friends of the Chair and their work. The Delegation also acknowledged the Committee's work on limitations and exceptions for libraries and archives as well as limitations and exceptions for educational and research institutions, and for persons with other disabilities. The Delegation hoped that it would culminate in the conclusion of an international instrument for broadcasting in the near future. The Delegation also looked forward to discussions on the various proposals presented to the SCCR, including the proposal for the analysis of copyright-related to the digital environment and the resale rights of the agenda of future work by the Committee, the proposal and strengthening the protection of the rights of theater directors of the international level and the proposal for the study focused on public lending rights. The Delegation looked forward to further collaboration with the Committee.

40. The Chair thanked the Delegation of Trinidad and Tobago for their show of commitment and solidarity to further the work of the Committee. The Chair was pleased with Trinidad and Tobago's position on the topic of the broadcasting organization treaty, and access to the Beijing and Marrakesh Treaties.

41. The Delegation of the United States of America pledged support for the ongoing work of protection for broadcasting organizations in the digital age, given the complexity of those issues both legally and technologically. The Delegation also noted the efforts of Member States and other participants for their involvement and deliberations on those complex issues. The Delegation participated in the Friends of the Chair meetings on April 12 and June 18, which were convened by the Chair and Vice-Chair. The Delegation also thanked WIPO staff for ongoing work to further discussions by attempting to create a clean text for consideration of the draft of the broadcasting treaty. The Delegation bemoaned the constraints imposed by COVID and opined that a virtual meeting was not an appropriate format for deliberations and negotiations regarding the text of the treaty. Nonetheless, the Delegation looked forward to exchanging views on possible following steps on the treaty in that section of the SCCR and resuming text-based negotiations.

42. The Chair thanked the Delegation for their support and looked forward to better conditions to hold in-person meetings. The Chair also acknowledged WIPO Staff for their immense contributions to the ongoing work.

43. The Delegation of Pakistan expressed commitment to the ongoing informal work on the text of the broadcasting treaty. The Delegation believed that the informal work should be more open and inclusive. The Delegation aligned itself with the proposal made by the Delegation of Indonesia to include the regional coordinators, and also the interested Member States during that important process. On the following steps, the Delegation called for service to larger public interests.

44. The Delegation of Brazil thanked the Chair and Vice-Chair for the briefing on the informal, ongoing work to build a consensual text for the negotiation. The Delegation showed solidarity in advancing the discussions in order to find common ground in the hopes of convening a diplomatic conference to finalize the treaty. The Delegation expressed readiness to contribute to that end once formal negotiations resumed.

45. The Delegation of Ecuador thanked Secretariat for their commitment towards the preparation of the session. The Delegation was happy about further progress towards a broadcasting treaty to protect broadcasting organizations under related rights. The Delegation thanked the Chair and friends of the Chair Group for the ongoing informal work. The Delegation recognized the challenges with regard to the scope of the treaty, and other aspects, nevertheless, it believed it was important to have an international instrument on that aspect. The Delegation expressed readiness to cooperate in future dialogue.

46. The Delegation of Japan thanked the Chair, Vice-Chair and Secretariat for their continuous effort towards the success of the Committee and the challenge in relation to the COVID-19 pandemic. The Delegation recognized that broadcast would keep playing an important role in the dissemination of works as well as public interest. In light of the importance of broadcast, the Delegation believed that the update of international protection for broadcasting should be achieved immediately. Considering the difference among Member States of the copyright systems and the regulatory systems for broadcast, providing flexibility could be a favorable approach for early adoption of that treaty. The Delegation thanked the Chair and Vice-Chair for sharing the information on the ongoing informal work. The Delegation expressed readiness to engage in further discussions in a constructive manner.

47. The Delegation of Chile thanked the Chair, Vice-Chair, Secretariat and Friends of the Chair for the ongoing work. The Delegation expressed commitment to ongoing negotiation of the treaty and was optimistic further negotiations would resume as ease of COVID-19 restrictions take place. Though the Delegation expressed disappointment in not participating in the ongoing informal work by Friends of the Chair group, it hoped to contribute in the future and called for more open and inclusive participation. The Delegation noted that though efforts had been undermined by COVID-19, it believed that it was important to make additional possibilities, additional options and additional transparency for those who were investing their time in resolving that issue. The Delegation pointed out the importance of a balanced approach between the normative provisions for protecting broadcasting organizations and the issue of exceptions and limitations

48. The Delegation of Malawi supported the statement made by the Delegation of South Africa on behalf of the African group. The Delegation thanked the Chair and Vice-Chair for the update on the informal work carried out by the Friends of the Chair. The Delegation also acknowledged the Secretariat for its work in preparation of the meeting and emphasized that the protection of broadcasting organizations was very crucial, and was optimistic that once circumstances permitted, negotiations would continue normally to achieve consensus on the remaining issues.

49. The Delegation of Colombia thanked the Chair and Vice-Chair for the interim work conducted and believed that it would help in overcoming the challenges and would lead to having a consolidated text at the following session. The Delegation stated its readiness to be a part of the working group and reiterated its position to consolidate and work supporting the consolidation of a legal instrument, a binding legal instrument for the protection of broadcasting organizations. The Delegation added that the Committee needed to continue working on a text in order to find a consolidated text that could lead to the calling of a diplomatic conference and pointed out that such protection needed to be provided through a binding, international, legal instrument, to make progress alongside the existing international conventions to ensure protection that future proofs for the digital age. The Delegation believed that there were useful initiatives in several Member States with regard to the protection of broadcasting organizations. The Delegation thanked the Chair, Vice-Chair and the Secretariat for the proposal to be presented in the following session and finally reach a consensus.

50. The Delegation of the Islamic Republic of Iran bemoaned the unprecedented and challenging circumstances caused by the COVID-19 pandemic which had stalled substantive textual discussions and deliberations on those issues. The Delegation called for a collective effort to reach a consensus on how to respond to the needs of the broadcasting organizations while preserving the rights of the public and accessing information. Safeguarding the balance of rights had been in the public interest and was an essential element that should be taken into account in further discussions about the broadcasting treaty. Conditional broadcasting continued to play a key role in accessing knowledge and culture in many countries so it's imperative to take that agenda forward without creating a new layer of rights which could negatively affect the right to access information. The Delegation noted the fact there were some issues which required more discussion with Member States. The Delegation looked forward to continued discussion for a common understanding of how they did not take conference on broadcasting pretty.

51. The Delegation of France thanked the Chair, Vice-Chair and the Secretariat for the work conducted to prepare for that session of the SCCR. The Delegation aligned itself with the statement made by Group B and the Delegation of the United Kingdom speaking on behalf of Group and the European Union and its Member States.

52. The Delegation of Canada pointed out the unique challenges happening in the forum, and commended everyone for their continued interest and engagement on that important agenda item. The Delegation looked forward to continuing in-person discussions with international colleagues to find a mutually workable treaty solution. The Delegation opined that broadcast signal protection was important to combat piracy. The Delegation believed that a flexible approach that takes into account the unique needs and circumstances of each Member State's domestic regime was the most appropriate and effective way to achieve the goal and ultimately reach consensus on an instrument. Each respective regime had been developed in response to different cultural and practical concerns. The Delegation believed that there was room to account for those differences while also ensuring that the level of protection granted was clear and sufficient. The Delegation illustrated the diversity of Member States' regimes while emphasizing their common goals and outcomes by offering the Canadian example. The Delegation noted that Canadian law provided signal protection and combated piracy in numerous effective ways that did not include an exclusive right for broadcasters to authorize all retransmissions of their signals. Model of protection developed from many practical concerns, such as a need to facilitate the wide distribution of certain broadcasts across our large territory and its remote locations. The Delegation noted this helps to maintain its national identity, its diverse cultural and linguistic heritage and broad access to important information. Although Canadian law provided a relatively limited retransmission right compared to some other Member States, it was complemented by many other protections for broadcasters, which were implemented through national copyright legislation and other various statutes. Some examples of broadcaster protection include: other exclusive rights in respect of their signals; exclusive rights of content embodied in broadcasters' signals, such as compilations of their "broadcast flows," productions of live events, including live sporting events, and content that broadcasters own or license numerous anti-piracy prohibitions against the unauthorized decryption of satellite signals; prohibitions against technological protection measure circumvention and the removal or alteration of rights management information; and a robust regulatory scheme for re-transmitters. The Delegation welcomed hearing more about other Member States' domestic regimes. The Delegation expected that goals and outcomes have more in common than the forms of regimes may suggest. In addition, in order to agree on what constitutes sufficient protection, it was essential to build a mutual understanding of the technical definitions and concepts under discussion. To facilitate this, the Delegation would like to repeat its request for an updated "terms and concepts" document, building upon the Committee's previous work in document SCCR/8/INF/1. The update would be done best with participation and input from all members. The Delegation looked forward to the discussion of those issues and related issues in future sessions. The Delegation hoped to come to a greater mutual understanding of Member States' domestic protections and identify compromises where necessary in order to accommodate each other's various regimes.

53. The Chair noted two main concerns presented by the Delegation of Canada: the need to take account the specificity of the local and national level and also the importance of an updated document which into account concepts and definitions that were current.

54. The Delegation of India thanked the Chair and stated that it supported the treaty for the protection of broadcasting organizations. The Delegation believed that the Committee would work towards concerns and would address all the key issues on the definition of the protection of broadcasting organizations. The Delegation stated that it would share detailed views under the agenda items. As far as limitations and exceptions were concerned, in order to maintain an appropriate balance between the rightsholders and users, copyright laws allow certain limitations of rights, including cases in which protected works could be used without the authorization of the rightsholders. The speeches made at the time of the thirty-ninth session were taken forward in the fortieth session on limitations necessary for the benefit of libraries, archives, educational and research institutions and persons with disabilities. The Delegation supported the limitations and exceptions being proposed and looked forward to engaging with

more details in subsequent sessions.

55. The Chair explained that the Vice-Chair would give further clarifications on the issue of broadcasting. The Chair observed that the issue of transparency was one of the greatest concerns. The Chair pointed out that it must not do anything without sharing the groups for facilitation in the intersectional period in order to try and make progress. There had been a number of stages, all of that would be shared with everyone and discussed with everyone and that was a condition that had been set in order to achieve consensus.

56. The Chair thanked the Representative of the Knowledge Ecology International (KEI) for their recommendations.

57. The Representative of Communia observed that it understood that the legal streaming of broadcasting signals was a serious issue, but the type of protection that was being discussed by the Committee type was also a serious issue. The Representative recalled the broadcast in most countries already enjoyed solid protection against piracy and other unauthorized users. Broadcasters gained protection under copyright laws, fair competition and criminal law. The Representative recalled that much of the content, in addition to TV and Radio, remote learning had emerged in the past year in relation to the pandemic. A treaty that created an additional layer of rights and ignored the source, and cultural needs related, failed society as a whole. No new rights could be mandated that the corresponding exceptions and no perpetual right should be given over public domain and free licensed content.

58. The Chair thanked the Representative of Communia for their recommendations and the issue of transparency and the concern of access to culture.

59. The Representative of the European Broadcasting Union (EBU) hoped that the delegations were enjoying the ongoing European Football Championships for men. Now, this championship was televised both in high quality, by broadcasts. The Representative noted that it would deliver service under all circumstances and even more so during the COVID-19 pandemic. In broadcasting, there were no delays. The Representative noted that all things in broadcasting had to be done accurately and in due time. The Representative noted that for broadcasters, 23 years of delay for a treaty was quite difficult to understand and called for the need to reach consensus. Also in between meetings, the 2019 General Assembly had set out a clear workplan which was still valid. The agenda was still intact as the Chair stated in his introduction. It was, of course, aimed at the following Committee meetings. The Representative called for a win-win situation and looked forward to the winner of the best treaty draft win at the subsequent Committee meeting.

60. The Representative of the Japan Commercial Broadcasters Association (JBA) explained that the issue of protection of broadcasting organizations was a broad cross-cutting issue. The Representative recognized that under the mandate of the 2019 General Assembly, the SCCR was convened to create a conference for the creation of a treaty for the protection of broadcasting organizations, for the 2020 and 2021 biennium, subject to Member States reaching consensus on the fundamental issues. Unfortunately, the pandemic had interrupted work, however, the spirit of the mandate of 2019 would not be changed. Although it would be difficult to make substantial progress on the discussion by hybrid format, JBA believed that Member States needed to accelerate the discussion for adoption of a broadcasting treaty. As Member States recognized that the earliest adoption of a broadcasting treaty was a vital and urgent issue for the broadcasters across the globe. Because there was a great need among members for an effective international instrument to combat piracy over the internet which was becoming more serious and complicated in the digital age. To proceed with the discussion, the Representative suggested that the Committee should seek possible options such as holding an extra special session for the broadcasting treaty immediately after the end of the pandemic.

61. The Representative of the Electronic Information for Libraries (EIFL) thanked the Chair and Vice-Chair for the update on informal work on the broadcast treaty that had taken place in 2021. The Representative stated that document SCCR/39/7, Revised Consolidated Text on Definitions, Object of Protection, Rights to be Granted and Other Issues, included two issues of high importance to libraries that remained open for further discussion: term of protection and circumvention of technological protection measures. The outcome of discussions on those issues directly impacted education, research and community services provided by libraries, for example, university libraries provided access to broadcast films as primary research material for students, and public libraries showed educational TV programs to children. The Representative noted the Chair's reassurance on transparency so that the negotiations would be open and all stakeholders would be kept duly updated and informed. Second, the Preamble stated the desire to protect broadcast rights 'in a manner as balanced and effective as possible.' However, the current text did not achieve that balance. First, the article on limitations and exceptions was optional; second, it did not provide for specific exceptions such as teaching and research, like the Rome Convention; third, it did not include exceptions that were mandatory in other treaties, e.g., Berne quotation right, or Marrakesh disability provisions and it limits policy space by setting a ceiling on exceptions that countries could have for broadcasting. The Representative suggested that to ensure balanced access to broadcast content for public interest purposes, including long-term preservation, exceptions and limitations should be properly addressed in any new treaty.

62. The Chair thanked the Representative of EIFL for making reference to document SCCR/39/7 and the recommendations made.

63. The Representative of the Copyright Research and Information Centre (CRIC) acknowledged that under the protection of broadcasting organizations, the 2019 General Assembly invited the SCCR to continue its work to convening a diplomatic conference for the adoption of the treaty on the protection of broadcasting organizations, aiming for the 2020-2021 biennial subject to member state reaching consensus on the SCCR of the fundamental issues. The Representative bemoaned the inability to hold the SCCR in the normal style due to the pandemic, which had made it impossible to have substantial discussions to finalize the text. But, looking from different perspectives, the pandemic of COVID-19 had shown the importance of broadcasting more than ever before, because under the situation, accurate information was very essential. The internet has been spreading and a huge amount of information continues to be transmitted to the people of the world through the internet, but its reliability has not been established on websites. On the other hand, piracy of broadcasting over the internet was increasing rapidly. The Representative called for a need to establish a broadcasting treaty as a minimum international standard as soon as possible and believed the momentum of Member States would be maintained after the pandemic. CRIC called for special sessions for the broadcasting treaty to finalize the remaining issues swiftly.

64. The Representative of the Asia-Pacific Broadcasting Union (ABU) observed the delay on the work on the broadcasting treaty due to the pandemic. ABU noted that the instruction provided a binding mandate for the SCCR to overcome the last obstacle for surveying a consensus for the outstanding issue for implementing the treaty in the 2022/23 biennium by autumn by the latest. ABU implored the SCCR to observe the best process for finalizing the draft text. The Representative emphasized that the broadcasters in the Asia-Pacific region were affected by broadcasting piracy, and the treaty had been an ongoing discussion for more than two years. The Representative urged the Committee to focus and remain committed to finalize the treaty and protect all the broadcasting interests.

65. The Representative of Alianza de Radiodifusores Iberoamericanos para la Propiedad Intelectual (ARIP) pointed out the instructions of the 2019 General Assembly, with a view to

convene a diplomatic conference for the biennium. That was still an obligatory mandate, that biennium of 2020/21 would have to move on to the following of 2022/23 due to the pandemic. ARIPI urged the Committee to continue seeking to finalize the copy of the treaty, and that was proposed with the rest of the other broadcasting organizations in a work plan with specific deadlines of what the friends of the Chair were doing depending on document SCCR/39/7 to come up with a basic proposal within a work plan which was rather transparent. Because the friends of the Chair were going to deal with their work, come up with their positions, and then finalize and deal with the last point, ARIPI called for the document to be sent around to the Committee in December 2021 or in January 2022, with a view that the Committee adopt the proposed treaty. In a plenary session which had been discussed and approved, there would be an extraordinary session of the 2022 General Assembly which would then convene the diplomatic conference.

66. The Representative of Education International (EI) reaffirmed the educators and researcher's availability and desire to work with all stakeholders to advance the SCCR agenda on limitations and exceptions for use in education and research. The Representative shared the perspectives of teachers, researchers and education support personnel who relied on works for teaching and learning. The use of copyrighted materials for teaching and learning was a fundamental part of the right to education and SDG4 on quality education, including access to and the use of broadcasting signals and their content. According to surveys organized by UNESCO and EI, during the lockdowns caused by COVID-19, TV and radio-based education was offered in most countries worldwide. That meant that exceptions and limitations for educational and research purposes that apply to the type of subject matter were more important than ever. The Committee needed to adequately address them in the current discussions towards the creation of new exclusive rights for broadcasters. A positive proposal would, for instance, be to build upon the alternative text contained in the Revised Consolidated Text on Definitions, Object of Protection, Rights to be Granted and Other Issues, document SCCR/37/8, and make the list of exceptions therein mandatory, while protecting countries' ability to adopt further limitations and exceptions as permitted in other international agreements. The Representative hoped that the voice of teachers and researchers would be heard and be taken into consideration by delegates in the negotiations ahead.

67. The Representative of the North American Broadcasters Association (NABA) expressed appreciation to the Chair and Vice-Chair for the report on the informal record of the Friends of the Chair group on the challenging and limiting circumstances. NABA looked forward to a new text document for the following SCCR. In 2019, the General assembly adopted a resolution committing to continue focused work on the Broadcasters' Treaty leading to a possible diplomatic conference in the 2020/21 biennium. Given the interruption of work due to the pandemic, NABA proposed it would be appropriate for the Committee to request AGA at its meeting in 2021 to affirm the commitment and reset the timeframe for a diplomatic conference to the 2022/23 timeframe for a diplomatic conference. NABA looked forward to physical meetings in the coming year to make the goal achievable.

68. The Representative of the Intellectual Property Latin American School (ELAPI) noted that the broadcasting treaty was a golden opportunity to secure coverage and provide a solution to the digital divide, and the need to consolidate the rights which would bring in a just and fair use of copyright. Fair use means a fair distribution, which leads to improvements for authors and all the other members in the chain of rights and of course recreation to be maintained. That was an opportunity after 23 years of negotiation to include the technology progress which had accidentally increased in past times and the need to be envisaged in the treaty. As an academic body, the Representative stated that ELAPI was ready to cooperate with the Committee, specifically to bring those negotiations forward.

69. The Representative of Innovarte urged Member States to carefully revise and improve the

current provision needed to prevent that if adopted, the broadcasting treaty would create a barrier to legitimate uses and access to information, works and performances in all formats that are communicated through signals to be covered by the treaty. Innovarte noted that the current COVID-19 emergency had shown the need to be flexible when applying intellectual property obligations to protect public health and public interest in general. Countries with more balanced systems had been able to respond more effectively to the pandemic. Yet balance was also a need under normal times. The lack of uncertainty of interpretation with regard to exceptions and limitations permitted in international treaties created devastating effects on the public interest. For example, what the blind union called the famine for accessible formats or the impediments for preservation or online digital education that for many years library and educators had shown. Innovarte noted that if the Committee was going to adopt a new instrument that would create an additional layer of restriction for the access and use of information and knowledge transmitted in broadcast signals, it was essential to include a robust set of protections for balance in the new treaty. But, on the contrary, the current “Revised Consolidated Text on Definitions, Object of Protection, Rights to be Granted and Other Issues” instead of assuring the needed flexibilities was creating more restrictions, even to those permitted by the Rome Convention and the TRIPS Agreement. The Representative noted that neither the Rome Convention nor TRIPS subject exceptions and limitations to broadcasters’ rights to the three-step test and on the contrary, provided a list of permissible matters for exceptions without reference to such test. The experience of 17 years discussing the exception agenda at the Committee, including the success of the Marrakech Treaty, had shown that there was a need for mandatory exceptions to prevent undesired side effects of intellectual property. Also, that to include obligations to provide balance was key for the legitimacy of the copyright system. The Representative called on Member States considering existing precedents of international and national law, to include the following provisions: 1. Obligations to maintain balance among rightsholders and users, for example, modeled from TPP 11 provision of balance; 2. Minimum mandatory exceptions including those in Rome plus others, like for text and data mining, preservation, machine learning, online education, to mention some; 3. Security Exception and public order, for example, modeling for Art. 73 TRIPS, Doha Declaration on Public Health or 18 Berne; 4. Limitations for the use of Orphan signals; 5. Reservations to provide remuneration rights instead exclusive rights, which while protecting economic interest would not prevent access; 6 Prohibition for Technological Protection Measures to override exceptions, modeling in the Marrakech Treaty; 7. Prohibition of Contracts override exceptions and limitations. The Representative stated that the Proposal of Model Provisions should include in the broadcast treaty text a balance of interest and protection of public order including: 1. Obligation to maintain balance of interest of rightsholders and users “when implementing this Treaty, each Party shall ensure the protection provided by this Convention, does not prejudice legitimate or normal uses of signals or other protected mater such, but not limited to: criticism; comment; news reporting; parody, teaching, scholarship, research, libraries, museums and archives services, access for persons with disabilities and other similar purposes”; 2. Minimum exceptions mandatory exceptions “for greater certainty. The subparagraph should include exceptions to the protection guaranteed by this convention as regards: (a) private use; (b) use of short excerpts in connection with the reporting of current events; (c) ephemeral fixation by a broadcasting organization by means of its own facilities and for its own broadcasts; (d) use for the purposes of teaching or research, including but not limited to data and text mining; e) use for the purpose of library, archives, museums services; f) use for the purpose of providing access to persons with disabilities; g) use for legitimate transformative use, including parody; h) public order, national security, protection of competition or emergencies; i) climate change; j) linking; k) machine learning activities; 3. Security Exception. “Nothing in this Agreement shall be construed: a) to prevent a Member from taking any action which it considers necessary for the protection of its essential security interests, including but not limited to national health emergencies; (b) to prevent a Member from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security, including international health emergencies.” 4. Use Orphan Signals “The use of published

orphan signals shall be permissible, if the signal has already been published, the rightsholder of which could not be established or traced despite a diligent search. The institution using the work shall document its diligent search according to national law". 5. Reservation to provide remuneration rights instead of exclusive rights. Any Contracting Party may, in a notification deposited with the Director General of WIPO, declare that it will apply all or some of the rights granted on this Treaty only as remuneration rights subject to an equitable remuneration, according to with national law to protect the public interest. 6. Exception and Technological Protection Measures. Contracting Parties shall take appropriate measures, as necessary, to ensure that when they provide adequate legal protection and effective legal remedies against the circumvention of effective technological measures, this legal protection does not prevent users enjoying the limitations and exceptions mandates or permitted in this Treaty 7. Prohibition of Contracts override exceptions and limitations. Contractual provisions which are contrary to the exceptions and limitations provided in this Treaty shall be null and void according to national law.

70. The Representative of the Program on Information Justice and Intellectual Property (PIJIP) noted that the agenda for SCCR/41 asked for comments on possible following steps on various discussions in the Committee. One needed follow-up step was to address the limitations and exceptions provision. The provision was currently more limited than the exceptions provided under the Rome Convention and failed to incorporate any of the priorities of the action plans on limitations and exceptions on preservation, online uses, and cross border uses for libraries, archives, museums, education, research, and people with disabilities. The provision required significant expansion to ensure that the broadcasting treaty was balanced and did not harm the public interest. A core goal of WIPO copyright and related rights treaties includes to achieve a balance of exclusive rights and exceptions to "serve the larger public interest, particularly education, research and access to information." Special attention to limitations and exceptions needed to protect development-oriented policies and a rich public domain was called for in the development agenda recommendations. The broadcasting treaty was one process where the Committee could develop provisions of "instruments (whether model law, joint recommendation, treaty and/or other forms)" to promote the needs of libraries, archives, museums, education and research. UN document WO/GA/41/14 (Aug. 13, 2012) stated that exceptions to broadcast rights were essential for the priorities identified in the limitations and exceptions agenda, including for digital preservation, and online education and research as broadcasts were used, for example, to help train speech translation tools, and to provide accessible content in different languages. Significantly, exceptions were needed to enable broadcasts to provide effective service to their customers. For example, one broadcaster might need to quote content created by another broadcaster for the purpose of conveying important news or healthcare information to the public. The current limitations and exceptions provision in the Chair's Consolidated Draft of the Broadcast Treaty offered less protection for public interest purposes than the Rome Convention. The Chair's text suggested that countries may have exceptions to broadcast only for matters reflected in a country's copyright law. The Rome Convention explicitly authorizes exceptions beyond those contained in copyright. The broadcast proposal also failed to include the Rome Convention's explicit authorization of special exceptions for Broadcast, including "ephemeral fixation by a broadcasting organization by means of its own facilities and for its own broadcasts," and of "compulsory licenses ... to the extent to which they were compatible with the Convention." The broadcast treaty presents an opportunity to improve the Rome Convention's limitations and exceptions provision, including with lessons learned from the action plan on limitations and exceptions. First, it could solve the problem of broadcast rights blocking uses permitted by copyright by requiring that exceptions for copyright extend to broadcast rights, including for quotation, news of the day, and providing accessible formats for people with visual impairments. Second, it could expressly require exceptions to exclusive rights in broadcast for the priorities of the action plans, i.e., for preservation, online uses, and cross-border uses for libraries, archives, museums, education, research and to provide access to people with disabilities.

71. The Representative of Communia expressed support for PIJIP's call for greater transparency. Communia noted that illegal streaming of broadcast signals was a serious issue, but the type of protection that was being discussed by the Committee posed serious obstacles to access to culture, knowledge and information. The Representative recalled that broadcasters in most countries already enjoyed solid legal protection against signal piracy and other unauthorized uses. Broadcasters could invoke protection under copyright laws, unfair competition laws and criminal laws. Communia recalled that much of the content that broadcasters transmit was of cultural importance. In addition, radio and TV-based remote learning had re-emerged in the past year, in response to the pandemic. Thus, a treaty that creates an additional layer of rights and ignores the societal and cultural needs related to access and reuse of broadcasts ultimately failed the society as a whole. No new rights should be mandated without the corresponding exceptions, and no perpetual rights should be given over public domain and freely licensed content.

72. The Representative of the International Council on Archives (ICA) and the Society of American Archivists (SAA) explained that because the audio and visual content of broadcasts was often of long-term cultural and educational value to society, ICA and SAA had important concerns with the current proposal for a broadcasting treaty as reflected in the Chair's Revised Consolidated Text on Definitions, Object of Protection, Rights to be Granted and Other Issues, document SCCR/39/7. The holdings of many archives include fixations of the programs and newscasts of broadcasting organizations. Those works provided important evidence of the social, cultural, political, and historical life of communities and nations. Thus, when a treaty to enhance the rights of broadcasting organizations extends to post-fixation rights, archives should take notice to ensure fair access to broadcast content. The SCCR 41 agenda called for several steps regarding the broadcasting treaty. Top priority should be given to redrafting the limitations and exceptions provision. The Representative observed that the provision was deeply flawed. It was notably weaker than the exceptions provided under the Rome Convention, which permit exceptions beyond those contained in copyright. Furthermore, it failed to incorporate any of the priorities identified in the SCCR's limitations and exceptions agenda, i.e., preservation, online sharing, and cross-border uses for libraries, archives, museums, education, research, and people with disabilities. Of particular concern was that the proposed broadcasting treaty left limitations and exceptions as optional, which reflected a lack of concern for the public's enduring interest in the content of broadcasts. The preamble of the Chair's Revised Consolidated Text stated the desire to protect broadcast rights "in a manner as balanced and effective as possible." However, the current text did not achieve that balance. Thus, to ensure balanced access to broadcast content for public interest purposes, including long-term preservation, more substantial exceptions and limitations had to be mandated in any new treaty. The Representative looked forward to open and transparent discussions going forward so that the negotiations would be open, and all stakeholders would be duly updated and informed.

73. The Representative of the Knowledge Ecology International (KEI) stated that new measures to address signal theft were one thing. But granting durable post-fixation rights to entities that just retransmit works by authors, performers, and producers was a bad idea. Post-fixation rights are controversial because they create thickets of related rights that make it more costly and difficult to clear, lead to perpetual protection if assigned at the time of each broadcast, and create a massive expansion of rights to non-creative entities, if extended to webcasting. While some negotiators see the WIPO broadcasting treaty as a treaty that will benefit local broadcasters, that is likely to be true only in the short term. And even in the short term, the more ambitious versions of the treaty are also designed to create economic rights for large foreign corporations that "schedule the content" for cable and satellite channels, such as Disney, Vivendi, and AT&T. In the longer run, the treaty would create a new legal regime that will establish rights for giant technology firms largely based in the United States or Europe, that are creating global platforms for video and sound recording content, including Amazon Prime,

Netflix, Hulu, YouTube, Twitter, Facebook, Spotify, Apple Music, and Pandora, all companies that could qualify as broadcasters by owning a single broadcast station. The predictable outcome of any new intellectual property rights for broadcasting that included transmissions, delivered at the time and choosing of the user, would be to give these companies intellectual property rights in someone else's creative works. Regarding the work of the friends of the Chair in relation to the broadcasting treaty, KEI implored WIPO to provide further details of the textual proposals submitted thus far.

74. The International Federation of Library Associations and Institutions (IFLA) observed many institutions working to ensure the long-term survival of broadcast content, as a vital component of the historical record of societies. Many more draw on it in their work to support education, research, and the enjoyment of cultural rights, not least drawing on existing exceptions and limitations to copyright. It was therefore concerning that current texts did not even go as far as the Rome Convention in ensuring that libraries and others could carry out their public interest missions. At a minimum, it was vital to extend existing exceptions and limitations to any broadcasting rights, while the Committee could do better still by mandating core exceptions for public interest goals such as preservation and access for education and research purposes. IFLA welcomed the contributions made by the Delegations of South Africa, Indonesia, Pakistan, Iran, and Chile in calling for a stronger consideration of the need for balance, in order to avoid the work of libraries and other public interest institutions becoming collateral damage. IFLA hoped that the results of the work of the Friends of the Chair were presented, and the time came for more formal discussion about broadcasting, due attention would be paid to exceptions.

75. The Representative of Centre for Internet and Society (CIS) revealed that in the Asia-Pacific region where there was a digital divide in many countries, radio and TV-based broadcasting had been instrumental in meeting quality education requirements during COVID. It would be invaluable and forward-looking for an international broadcasting treaty to have adequate limitations and exceptions for another limiting scenario like COVID. CIS proposed more deliberations on that aspect.

76. The Chair invited the Vice-Chair to provide some clarifications on submissions made.

77. The Vice-Chair thanked all stakeholders for expressing their interests and views on the informal work. The Vice-Chair indicated the recap at the beginning of that agenda point some issues on the ongoing work. The Vice-Chair noted that the basis of the work was still document SCCR/39/7, and that provided the basis of the work. The Vice-Chair added that it was a preliminary phase which was the first opportunity the SCCR, during which could provide information to the Committee. The Vice-Chair revealed that the group met on June 18 on how to advance its work, and that had already been informed to the group coordinators during the preparatory phase of that Committee meeting. The Vice-Chair noted that the outcome of that work further would become a draft Chair's text which needed to become an official text, with the SCCR, the Member States and all of the observers would be able to provide their views and suggestions on it. So, that was just a preliminary phase to help the following SCCR meeting, everyone could express there. The Vice-Chair noted the need for transparency and assured of further ways of providing more information, even before the formal SCCR sessions so that that process could be followed by everyone closely and that they could be prepared for the following meetings.

78. The Delegation of Indonesia acknowledged the clarifications made by the Vice-Chair. The Delegation requested further clarifications with regard to the Vice-Chair's submissions. The Delegation sought to find out the way forward with the friends of the Chair. The Delegation also wanted to find out the difference between the two texts.

79. The Vice-Chair explained that two meetings one at the beginning of April and the other on June 18 had been held in the informal format. The Vice-Chair stated that the group had agreed to work on a text on the basis of the previous Chair's text, in order to eliminate some alternatives and provide some compromises within the text, just for the SCCR meeting so that members could have their views on it. So, in effect, it would just be a Chair's text.

80. The Delegation of Indonesia asked if the group would continue its work with the same composition of the group. The Delegation also sought that even if held informally, the text, agreements, and composition of the group be shared with all Member States, or published before any formal meeting of the SCCR. The Delegation wanted details on the group's discussions, especially if the composition would not change, otherwise, the problem with transparency would not be addressed.

81. The Chair indicated that with regard to the issue of the composition of the group, the proposals had been noted and there would be a follow-up. However, the Chair indicated that there was a need for balance and fair representation. The Chair added that engagements would be done with all stakeholders so it was not necessary for every single delegation to be present. The Chair took into account all the points that had been made and pledged commitment to ensure there was the best possible representation. The Chair noted that it was necessary for the Committee to work in a way which would facilitate the future work of the SCCR. So, in the intersessional period, interested parties or all stakeholders could get involved. The Chair added that an indicative timetable had been drawn and it would be flexible.

82. The Delegation of Pakistan endorsed the comments made by the Delegation of Indonesia. Regarding the ongoing informal work in WIPO on the future broadcasting treaty, the Delegation noted that it would not be very useful to include every delegation so that there was a representation of the diversity of points of view. The Delegation looked forward to seeing the kind of mechanism which was more inclusive. The Delegation called for a more inclusive and more transparent informal process.

83. The Chair reassured the Delegation of Pakistan that bringing together points of view meant accepting other points of view which was the basis of the Friends of the Chair. Adding that no method of work was ever perfect, between intentions and reality, obviously, there was a difference. The Chair reiterated its readiness to take into account the concerns that had been raised and push for more inclusive participation.

84. The Delegation of the United Arab Emirates echoed efforts for moving the SCCR work forward. The Delegation pointed out the concerns of transparency, and also emphasized the issue of inclusive participation. The Delegation called for the inclusion of regional coordinators in order to promote transparency for all the groups as it had also been brought by other Committees in WIPO.

85. The Chair thanked the Delegation for their recommendations and suggestions on the inclusion of regional coordinators and the need for transparency.

86. The Delegation of Indonesia was pleased to hear the problems of inclusiveness and transparency would be addressed. Nonetheless, the Delegation pointed out the need to understand the criteria to agree that a certain composition of Member States would be included and whether or not the same amount of Member States from different regional groups would be represented. The Delegation also expressed interest in joining the Friends of the Chair group.

87. The Chair pointed out the need to take note and reflect before making those decisions. It was important to reflect rationally with regard to the criteria and to see whether or not the criteria that was used by the previous Chair was no longer considered adequate. The only commitment

the Chair could make was that the principle of having the best possible inclusiveness and the most optimal transparency was very much accepted and would be worked on. Based on submissions and statements made by speakers, the Chair noted that everyone was willing to see progress made with the treaty. There were concerns linked to the issues of exceptions and limitations, which of course were crosscutting issues that, not just for this treaty but, with other treaties but they would need to be dealt with specifically within the treaty. The Chair noted concerns raised with regards to transparency and also the inclusiveness of the group working on preparation and professionally, and on the proposals that had been made for improving inclusiveness. The Chair expressed commitment to revert on those issues with some clear answers based on rational criteria, which would enable everyone, to be involved in the intersectional work. The Chair hoped that would help to make progress, and also to provide adequate prior information in a timely manner, when there were going to be intersectional periods so that people could prepare, especially for substantive discussions. The Chair invited the Secretariat to make announcements.

88. The Secretariat asked participants to send any comments, corrections and additional statements. The Secretariat stated that statements would be published on the website on an ongoing basis. Those could be either statements that were not delivered in the meeting at all, or statements that were delivered in the meeting or finally statements delivered in abbreviated format in the meeting. The report from the previous session was available on the website and comments, corrections or clarifications could be sent to copyright.mail@wipo.int.

AGENDA ITEM 6: LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES

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

89. The Chair welcomed all stakeholders to the Committee meeting. The Chair stated that the meeting would begin with deliberations on Agenda Item 6 on limitations and exceptions for libraries and archives, then Agenda Item 7, and limitations and exceptions for educational and research institutions and persons with other disabilities, Agenda Item 7. The Chair invited the members, the intergovernmental organizations and the non-governmental organizations to make general observations or comments. The Chair indicated that during the previous session, a report was submitted by the Secretariat on the work undertaken within the framework of two plans of action which led to an international conference held in 2019 in Geneva. The Chair pointed out that because sessions were being held in hybrid format, the report did not give rise to a discussion on the follow-up to give to that topic to be dealt with. In that context, called on stakeholders to make general observations, and if necessary, to make proposals on future work. Interventions were limited to three minutes for the Member States, and two minutes for the observers.

90. The Delegation of Bangladesh expressed appreciation to the Secretariat for their excellent preparation for the meeting. The Delegation thanked the Chair for the invitation to make comments on the report of regional and international conferences and possible following steps. The Delegation recalled the initiative of Report on Regional Seminars and International Conference in previous sessions and took note of the report. The Delegation looked forward to building upon the considerations with the discussions of international conferences. The Delegation opined that COVID-19 had greatly affected all phases of our lives, including the IP area and areas of copyright and related rights including limitations and exceptions which were no different. It was evident that the advent of the pandemic caused the largest disruption in the sectors of copyright and related rights across the world. Authors, publishers and the creative industries went through so many challenges. Educational institutions were shut down and the traditional mode of teaching was shifted to online classes. Libraries, academics and students

faced a lot of difficulties to access online resources in many countries, both in terms of available online educational and resource materials, as well as technical issues. Moreover, all the countries did not have the same technical and technological capacity as well as the enrolment of online resources to fairly benefit from the e-learning system. This had been an unprecedented experience. The countries, particularly the developing ones were still struggling with the consequences of the pandemic in the areas of education, research, culture and knowledge. In that case, cross-border cooperation or some standard international norms could help countries overcome this situation. Unfortunately, there were no such arrangements for international settings that could have enabled countries to respond to the challenges in a collaborative spirit. The Delegation agreed that the pandemic was not the only issue that had adversely affected the overall aspects of copyright. Yet, it had shown how the situation could worsen in case of copyright limitations and exceptions under extraordinary circumstances. It had also prompted many to rethink the role of copyright ensuring access to educational and resource materials as well as protecting the rights of the creators of the copyrighted works in those kinds of situations. Based on that premise, the absence of an international instrument on limitations and exceptions had been widely felt. The Delegation welcomed the idea of regional consultations to develop an understanding of the state of the cultural, educational and research institutions at the local level, in light of the COVID-19 pandemic. The Delegation believed that would provide some information about the extent of the impact. However, those consultations should take place in all regions and include the Member States as well as the relevant stakeholders. The Delegation also suggested that initiatives should not be limited to only consultations and reporting. The scope of copyrights, as well as limitations and exceptions, was very broad and many challenges affect copyright sectors. The Delegation noted the need to take into account the urgency of the moment. The Delegation advised that holding an information session on the impact of COVID-19 on the copyright framework, including copyright and related rights and exceptions and limitations during SCCR 42 would be another useful step. That would give the members an opportunity to have some presentations from the experts and relevant stakeholders as well as exchange of views among them. The Delegation indicated that such type of information session would help the members build a common understanding to find solutions to the ongoing contemporary challenges caused by the COVID-19 at the local level and beyond. The Delegation solicited the guidance of the Chair in deciding on the request to hold an information session during the week of SCCR 42 and looked forward to hearing the ideas and thoughts of the regional groups and Member States.

91. The Chair noted the recommendations presented by the Delegation of Bangladesh on having a conference, a regional consultation conference, and the urgency that COVID had caused, and to have an information session, which would like to be dealt with in the forty-second session of the SCCR, the information session would help to understand better the problems.

92. The Delegation of China thanked the Secretariat for providing the information on the report on the exceptions and limitations. The Delegation believed that the library, as well as educational institutions were providing public information and that copyright and exceptions were the important pillars of such. The pandemic reviewed how copyright and exceptions benefited the public interest and also provided a balance of structure of the rights of the public domain and the interest of the holders. On that basis, the Delegation pledged support to be actively engaged in the SCCR as well as the other regional consultations and other sessions to have a better understanding of the cultural organizations in order to achieve greater consensus on the issue.

93. The Delegation of South Africa speaking on behalf of the African Group thanked the Secretariat for the preparation of the Report on Regional Seminars and International Conference on Limitations and Exceptions. The Committee discussed the Report extensively in the previous session of the SCCR, and the African Group extended its appreciation to all the

Member States and observers to share their perspectives on the contents of the Report. The African Group also shared its observations on the Report in the statement, , and the Group reiterated that limitations and exceptions are essential parts of the copyright system and crucial in ensuring a balanced copyright system that catered to the needs of all stakeholders and contributes to social, economic and cultural advancement, thus leading to thriving societies. The Group noted that long-standing issues of limitations and exceptions needed be addressed. The Group welcomed the wealth of information had been gathered through regional seminars and during the international conference on limitations and exceptions that would facilitate future work. The African Group maintained its support for the 2012 General Assembly mandate to continue discussions to work towards an appropriate legal instrument or instruments on limitations and exceptions. While the Report on Regional Seminars and International Conference provided some useful ideas on steps to be taken going forward, it was worthy to note that the way of right of participants who had expressed the diversity of view in the conference, and some of those participants may not have had the chance to contribute to the proceedings during the full panel discussions. Therefore, as useful as they were, the Committee could not commit itself to the suggestions contained in that section. While it was clear from the Report that the work that needed to be done to develop balanced copyright systems inclusive of limitations and exceptions, there was no doubt that international action was necessary to deal with those challenges that transcended national borders and were best attended to by global action. Some of the areas that clearly deserved the Committee's attention included online users. The Delegation supported the suggestion to consider the way forward and possibility of holding a number of regional consultations before the following session to further develop the understanding of the situation of the cultural, educational and research institutions at the local level, especially in light of the COVID-19 pandemic. The Delegation commended the Chair's effort in trying to assist the Committee in that regard. Although the Delegation believed that a dedicated session on assessing the impact of COVID-19 should be held during the SCCR session with a global audience and global participation, it understood the proposed conference could provide essential information in assessing the impact of COVID-19 on institutions in different regions. The results of such regional consultations could feed into discussions at a broader level in Geneva. The important element in ensuring the success of the proposal was to ensure that Member States were intimately involved in the modalities of such consultations. The Delegation endorsed the information session, proposed by the Asia Pacific Group (APG).

94. The Chair took note of the intervention presented by the Delegation of South Africa on behalf of the African Group. The Chair observed the need to have a variety of participants to extend the perspectives.

95. The Delegation of Belarus thanked the Secretariat for preparing the documents for the session and for the issue. The Delegation reacted to the proposal for an information session on the impact on COVID-19 on the copyright system. The Delegation endorsed the idea and noted that the proposal was not an exception as it was already being discussed in a number of other Committees. Obviously, the issues of what kind of a session that would be, the format, whether it would be part of the Committee as a normal session or an extra session, that was something that needed to be addressed.

96. The Delegation of Georgia speaking on behalf of the Central European and Baltic States (CEBS) was convinced of the importance of libraries, archives and museums as well as the educational and research institutions in the social and cultural development of societies and consequently welcomed the work being undertaken. CEBS noticed with interest the work already done in various Member States which had recently introduced exceptions and limitations in their national systems, and looked forward to continuing discussions on the evidence-based approach. The Group thanked the Secretariat for preparing document SCCR/40/2, Report on Regional Seminars and International Conference on Limitations and

Exceptions. That information would be valuable for our future discussions. CEBS believed that the meaningful way forward would be the exchange of best national practices and a focus on how an approach adopted by the Member States could serve as a solid basis for the efficient functioning of the limitations and exceptions at the national level within the framework of existing international treaties. CEBS believed that there was enough ability to address potential gaps under the current international legal framework without the need for an internationally binding instrument. The Group acknowledged the proposal submitted by the Asian and Pacific Group (APG) for their proposal for an information session on the impact of COVID-19. The far-reaching implications of the pandemic could be felt in different areas and by many stakeholders. Bearing this in mind, CEBS believed that the discussions about the effect of this pandemic have to cover the broadest possible range of copyright and issues, not limited to exceptions and limitations.

97. The Delegation of the United Kingdom speaking on behalf of Group B thanked the Secretariat for preparing document SCCR/40/2, and continued to welcome the work as part of the Committee which enabled exchange of experiences on limitations and exceptions on library, archives, museums and educational and research institutions. The Group took note of the discussions and findings set out in that Report. The collection of information would be invaluable for the work going forward. In particular, the Group looked carefully at the take-away considerations, the general principles and ideas. Group B welcomed the assessment of copyright as an essential tool to support and reward creativity as well as limitations and exceptions as an essential part of a balanced, copyright framework. While access to the fruits of the creativity through a balanced copyright regime was noted, such access should not unduly inhibit the ability of creators to be fairly remunerated and rewarded for their work. The COVID-19 pandemic had made digital engagement very much normal in all aspects of our lives, and had underscored the importance of all stakeholders in the copyright decision of the dissemination of copyrighted creative works. Authors, musicians and other creators rely on the copyright system to earn a living during the pandemic, while users of copyrighted work made use of copyright and collective management to gain access to copyrighted works during the health emergency. The pandemic had underscored the importance of the copyright system. The Group urged WIPO to encourage capacity building so countries could make full use of the existing international copyright framework to address their policy needs. On the holding of regional consultation while considering that understanding the views of those on the ground was important, the Group considered whether holding further regional consultations would be feasible at that point in time. Any consultation would likely have to be conducted in a virtual format and relevant technical considerations would need to be taken into account. Group B recognized the need to ensure impactful engagement and make full participation of all relevant stakeholders. Moreover, any further consultations should not replicate the work already undertaken. Having reviewed the proceedings and outcomes of the conference, Group B observed that most impact would have worked to support national policymakers to support them setting up domestic copyright ecosystems, meeting the specific national needs. That was also stemming from our observation of lack of consensus concerning international norm setting activities at the conference. In that respect, Group B welcomed further information by the Secretariat on those specific aspects. Group B thanked the Asia and the Pacific Group (APG) for the proposal for the information session on COVID-19 including related rights, limitations and exceptions and for engaging with Group B during that session. However, Group B regretted that the proposal was not made in writing ahead of the session in order to facilitate further discussions. Group B noted that COVID-19 had impacted and continued to impact all copyright and stakeholders. Group B recognized the need for such engagement in whatever ultimately agreed format to have a holistic approach and encompass the entire copyright universe. The Group proposed for such engagement to present the new tool, WIPO for Creators. Group B pledged support to review constructive engagement on that topic to facilitate further discussions.

98. The Chair took note of three main ideas of Group B's intervention, the fact that access to knowledge should not veil or hide the necessary remuneration of creators, the fact that regional consultations, should not reproduce work already done. And the fact that the forty-second session should include an information session on COVID-19 and that issue should be raised in a holistic manner.

99. The Delegation of The European Union and its Member States remained committed to discussion. The Delegation recognized that libraries, archives and museums played a crucial role in the dissemination of knowledge, information and culture as well as the preservation of our history. The Delegation attached importance to the support of educational and research institutions, and for people with disabilities, both in digital worlds with the existing copyright framework. The document SCCR/36/7 provided useful information for the Committee's work, which echoed the organization of three regional seminars and the International Conference on copyright information and exceptions for libraries, archives, museums and educational research institutions. The Delegation agreed with the research report on the importance of focusing on the further work on capacity building and improving of legislation of members of the national and regional level combining guidance and support. Against that background, as closely expressed in the past, the European Union and its Member States could not support legally binding instruments at the international level or any preparations in that regard, however, the Delegation stood ready continue to engage on that to develop further understanding of the problems faced by cultural heritage, education, research institutions and people with disabilities and provide guidance and assistance to Member States when appropriate in a regional consultation in that regard. Those regional consultations could also serve as a forum to discuss the impact of the COVID-19 pandemic and cultural heritage, educational and research institutions as proposed in the annotated draft. There were other formats to address that topic provided that there was a holistic approach not limited to exceptions and limitations. The need to keep in mind that the pandemic impacted the whole creative and cultural sector including the rightsholders and creative industries. It was therefore important to assess the impact of COVID-19 on cultural institutions and the impact of the pandemic on the creative sector at large was also to be taken into account.

100. The Chair confirmed the European Union and its Member States disagreement with regards to the idea of a binding legal instrument on exceptions. Nevertheless, the Chair underlined the role of exploration of existing experiences and exchange of experiences towards regional consultations with regard to the impact of COVID-19, but that those issues should be dealt with in a holistic manner.

101. The Delegation of the United States of America believed that the current international framework on copyright exceptions and limitations provided flexibility consistent with the well-established international standards for countries to adopt exceptions and limitations to advance their own social, cultural, and economic policies. The Delegation indicated that it was unadvisable for WIPO to engage in norm setting work that would impose minimum obligation in this area. At the same time, the Delegation believed an informed discussion of exceptions and limitations within the SCCR was useful for Member States who were interested in tethering exceptions and limitations of their own needs and circumstances. Consistent with that view, the United States was pleased to participate as an observer in all three WIPO regional seminars on exceptions and limitations in 2019. The Delegation thanked the Secretariat for its useful report on the regional seminars and the international conference which provided an excellent summary of the seminars and over time would prove a useful resource to the Committee, building on the productive discussions of exceptions and limitations that took place in Singapore, Nairobi, Santo Domingo, and the international conference, the Delegation opined that holding a number of regional consultations to deepen the understanding of Member States and the operation of copyright, related rights, exceptions and limitations during the pandemic at the national level could warrant further discussions in future sessions of the SCCR. The Delegation also

recognized the proposal submitted by the Asia and the Pacific Group (APG) on the impact on COVID-19 on the copyright framework. The Delegation believed that held merit as reflected in the Group B statement and believed that any such information should be holistic in nature, encompassing all elements of the copyright system.

102. The Chair reconfirmed that Group B believed the current framework had adequate flexibility and it wasn't advisable to have binding standards on the proposed consultations at a regional level that could address copyright and related rights as a whole, and that the following session could hold an information session but that it should be prepared in advance.

103. The Delegation of the Russian Federation thanked the Secretariat for the work in preparation of the Report on Regional Seminars and International Conference on Limitations and Exceptions to Copyright for Libraries, Archives, Museums, Educational, and Research Institutions. The Delegation believed that the analytical outcomes of those experts in the Member States could be useful. The Delegation noted with interest that the discussions and statements at those events made it evident that the Member States had difficulties with it. That enabled the Delegation to understand what was happening in Member States in order to formulate general principles on the basis of which it would be possible to harmonize an approach and create an international instrument which would serve as guideline, proposing a solution to that general task in a more effective format. On the outcomes of the conference, there was a plan of action for future work, particularly with regards to exceptions and limitations. The Delegation underlined that it was of extreme importance to resolve the issue of cross-border issues and look at the legal uncertainties and the differences in legislation between countries, in particular looking at the issue of preservation of cultural heritage in digital form, and also in accordance with international principles and the system to be used for libraries, archives, museums, educational and research institutions which could become a guideline for national legislation and activities of the current system of copyright and related rights. The Delegation noted that the coronavirus pandemic clearly demonstrated to the whole world the significance and importance of digital technology, including long distance access to content, and cross-border use of that content. In accordance with that, the existence of material in digital format needed to be a normal thing. The pandemic also showed the inadequacies and the lack of a genuine international instrument for copyright and related rights, and when at a time when the work of millions of libraries and archives was not possible in its traditional format and was even under threat. The Delegation underscored the accepted international guidelines showed significant differences in copyright and related rights, and that impedes cross-border access and challenges.

104. The Chair thanked the Delegation for assessing the international effects and the need to work on overcoming the differences, with an emphasis on preservation of the heritage within libraries, archives and particularly looking at national realities and also, the impact of COVID-19 on the situation.

105. The Delegation of Pakistan aligned itself with the intervention delivered by the Delegation of Bangladesh on behalf of the Asia and the Pacific Group (APG). The Delegation acknowledged the amount of work undertaken to examine and understand the issue of exceptions and limitations. As highlighted in the report, exceptions and limitations were an integral, natural part of a balanced copyright system. The practice was an understanding that the copyright limitations and exceptions varied across countries and, therefore, the Delegation framed its importance for the formation of a baseline international instrument to act as a legislative assistant and as an umbrella guideline for the statute accordingly. The Delegation expressed optimism that the report by the Secretariat would translate into a meaningful program on the issues of limitations and exceptions. The Delegation pointed out the impact of COVID-19 had exacerbated the challenges associated with copyright exceptions and limitations in the pandemic. The shutdown of education institutions during the pandemic and shift towards e-

learning systems which led to an already volatile situation with exceptions and limitations, particularly in developing countries. As highlighted, cross-border cooperation or standard international norm could help countries overcome this situation. The Delegation welcomed the idea of regional consultation before the following SCCR session in that such consultations could be inclusive with the representation of civil society beneficiary communities, particularly those who were relying on copyright exceptions and limitations to access critical information and knowledge during the pandemic. The Delegation also proposed the need to have an information session on the impact of COVID-19 on the exceptions and limitations in the copyright regime during the following SCCR session.

106. The Delegation of Indonesia associated itself with the statement made earlier by the Delegation of Bangladesh on behalf of the Asia and the Pacific Group (APG). The Delegation emphasized that COVID-19 pandemic had disrupted life and many parts of the world were still struggling with those new conditions. The Delegation recognized how libraries, archives, and museums had to be closed or forced to adapt to the times, while educational and research institutions had to adapt with online teaching and remote working. While putting public health and safety at the forefront, governments needed to ensure that all stakeholders have access to knowledge, education, research, and culture. With that in mind, the Delegation urged members to support the proposal to hold an information session on the impact of COVID-19 on the copyright framework, including rights, related rights, and limitations and exceptions at the forty-second Session of the SCCR. The Delegation believed that the theme was inherently balanced, as it approached the issue in a holistic manner, well-within the mandate of the SCCR. The Delegation believed that much could be learned from the Secretariat, experts, and relevant stakeholders, in the strive to cope with the unprecedented challenge. On the agenda of limitations and exceptions, the Delegation strongly believed that it was important to continue the work on the limitations and exceptions agendas in accordance with the 2012 General Assembly mandate for the SCCR to work towards an appropriate international legal instrument or instruments on the topic of limitations and exceptions. With the completion of the action plan, the Delegation proposed for a new plan of work for advancing the issue on limitations and exceptions. In that regard, the Delegation identified the need to build on the previous work plan, which had identified priority themes to work on at the international level towards harmonization, including on preservation, cross-border uses, and online uses. With regard to the possible following step of holding a number of regional consultations before the following session of the SCCR, the Delegation highlighted two important points: First, such regional consultations should involve all relevant stakeholders, including the member states, libraries, museums, archives, education and research institutions, teachers, and so on. Second, regional consultations should not be the only following step for the Committee's work plan on limitations and exceptions. The Delegation was of the view that it was important to commence concrete work to achieve the mandate of the 2012 General Assembly. That could be done by agreeing on a concrete work plan with appropriate outcome ranging from model laws, interpretations, declarations, or any other appropriate instrument or instruments. Furthermore, the Delegation welcomed works in the forms of guidelines, toolkits or any other tools that could be used as reference by Member States to fit international principles and conventions into their national practices. The Delegation pledged support to engage positively in all future discussions at the SCCR for a new work plan on limitations and exceptions.

107. The Delegation of Brazil carefully reviewed the debates and suggestions contained in the sections The Way Forward and Take-Away Considerations of the Report on the Regional Seminars and International Conference on limitations and exceptions for libraries, archives, museums, education, and research institutions held in 2019. The Delegation proposed that the agenda should continue with a focus on the point where there seemed to be some consensus, on preservation and cross-border issues. That would be without prejudice to the adoption of national or regional solutions on these and other issues of the limitations and exceptions agenda. In SCCR 40, the Delegation raised the issue of limitations and exceptions regarding

people with other disabilities not covered by the Marrakesh Treaty. There was room for a more in-depth exchange on that matter. The Delegation proposed that future regional or sub regional seminars address the issue of limitations and exceptions regarding people with other disabilities with a focus on new technologies and accessibility. The Delegation also shared recent developments regarding the implementation of the Marrakesh Treaty in Brazil. The text of the law that would discipline aspects related to the treaty were to be finalised soon. It was the result of intensive consultations within the Brazilian government and with the civil society. The proposed law expanded the list of beneficiaries served by the treaty in Brazil, including different types of access to printed text, including rights, related rights and limitations and exceptions during SCCR 42.

108. The Chair thanked the Delegation of Brazil for their recommendations and the need for the Committee to really emphasize two consensus points, which were preservation of works and heritage, and cross-border access and exchanges and the need to take into account persons with other disabilities, i.e., people not covered by the Marrakesh treaty, and emphasize on the issues of accessibility through new technologies.

109. The Delegation of Saudi Arabia thanked the Chair and Secretariat for having drawn up and prepared for this session given the current circumstances, and hoped that there would be positive outcomes and recommendations coming out of the session. Through the vision for 2030, the Delegation hoped for a favorable environment for innovation taking into account copyright, and the Saudi Intellectual Property Authority, which was dealing also with the rights for access for persons with disabilities. The Delegation urged all Member States to continue work in order to reach an agreement for a treaty; a convention, which both protects copyrights and to protect also the right of institutions.

110. The Delegation of France thanked the Secretariat for preparation of the working document. The Delegation aligned itself with submissions made by the Delegation of the United Kingdom on behalf of Group B and the Delegation of the European Union and its Member States. Though the Delegation noted it was not in favor of a binding instrument on exceptions and limitations, it was in favor of the holding of an information session during the forty-second session of the SCCR, as well as regional consultations. Nevertheless, the Delegation believed that those consultations should have a global approach, taking into account all aspects of copyright and to not only look at exceptions and limitations. The Delegation also bemoaned the impact of the pandemic on creators.

111. The Delegation of Chile believed that exceptions and limitations were very important for balance in the copyright system. The Delegation pointed out that there had been very significant difficulties caused by the COVID-19 pandemic and, in the issue of distance learning, access to museums and archives demonstrate the importance of exceptions and limitations for allowing access during events such as the pandemic. The Delegation noted that it was very important for the Committee to reflect on how to continue with its work amidst the pandemic and believed that the future work needs to be strengthened with international guidelines, at least with regard to the area of education, and also libraries and archives.

112. The Delegation of Ecuador pointed out that it was necessary to have a balanced intellectual property system. The Delegation added that the SCCR had constantly worked on promoting a space for discussion for the need for exceptions of limitations for libraries, archives and teaching and educational research establishments. Nevertheless, the Delegation believed that there was a need to recognize certain flexibilities, but also safeguard value for the future generations, whilst also promoting creativity and future work. Noting the need to examine the responsibility of each state to promote creativity and culture, the Delegation called for the need to have adequate exceptions and limitations, because if it was too broad and too general, it would put off creators. The Delegation said there was a need to ensure that exceptions were

indeed an exception. The Delegation also called for the need to look at the issue of the pandemic and its effects on the economy of creative industries. Because the COVID-19 crisis had pushed that to the front and the parameters established for resolution of that. However, there was a need to recognize all that cultural sectors had done and how much they had been affected by the pandemic. The Delegation called for the need to promote discussion with regard to a balanced approach which was flexible enough to overcome the problems and the value gap in the digital sphere. The Delegation emphasized the contributions of creators and how they had enabled people to live better through the prevailing difficult times. The use of their creations was not insignificant, and there was a need to recognize their work, and recognize their rights and promote the adoption of international instruments, like the Beijing Treaty, which would promote generation and fair sharing of the benefits of their work. The Delegation believed that the recognition of flexibilities should be an issue which was unrestricted and, therefore, policies were fundamental in an international regime. The Delegation called for exchanges in various information sessions. The Delegation also stressed the importance of addressing national circumstances, noting that each country had a holistic approach based on its own realities to protect creators, but also provide exceptions and imitations. The Delegation pledged support for the advancement of the work of the Committee on that matter.

113. The Delegation of Mexico pointed out the peculiar challenges the pandemic had caused, and that ultimately posed challenges for copyright and related rights. Though consensus had been reached on some easy aspects, there were other areas that were still being debated. The Delegation observed that in some other ways that would help to reflect and seek solutions at a global level with the objective to prioritise the supreme interests of girls, boys, adolescents and young people in the exercise of the right to education. At the local level, the Delegation revealed that they were creating public policies that promote the development of scientific, research, information and development and technological development. The Delegation also revealed that recently Mexico had propagated a new general law of libraries to respond to the current situation, and policies had been drafted to establish support and organize public libraries to establish basic standards for the functioning of the national network of public libraries, and were proposing guidelines for the integration of the national system of libraries. The Delegation indicated that in that way, it was consolidating the social nature of the legal department which was in public interest and contributions to the reintegration, storing and preservation of any work of an educational cultural and scientific or technical or leisure nature, distributed for its commercialization or freely, free of charge and printed, electronic, analogue or digital formats. The Delegation noted that the institute it represented facilitated the integration of that deposit with the exchange of information of the ISBN, ISSN catalogues for periodic publications, and its allocation and monitoring, was under its coordination. The Delegation expressed support for the continued conservation of topics. The Delegation looked forward to cooperating and convening to improve the recognition, teaching and dissemination of copyright and related rights and any collective interests that were taken into account.

114. The Representative of the International Federation of Reproduction Rights Organizations (IFFRO) pointed out the impact of COVID-19 on the creative sector and suggested that the discussion should deal with how to support the creative sector during the pandemic and through the pandemic. As the network for the collective management of organizations and CMOs in the tech sector, IFFRO pointed out that collective licensing was part of the solution and was pleased to see that the key role played by CMOs in facilitating access to works, including cross border, and it was reflected in the report from the Secretariat. CMOs enabled cross-border licensing was making it possible for students to access learning materials regardless of where they lived or whether they could attend physical or remote sessions. During the COVID-19 pandemic, CMOs had adapted their licenses to support online and remote teaching and learning. Millions of peoples, students and teachers benefited from those flexible licensing schemes which also meant that creators were paid for the use of their works at a time when

other income streams had ceased or had been significantly reduced. The regional seminars and the international conference in 2019 enabled a further discussion of exceptions and limitations. IFRRO indicated that based on the report of those meetings the suggested way forward was that the answer to the access challenges was a combination of more effective implementation of already existing international copyright instruments, as well as capacity building. Consequently, an outcome from discussions on exceptions and limitations was one which focuses on the exchange of information and practices as well as the offering of a WIPO led technical assistance program. The Representative also added that in achieving a good outcome, government cooperation was crucial.

115. The Delegation of the Islamic Republic of Iran endorsed statements made by the Delegation of Bangladesh on behalf of the Asian Pacific Group. With regards to exception and limitations, the Delegation thanked the Secretariat for the successful organization of original consultations as well as the international conference. The Report on the regional and international conference continues for a discussion of parities of the members and the beneficiaries and parities for the SCCR. The COVID-19 pandemic had shown the need to interpret and implement all copyright and related rights affecting the ability to protect public health and public interest during the health crisis. The Delegation pointed out that regional seminars and meetings could play an important role in the feasibility of copyright law which were critical to remote responses of COVID-19 or other issues. The Delegation stressed the need to have an adequate balance between copyright limitations and promoting dissemination and use of works in the public interest through creating a limitation and exception regime in the form of international law for the mandate of the assembly in 2012. The Delegation recalled the fundamental principle of the international law and according to those principles, states were bound to fill a great piece of obligation under the previous acumen. The 2012 mandated to continue discussions to work towards an appropriate international legal instrument or instruments. The Delegation highlighted the differences in national legislation with regards to the exception and limitations of copyright systems were bound to allow a flow of knowledge and to overcome an international framework to harmonize international legislation. The Delegation was convinced that the norm setting was the only way to ensure that WIPO members provided a basic level of modernized limitation and exception for such institutions. The Delegation emphasized that holding information sessions on the impact of the COVID-19 in the area of copyright and related rights and exceptions and limitations would be timely and useful in the following meeting.

116. The Representative of the International Federation of Musicians (FIM) attached great importance to the protection of copyright and related rights and those rights reflect Article 27 of the Universal Declaration of Human Rights (UNDHR) which affirmed that everyone was entitled to the protection of moral and material interests, springing from any scientific, literary or artistic production that he is the author of. That principle also applied and quite legitimately so, to works in their interpretations. The COVID-19 pandemic had caused a collapse of the live show sector and at the same time the recognized rights of performers with an expectation of their recordings online only provided a very low income and sometimes none at all. The Representative noted that it understood and supported procedures aimed at taking into account particular needs as was the case of the Marrakesh Treaty for example. People only intervene for the protection of copyrights as seen from the angle of limitation of those rights as if they were just a source of systemic abuse and making it impossible to disseminate art, culture and knowledge. That was a mistaken vision which did not take into account the multiple solutions set up with the support of the right holders to promote access to all the works of the mind and respective treaties. FIM called on Member States to deal with the issues of limitations and exceptions carefully and reaffirmed the importance of copyright and related rights just invade the creation and recognized the contribution of artists to society if a data procedure had to come out of that SCCR, it should be attaching itself to consolidating the copyright.

117. The Representative of the Centre for Internet and Society (CIS) called on the Committee to urgently lead the way on developing concrete solutions in the domain of limitations and exceptions, timely and meaningful. Useful suggestions had already been offered by Member States that could enhance border cooperation and international norm setting. That could take the form of guidelines, model laws and the like. Further regional consultations suggestion needed proper representation and provide proper weightage to views of beneficiaries of that agenda item. WIPO should also plan to institute measures to ensure proper participation in view of the digital divide. The Representative noted that there was a wider socio-economic disparity in the Asia-Pacific region that had traditionally been an alliance for students and researchers and knowledge created in foreign countries in that region and for many other regions with similar disparities. Thus, a lack of international harmonisation on the limitations and exceptions disproportionately affected developing countries. Those limitations and exceptions needed to urgently include cross-border users, online users and digital preservation to include maximum impact.

118. The Representative of the Library Copyright Alliance (LCA) bemoaned the ambiguity of the three-step text to offer stability, which also created confusion. Thus, there was the situation of the least developed countries also having the least developed exceptions and limitations even though they had the greatest need for those exceptions and limitations. LCA called for more action at the international level to clarify exactly what the three-step test allowed. What actions could educational institutions take during a pandemic? What could libraries, archives and museums do to preserve their collections against the threat of climate change? What educational and preservation activities could occur across borders? Those occasions were necessary but could ultimately only be achieved through international instruments.

119. The Representative of the International Council of Museums (ICOM) pointed out the essential role museums played in society on a daily basis and its work with copyright on the basis of public acquisition, conservation, research, communication and exhibition of humanity and its environment for the purpose of study, education and enjoyment. The various ends of WIPO studies, the regional seminars, the international conference, the sessions had highlighted the critical situations faced by museums due to copyright regime which was often not designed to address civic issues. The lack of harmonization between national legislation placed the museum in different countries on unequal footing and also raised the issue of cross-border cooperation which was essential in the context of the preservation of works. And at a time when cultural institutions ought to reinvent and rethink themselves collectively following the consequences of COVID-19, which had led to the temporary or permanent closure of many museums, it also raised the question of the preservation, access and security of work in such times. ICOM welcomed the proposal for regional consultations and hoped to be included in that process. The Representative also called on the international committee to stop the harmful consequences the pandemic had had on the cultural and heritage sector. Furthermore, and in the face of the current threat of climate change and the complete lack of technical and human resources etc., it was essential that museums were supported by a balanced and harmonized coverage system which allowed them to work in their interests. The inclusion of coverage for preservation services was essential for common heritage. ICOM also stressed the urgent need for international action through the redrafting of provisions before moving on to text based workflow with an international instrument which could provide more legal certainty and support harmonization through countries and allowed libraries and museums to maintain a common history and heritage.

120. The Representative of the International Federation of Film Producers Associations (FIAPF) observed the adverse effect of the pandemic on the entire creative and economic sectors. The ability to create, finance and distribute products and projects had been undermined over the last 16 months of lockdown. The response to that challenge ought to be holistic. Thus, prioritizing, upholding and reinforcing the copyright framework so that those who

made and disseminated works had a powerful incentive to take the creative and economic risks involved at a time of unprecedented pandemic related economic duress. In that regard, FIAPF saluted efforts by Member States to ratify the copyright treaties. The Representative also observed that the existing international copyright framework provided flexibility and it allowed Member States to introduce exceptions and limitations that address specific issues relevant to their national laws and in compliance with the three steps test. FAPF also stressed that exceptions and limitations should only be introduced after thorough impact assessment to ensure that local creative industries were not damaged or undermined as a result.

121. The Representative of the European Visual Artists (EVA) indicated that there had been licensing of thousands of uses made by museums, libraries, archives, educational institutions and many others. Its members set up the 28 collected management organizations in 23 European union countries. Furthermore, the licenses were tailored for the intended use and cover all use required from printing, collection, catalogues, to use on social media, merchandise and products extending across cross-border uses for digital archives. EVA added that members provided legal certainty to cultural heritage and educational institutions and any other usage. They followed the strict rules of the European Union, professional rules and guarantee that remunerations paid to the entitled authors including the non-members and across borders, to reach out to local offers. EVA pointed out the enormous benefits from the easy accessibility of images, in particular since the outbreak of the pandemic when all public venues where works were available usually, but closed down such as museums, art fairs and galleries and that hit hard all offers yet it was easily forgotten that many artists were living in precarious conditions while their works were not reaching society. According to recent studies of rebuilding Europe, 2021, the cultural industry and the arts sector was a top employer among cultural and credit industries. In the EU alone in 2019 provided for 1.89 million jobs however, those figures did not reflect the situation of the individual artist. Self-employed, skilled, investing in creation of works with the constant uncertainty and often without social insurance. Professional associations in Europe estimate the many artists would have to give up the creative profession because of the losses endured during the pandemic. Authors needed to be approvingly nominated for the use of their works regardless if sometimes the work was for a non-commercial purpose. The demand on remunerated exceptions for cultural education purposes meant to ignore that the author was a professional and had invested in the means to make the work happen. So, by all staff of the cultural heritage institutions were of course remunerated. EVA called for more awareness about collective management for visual works and urged the WIPO Secretariat to assist sharing of members know how specific working groups, regional meetings, toolbox among others. EVA pledged its support to the exercise and called for a holistic view of the pandemic.

122. The Representative of Design and Artists Copyright Society (DACS) representing UK's CMO for visual artists welcomed the conversation on limitations and exceptions and was pleased to contribute to show that the voices of digital creators would stop COVID-19. The Representative bemoaned the severe impact the pandemic had had on visual artists in the UK. In a survey conducted in summer 2020, three quarters of artists explained that they had been immediately financially impacted by the pandemic. They lost sales of their work, commissions, projects were cancelled, and many artists were unable to afford to continue to rent their studios meaning they had nowhere to make their work. That was startling news and there was a real concern that artists would struggle to continue to work and may decide to no longer work as artists. Royalties played a very vital role in ensuring artists were properly remunerated. In 2017, DACS paid over 50 million pounds in royalties to visual artists directly and in the same year the government funding that artists received was 12 million pounds. The artists report to DACS that they use royalties to pay for costs such as studio costs, materials, ensuring a string of works of art or restoring their works or cataloguing their works as well. The Representative pointed out the vital role artists play in society, especially during lockdown and boost the economy as well. In the UK, visual artists helped regenerate small towns that had been a

thriving art scene and were growing hubs for tourism. DACS called for the preservation of artists rights. Extending copyright limitations and exceptions, damages this valuable ecosystem.

123. The Representative of The Visual Arts Copyright Society in Sweden (BUS) shared the need to make active works available to the public and acknowledged the importance of archives, as well as the importance of good access to high-quality material for educators, students and researchers. What BUS did not see as a sustainable solution was introducing exceptions and limitations, as that, in the long run, would only lead to a situation where such material was needed but could not be produced. Instead, it was imperative to find solutions which could lead to a win-win situation. The Representative made reference to its experience from Sweden and other Scandinavian countries and stated that true voluntary agreements could help, and that there was the extended collective license system. Those kinds of solutions were a real win-win, as they gave full access to materials, as well as created the base for continued production.

124. The Representative of Karisma Foundation drew attention to the need to balance copyright protection with public interest, which was the other side of the coin, in order to strike a true balance between the exclusive rights of copyright holders and a flexible approach that would benefit society as a whole. The SCCR needed to continue its important work on exceptions and limitations in order to identify global solutions. Most importantly, developing countries needed to avail themselves of exceptions and limitations for the benefit of their people, especially on protecting institutions that provided access to knowledge, culture and science, which were also central to creative processes. In its work, the Representative suggested WIPO should give priority to addressing the challenges arising from the pandemic around the world. WIPO should issue a recommendation or other instrument to provide clarity with regard to States ability to use internationally recognized flexibilities. The pandemic had pushed the legal frameworks of countries to the limit in terms of maintaining the educational, research and other activities of libraries, archives and museums, which turned out to be unprepared. The inconsistencies in international rules on flexibilities had a disproportionate impact on poorer countries and their response capacity. Karisma Foundation supported and called for the establishment of a group of experts within WIPO to draw up proposals for libraries, archives and museums in regard to issues such as preservation, cross-border use of protected works and expansion of online use of protected works. It was important to discuss international uniformity, because in many countries use was restricted to the premises of those institutions, which was hard to fathom in the digital era. Studies needed to be conducted in order to collect evidence for public policies and identify the challenges at hand, with the participation of the institutions concerned. The current imbalance between the protection of exclusive rights and recognition and legal promotion of flexibilities took a particularly heavy toll on developing countries, which were under pressure to extend exclusive rights, rather than take independent decisions on balancing mechanisms.

125. The Chair noted the recommendations submitted by Karisma Foundation. There was a need for balance considering the copyright system as a whole system and not unilaterally on exceptions nor on constraining rights. That was retained as a summary of a consensual point overview of the work. The Chair indicated that the forty-second session was going to have an information session to be prepared following the proposals submitted, many Delegations spoke of consultations, regional consultations and guidelines. He added that there should be a holistic and balanced approach. The Chair called for a need to demonstrate flexibility. The Chair invited the Secretariat to make announcements.

126. The Secretariat called Member States and participants to send all submissions and comments including copies of statements or longer statements to copyright.mail@wipo.int On difficulties with setting up and participating in subsequent meetings, the Secretariat advised members to reach out to WIPO staff for assistance.

127. The Delegation of the United Kingdom speaking on behalf of Group B noted with interest the two underlying principles that were expressed, the holistic approach as well as the balanced approach. The Group recalled its statement on the instance of the proposal by the Asia and the Pacific Group (APG). Group B thanked the Group for their proposal and expressed readiness to discuss further especially on details. Group B noted there were details that needed to be addressed and showed readiness to hold discussions in order to sign off the proposal letter. Group B indicated that the regional seminars and the session on impacts of COVID were two separate elements and they did not have to be bundled together.

128. The Delegation of Bangladesh pledged commitment to engage and hold deliberations with the Chair and other regional groups on how to accommodate the information session during SCCR 42.

129. The Delegation of Indonesia observed that a decision on holding an information session, especially if the theme was holistic, should consider the inclusion of copyright and related rights, including exceptions and limitations but should not be treated as a following step under the agenda item of exceptions and limitations. The Delegation expressed concerns about having little information on the way forward with regard to the agenda item on exceptions and limitations. The Delegation noted the report on the three regional seminars and the international meeting on exceptions and limitations of which some integrations before had already alluded that there were already some issues and some flexible regional outcomes that would be discussed as a following step, including preservation, online uses, cross-border uses, safe harbour. The Delegation cited the Secretariat's point of view on page 73 of the report, that the following proposed step was to set up an expert group to address different issues mentioned earlier, and then discuss and comment on the methodology that could be put in place with a precise timeline and an approach for the agenda item for exceptions and limitations.

130. The Delegation of United Kingdom referred to submissions made by the Delegation of Indonesia. The Delegation suggested that it was in the direction of precaution and it was prudent to find a common ground and reach consensus. The Delegation called for more time for deliberations on that matter.

131. The Chair commended Group B for the interesting proposal submitted. The Chair reassured the Committee that he had seen questions before accepting something was indeed a precautionary approach. The Chair was certain that APG was ready to work together with the Chair to help achieve clarifications for those who needed them.

132. The Representative of the European Writers' Council (EWC) thanked the Chair and Secretariat for the opportunity to submit a written comment on the topic of exceptions and limitations. EWC referred in general to exceptions and limitations for authors in the book sector, as well as in particular to the recorded comments of SCCR 40 (draft report), which had been studied carefully, and related to the uses of book and text works during the pandemic. The European Writers' Council represents the interests of 160,000 authors in the book sector from 46 writers' and translators' organizations in the EU, EEA and non-EU countries including Belarus, Iceland, Montenegro, Norway, Switzerland, and Turkey, who write and publish in 31 languages and in all genres, including educational and academic works. With that in background, EWC noted as follows: Playing off the right to education and culture, and the authors' right against each other harmed a democracy. Exceptions and limitations were not the solution for a mutual sustainable future. Protecting the rights and living conditions of authors, bringing along quality, was the answer. EWC looked with understanding, but also with great concern about the interpretations, at the various challenges and hardships that educational institutions in particular had to face during the pandemic in order to continue to provide pupils

and students with knowledge and education through distance learning. At the same time, the pandemic had revealed where the predetermined breaking points of the respective national frameworks could be found: on the one hand, in a digital environment that was neither practically nor technically nor legally secure; on the other hand, in a partially neglected education budget, which put the executive bodies in a bind. EWC noted that simplified licensing models were quickly offered worldwide by the book trade sector, on its own costs, and on the shoulders of authors, to support teachers, parents and children. That needed to become mandatory. However, the solution could not be to let writers, working at their own risk, and their publishing partners and their investments fill the gaps of a lack of digitization policy or a weak state budget by introducing exceptions and limitations. Authors, as the EWC's monitoring shows, suffered the heaviest losses during the pandemic, along with the entire cultural sector. And that in the absence of consistent compensation. A further restriction of Authors' Rights in the form of further exceptions or limitations as a treaty, model law or soft law, as well as the resulting cut of income of authors would be a systematic mutilation of every existing, or still developing, culture- and knowledge nation. EWC observed that the Committee was at the most sensitive and important point in the debate that had been ongoing for 15 years about further exceptions and limitations in favor of libraries, archives, museums, educational institutions. EWC recommended that the SCCR should explore existing licensing solutions and best practices within national frameworks, especially in the digital environment. In addition, EWC encouraged WIPO and the Member States to raise a most sustainable attitude: The right to access culture, books, and educational material, and the Authors' Rights, were not be played off against each other. That was detrimental to the values that were supposed to make up a democracy. Protecting the rights and living conditions of authors, bringing along quality, was the answer. EWC supported the diverse proposals to keep a holistic view instead of a hasty international binding of exceptions and limitations, and, furthermore, to organize information sessions or / and conferences. The EWC was monitoring the impact of the COVID-19 crisis frequently since March 2020, and would publish a second report in autumn, also with an in-depth part on the educational book sector, and including recommendations.

133. The Representative of the International Federation of Journalists (IFJ) noted the thirty-second birthday of the World Wide Web and the fortieth anniversary of the underlying Internet Protocol. IFJ hoped that distinguished delegates could agree that "the internet" was no longer "new technology." If it were human, it would now be worrying about putting its offspring through law school – and, we accept, possibly complaining about the price of textbooks. In the real world the internet was now a utility meaning it was imperative to have regulation. Among those who recognized that were the corporations that profit from the internet largely by distributing authors work without permission which had been kicked against. IFJ sensed that there was a sea-change toward recognition of that fact. IFJ saw it reflected in the European Union's Digital Services Act and in anti-trust proceedings worldwide. The Berne Convention for the Protection of Literary and Artistic Works was the culmination of efforts to regulate a technology that was then new, so that authors such as myself could support ourselves to supply the printing press with independent, professional works. Without that regulation, there would have been little to print apart from the musings of the wealthy, the obsessed and the self-interested. The IFJ suggested that, with respect, that particularly in the Global South what societies urgently needed to do was to support their own authors, including authors such as journalists who were sometimes inconvenient. IFJ cautioned that a policy of chasing cheap access to works created elsewhere would leave societies reliant on works that fail to comprehend – and in some cases actively oppose – their best interests. That need for societies to support their own authors was more urgent in the context of the pandemic. IFJ bemoaned that the economic effects the pandemic had caused authors and to claim that the pandemic was a reason to weaken rights was bizarre. IFJ noted that the world had sound models for the exceptions and limitations to copyright that authors and others needed. The push for new international instruments on those serves the interests of those internet corporations and hardly anyone else. What the Committee needed to focus on now was to enable "innovation and creativity for the benefit of all," to quote

WIPO's mission.

134. The Representative of Innovarte pointed out that the developing world, in particular, was in a state of social and economic crisis as a result of the pandemic, with millions of deaths and cities at a standstill, schools and libraries dependent on online activities to serve their students, populations in confinement and researchers forced to rely on text and data-mining to conduct and corroborate pandemic research. Some countries, in particular developed countries, had adopted emergency laws to reduce barriers to access to COVID technologies. However, most countries in Latin America and elsewhere were yet to adopt legislation to reduce the risk of transmission while maintaining essential functions through digital education, controlled digital lending, text and data-mining, access to machine learning, or copyright exceptions for emergency or public health reasons to enable, for example, the copying of software for the replication of mechanical ventilators. While Innovarte witnessed the discussions of the World Trade Organization (WTO) and the World Health Organization (WHO), including a global moratorium on intellectual property rights, on television and the press, paradoxically, the World Intellectual Property Organization (WIPO), which should naturally be a global beacon in the matter, was largely absent from the debate. The Representative noted that it was high time for the Committee to become a player in the fight against the pandemic, put its house in order, show leadership within WIPO and make a contribution as regards flexibilities that were not reflected in the proposals discussed within WTO in connection with the TRIPS waiver. Innovarte therefore urged the Committee to start work, including through informal consultations with Member States and experts, on the development of a declaration or joint recommendation that clarified and strengthened flexibilities in copyright and related rights in response to public health emergencies, similar to the Doha Declaration on the TRIPS Agreement and Public Health. Such a declaration had to take account of the public security and public order exceptions and limitations set forth in Articles 73 and 44.2 of the TRIPS Agreement, Article 18 of the Berne Convention, the public order exceptions and limitations implicit in the Berne Convention, and others the Committee deemed appropriate. Innovarte also proposed that the WIPO Secretariat urgently (a) prepare a best practices report, drawing on the information obtained through its COVID-19 Policy Tracker, on reforms and regulations adopted by Member States to respond to the pandemic and other emergencies; and (b) prepare, in consultation with the WHO C-TAP, materials and technical guidance for universities, pharmacies and research centers to enable their participation in that initiative and implement, through an open-licensing arrangement that included copyright, the objective of the WHO Solidarity Call to Action that gave rise to the COVID-19 Technology Access Pool. In connection with the Committee's regular work linked to the General Assembly's mandate to adopt an international instrument on limitations and exceptions for libraries, archives, museums and educational and research institutions, Innovarte suggested that the Committee establish, as was done for broadcasters' rights, a group of friends of the Chair to develop model provisions on: exceptions and limitations applied to digital uses for educational and research institutions; preservation of and access to protected content; and cross-border use of such works (to be reflected in any type of instrument). Libraries, teachers and educational and research institutions should be involved in those working groups. With regard to the proposal to organize further regional seminars to continue analyzing the lack of copyright limitations and exceptions for libraries, archives, museums and education and research institutions, Innovarte suggested that the work should focus on the need for and utility of international instruments (binding and non-binding) to solve the problems identified in those areas. Beneficiaries should take part in the seminars and their views should be taken into account, which was not the case in the regional seminars held previously. The seminars should also identify flexibilities (exceptions, compulsory licenses, reservations or moratoriums in copyright and related rights legislation) that were most useful in responding to emergencies such as the COVID-19 pandemic. Innovarte observed that the WIPO Secretariat could make an important contribution by developing a set of tools (tool kits). They should include model provisions on (a) exceptions and limitations for educational and research institutions, libraries and archives in the digital environment and cross-border activities;

and (b) ensure that contractual provisions and technological protection measures do not impede the use of exceptions and limitations by beneficiaries.

135. The Representative of the Program on Information Justice and Intellectual Property (PIJIP) provided analysis of the limitations and exceptions agenda item of the SCCR 41 agenda, currently slated to be discussed on June 29-30. The agenda called for Members, IGOs and NGOs “to make general comments, with a focus on the Report on Regional Seminars and International Conference (SCCR/40/2), especially the sections on The Way Forward and Take-Away Considerations (pages 63-72).” It also invited “inputs on possible following steps, including the possibility of holding a number of regional consultations before the following session to further develop the understanding of the situation of the cultural and educational and research institutions at the local level, especially in light of the impact of the COVID-19 pandemic on them.” That note analyzed those two issues separately, and concluded with suggestions of elements that be included in a work plan for SCCR going forward. The Following Steps identified in the Secretariat’s Report on the Regional Seminars and International Conference did not record all the ideas for following steps identified by Member States, experts, and beneficiaries. In particular, the Report did not reflect the support for work international instruments on topics such as preservation, online and cross border uses to serve important purposes such as education and research. In the previous SCCR, the Secretariat released a Report (SCCR/40/2) summarizing the year of work on the Action Plans on Limitations and Exceptions. The Report contained much useful discussion of priorities of Member States, experts, and beneficiary organizations on priorities for SCCR, including for work on preservation, online uses, and cross-border uses for the purposes of promoting education, research and access for people with disabilities. The agenda requested inputs especially on the Way Forward and Take Away Considerations, pages 63-73. Pages 63-72 were summaries of a panel discussion and appear to be accurate reflections of that discussion. Pages 72-73 (Paras 390-400) appeared different. They were described as “following steps identified by the WIPO Secretariat.” The Following Steps proposed in by Secretariat were minimalist. There were just two proposals for action by WIPO: WIPO should ensure the provision of legislative and technical assistance and enhance the legislative capacity of Member States, in particular for cross-border uses and the establishment of balanced copyright laws. WIPO should develop a range of tools such as models, recommendations, guidance, handbooks, and toolkits, among others, containing information on licensing options and limitations and exceptions. The nature of that section was unclear. Was it to reflect the Secretariat’s views on what the following steps of the Member States should be? If that was the purpose, the section could be deleted since it was for the Member States to decide for themselves what the following steps of the agenda should be. The last in-person SCCR was deliberating on a draft Work Program for the SCCR. If completed, that document would define the following steps for SCCR on that topic. If the purpose was to summarize the following steps proposed by Member States, experts and stakeholders during the Action Plans, then the section should be amended to reflect the full range of those suggestions. The Report on the Limitations and Exceptions Action Plans recorded numerous suggestions for WIPO action on the way forward, including work toward: binding international instruments with “flexibility in the implementation” and not “highly specific and highly tied to today’s technology,” such as a “reformulation of Article 10(2) of the Berne Convention,” “a proposed treaty on educational and research activities,” and an extension of “the provisions of the Marrakesh Treaty” on cross border uses; interpretations, declarations, resolutions or other instruments interpreting flexibilities in the current international instruments; “manuals, guidelines or ... practices”, “objectives and principles,” “tool kits,” and other forms of guidance to help countries fit “international principles and conventions” to their specific countries. The Secretariat’s suggestions for WIPO mentioned only the third item – the production of non-binding and purely informative “tools” and “models.” While those efforts were indeed called for during the action Plans and could be useful, they did not exhaust the range of actions that the Action Plans suggested that the Committee could usefully pursue. Regional consultations in light of the impact of the Covid-19 pandemic should be designed to inform a

possible Joint Recommendation on Emergency Uses of Copyrighted Works. The second part of the agenda on limitations and exceptions was the only place in the agenda where the COVID Pandemic was mentioned. Civil Society groups had been calling for WIPO to focus its work on addressing intellectual property barriers to responding to COVID, including copyright issues. Access to copyright was needed to join critical research and development activities from tracking the virus to finding its cure. Copyrighted software was embedded in ventilators, testing equipment, and many other treatment devices - potentially blocking their repair. To make mRNA vaccines, one needed access to potentially copyrighted algorithms and other tools that identify vaccine targets. Permission to communicate copyrighted works was needed to promote distance education and access to libraries and other institutions of cultural heritage. Civil society and beneficiary communities were calling for a top priority of the SCCR to be to take urgent action on copyright and COVID. In statements at SCCR 40 and in a recent public declaration, those communities called for a joint recommendation or other document that would interpret and explain existing flexibilities that could and should be used by Member States to respond to COVID: "Specifically, we call for urgent action to clarify that all copyright and related rights treaties ...: Could and should be interpreted and implemented to respect the primacy of human rights obligations during the pandemic and other emergencies, including the rights to seek, receive and impart information, to education, and to freely participate in cultural life and shared in scientific advancement and its benefits, while protecting the moral and material interests of authors; Permit governments to protect and promote vital public interests during a health or other emergency; Permit governments to carry forward and appropriately extend into the digital environment limitations and exceptions that are appropriate in the digital network environment, particularly during a health or other emergency." Any regional meetings could be designed to further these discussions. The meetings could follow the example of the Marrakesh Treaty preparation and explicitly invite reflections from beneficiaries on the potential need for and utility of international instruments (including non-binding instruments) that the SCCR could work on. First among those, from the position of civil society observers, was a Joint Recommendation on Emergency Uses of Copyrighted Works. Toward a work program for SCCR. As noted above, the last in-person SCCR was deliberating on a work program on the limitations and exceptions agenda. Useful elements of such a work program could include: prioritization of a process to produce a joint recommendation or other instrument clarifying and promoting use of flexibilities needed to respond to emergencies; creation of a process, such as through working groups of experts, to develop model provisions for instruments in whatever form around digital uses for education and research, for preservation and access to preserved content, and to cross border uses of works; the development of tool kits, model legal provisions, or other forms of guidance, in particular for issues such as technological protection measures, protection of exceptions from contract override, and safe harbor protections for libraries, archives, museums, and educational and research institutions (and their agents); commissioning a study on research exceptions parallel to the other studies commissioned by the Secretariat.

136. The Representative of The International Authors Forum (IAF) thanked the Chair for the opportunity to submit its statement on the topic of exceptions and limitations for discussion at SCCR41. Authors wanted the widest possible lawful access to their works. Authors welcomed libraries, archives and educational institutions as vital points of access to their works, but there should be a balance of access and reward to ensure that they could continue to create the works that were enjoyed. Research in the UK, an economic analysis of education exceptions (2012, Price Waterhouse Cooper), identified that many authors, particularly of educational works, would potentially stop creating those works due to declining remuneration if a licensing scheme was not in place to fairly reward them for their efforts. Recent cases in Canada had shown that the unregulated expansion of the educational exception in their Copyright Modernization Act (2012) had led to significant losses of income for Canadian authors: a likely unintended consequence but an unjust, detrimental effect on authors nonetheless, considering it was their work that was being used without compensation. In the context of the COVID-19

pandemic authors in many countries had suffered but had still made significant efforts to make their works accessible to users in those difficult times, conscious of the benefits their work could bring to so many people. The need to support authors was more urgent than ever and that should not be a time to weaken the rights of creators. In a recent webinar IAF hosted on the subject of exceptions and limitations, it was revealed that the creative industries needed some certainty to invest in creators who took a significant risk in creating their work typically with no certainty of remuneration. IAF also observed how in some countries authors and publishing industries were struggling where there were poorly designed exceptions and limitations, in comparison to countries where copyright legislation was flexible and responsive to both enable use and pay authors. The panelists at that event made clear that overly broad exceptions and limitations could have a significantly negative impact. That discussion was available online and was important for considering the view of authors on that subject. Authors played an important role in rights to access education and culture, as the initial creators of the creative works that users around the world access. With their works forming the foundation of educational resources around the world, authors continued to create resources for people to learn throughout their lives. A good environment for authors ensures authors could create quality education, as well as inclusive education for their communities. It should not be the case that a country had to rely on the dominant creative industries of western countries for educational materials. Student should have some access to educational materials that reflect the diverse cultures and languages of the world and the student. Authors believed that existing provisions contained enough flexibility for countries represented at WIPO to continue to work towards national solutions, such as licensing frameworks, which could be developed according to local needs. Authors recognized that each country should aim to respond to its local needs. However, in no country were authors able to work and create effectively when they were entirely either denied remuneration or inadequately paid. While each country represented at WIPO had libraries, archives and educational institutions seeking to secure access to works, it should not be forgotten that there were authors in each of the WIPO Member State whose rights and property were affected. IAF supported the request that in any investigation of the impact of COVID-19 the situation of creators could be included as further information in that area would be vital to the continued creation and sharing of culture. In many countries, there were already copyright provisions in place that established licensing frameworks which enabled access through libraries, archives and educational institutions while ensuring fair payment to authors and respect of their rights regarding their works. In an economic analysis of education exceptions (2012, Price Waterhouse Cooper) it was found that almost 25 per cent of authors in the UK derived more than 60 per cent of their income from secondary licensing income, while a 10 per cent decline in authors' income would lead to a 20 per cent drop in output. There was a clear case for fair licensing and collective management organizations as a means to efficiently ensure the balance of access to works and reward to authors. IAF opposed any blanket expansion of copyright exceptions and limitations that would not properly consider the needs of authors and would prefer to see the work focused on ensuring authors can sustainably generate creative and educational works for readers. Instead of any such approach that would threaten the sustainability of authors' ability to create, where possible IAF would encourage consideration for positive solutions that could ensure the ability of authors to create looking at best practices with considerations for the digital environment.

137. The Representative of the International Publishers (IPA) highlighted the time-sensitive importance of the global copyright framework provided by the WIPO treaties, which enabled publishers everywhere to invest in authors and serve the public interest by making literature, peer-reviewed research, and educational learning solutions available to consumers, scientists, educators, students and other readers. In the previous year, as people adapted to home-working and home-schooling, and as states sought reliable scientific data on which to base policies to protect their citizens, the publishing community stepped up yet again to support governments, teachers, parents and the public. Many initiatives were presented on WIPO's COVID 19-policy tracker. Publishers also had to adapt. Despite many publishers' investments

in digital books, a vast majority had to absorb significant financial losses due to the closure of bookshops and the disruption caused to school systems. The global copyright framework was the foundation of the publishing industry. Those treaties and national laws incentivized authors and publishers to create, invest in, and make available original works which inspire, entertain and educate us, while contributing to local economies, jobs and authors' livelihoods. Copyright and its effective enforcement were vital to a sustainable publishing industry everywhere but were even more essential in developing countries where publishers and authors were hardest hit by the pandemic. In Africa, for example, publishers did not invest in digital formats for fear that the devastating physical piracy they already experience would be even worse if they transitioned to digital. Publishing required constant innovation, investment and risk-taking. Publishers needed a clear legal framework with appropriate exclusive rights and effective enforcement to enable them to do so with confidence. IPA invited Member States to enhance dialogues with their creative industries and reflect their priorities on the SCCR agenda. While limitations and exceptions might be necessary, they required careful calibration at national levels. Overbroad limitations and exceptions impaired the investments required for continued cultural production and would inevitably have unintended destructive effects, undermining local creative industries and preventing authors, especially in developing countries, from bringing their creations to the world. IPA expressed commitment to support publishers around the world to perform their important role of making books available to readers, ensuring the voices of local authors from every country continue to be heard.

138. The Representative of the Intellectual Property Latin American School (ELAPI) reaffirmed its position taken at the Committee's fortieth session, and considered it was neither desirable nor necessary to move forward on further copyright limitations and exceptions, let alone consider an international treaty on the subject. The three-step test was a tool to interpret and provide legal certainty ought to be respected. ELAPI pointed out that denying human rights was not the answer especially in such precarious times. Quite on the contrary, upholding human rights helped build human capacities and ensures women's and men's livelihoods. Copyright formed part of the basic human assets of knowledge and creativity. Denying it meant denying the very nature of human dignity, destroying a system based on solidarity, multi-territoriality and collaboration through collective management societies that come together to bridge the digital divide and manage a right in the bleak and desolate times of the pandemic. Ultimately, was it advisable to yield now and sideline the driver of creativity in the world and cultures? Was it advisable to give it the means to grow and enter the twenty-first century? Now was not the time to talk about exceptions and limitations. It was a time to work together for more and better copyright. ELAPI pointed out that should the regional seminars or information meetings indeed take place, it was essential to take account of the negative impact of the pandemic on copyright and question whether to widen the gap the pandemic had created for authors and undermine human right even further. ELAPI offered full academic cooperation with the Committee and GRULAC to advance towards giving copyright the value it deserved.

139. The Representative of Communia indicated that during the peak of the pandemic, 90 percent of all countries worldwide offered online learning. Yet, many of those remote uses made educational communities, family and friends, were not protected by law by the vast majority of laws. The lack of fundamental exceptions to copyright that were fit for our current digital lives was a problem across the world. Yet many claimed that was a local issue, for each member state alone to solve. Such meetings involving participants from around the globe, cite others in their statements, triggering the application of multiple laws. When universities in countries invite students located in other countries to online programs, and the teachers showed copyrighted images in their live streamed classes, they also triggered the application of multiple laws. Yet many claimed that there was no cross-border dimension to those issues, and each member state alone could solve them. Communia was not sure how countries were supposed to solve those issues alone, when the works shown and shared in one country were seen and heard across multiple countries at the same time. Communia urged all stakeholders to work together to find a supranational solution to those pressing needs that affected education,

research, and access to information. As a first measure, called for the passing of a resolution to assert the flexibilities that exist in the treaties to conduct public interest activities online. Further, Communia proposed for a work program for the limitations and exceptions agenda item to fix that issue and protect fundamental uses across borders. Communia welcomed the proposal for consultations and informational sessions, and hoped that constituencies were properly involved and represented.

140. The Representative of the International Council on Archives (ICA) was extremely disheartened to see that the annotated agenda proposed more regional consultations to further understand the need for exceptions for cultural heritage institutions, especially in light of the pandemic. Further consultations would only delay progress on that longstanding agenda item. Existing studies and the reports of the regional meetings and international conference held in 2019 provide ample evidence of the need for uniform exceptions that would enable archives to preserve their collections and provide access to them in a borderless digital world. The world's archives were a vast treasure of enormous research value. But archival material was often at great risk for many reasons, including climate change. Preservation invariably involved copying, but national copyright laws often stand in the way. A global exception that permitted copying for preservation and sharing such copies across borders had emerged as a clear priority and only WIPO could do this. WIPO's mission was to ensure that copyright worked effectively internationally. Limitations and exceptions were a fundamental component of an appropriately balanced copyright system, which supported the growth of knowledge and culture by providing reasonable access to works for the benefit of society. The pandemic had already starkly exposed the urgent need for exceptions for libraries, archives, and museums. SCCR could build on the progress already made, starting with a concrete plan to work toward an instrument that permitted copying for preservation and making copies of preserved works available across borders.

141. The Representative of the Canadian Federation of Library Associations (CFLA) stated that it was well-documented that libraries, archives and museums had experienced and continued to experience barriers to access and preservation that had become ever more pressing as a result of the COVID pandemic and environmental catastrophes. Libraries, archives and museums performed the essential societal function of preserving and disseminating knowledge that underpinned cultural heritage, lifelong education and research, and they required the requisite tools, adequate copyright laws, to fulfil their function. It was also well-documented that WIPO Member States recognized the national value of libraries, archives and museums, as they had been commenting at length on studies and concrete proposals from Member States for more than a decade. The time had come for engagement at the international level to advance the work on mandatory limitations and exceptions for libraries, archives and museums. CFLA urged Member States to consider the essential societal mandate that libraries, archives and museums were charged with, in relation to preservation and access, and to take action on an international instrument to sustain their roles in the ever-evolving digital environment. In particular, CFLA urged Member States to move forward on a model law focused on preservation and non-commercial uses of works nationally and across borders.

142. The Representative of Creative Commons (CC) was pleased to submit its statement in writing to the Standing Committee on Copyright and Related Rights, forty-first Session, on the item of Limitations and Exceptions. The Representative pointed out that Creative Commons was the world's leading non-profit organization that stewarded the Creative Commons open copyright licenses and tools. However, CC licenses were not a substitute for limitations and exceptions (or "users' rights"), and CC supported efforts to reform copyright law to strengthen users' rights and expand the public domain. In particular, CC supports galleries, libraries, archives and museums (GLAMs) and their public interest mission by pushing for strong, clear, and effective limitations and exceptions for, among others, preservation, research and education, and text-and-data mining and, generally, to ensure the global copyright framework was apt for the digital environment. Central to CC's copyright policy was making sure GLAMs'

needs were treated on equal footing with those of copyright owners, in a balanced and fair manner. The COVID-19 pandemic had created unprecedented challenges for GLAMs. It had forced many institutions to draw deep on their resources and to quickly pivot their activities into the digital environment to meet the needs of their users, including researchers, learners of all ages, and the general public. Creative Commons added that it could not overstate the importance of copyright limitations and exceptions as the pillars on which GLAMs could rest to fulfill their mission of making the knowledge, information and cultural heritage that they cared for available to the public. The Representative urged Member States to take action and find solutions to the challenges raised in the international copyright framework by the COVID-19 pandemic and its consequences on GLAM institutions and their millions of users worldwide.

143. The Representative of Knowledge Ecology International (KEI) stressed that limitations and exceptions were important for individuals and society, particularly with regards to education, research and public access, which were key to development and economic growth as well as social issues, including the exchange of information and views. The current pandemic had disrupted education and, in some cases, closed schools and libraries. The global norms for patent laws included provisions for extra flexibility with regards to inventions in cases of emergencies; the international copyright architecture did not contain those analogous flexibilities. KEI urged WIPO to consider soft or hard norms to make it clear that controlled digital lending by libraries and schools during a pandemic were appropriate. KEI urged the Committee to address two areas for global norms for limitations and exceptions in the current work program. First, there was an opportunity for an instrument on preservation and archiving. Preservation was an urgent global public good and many national laws were inadequate. Second, with regard to other disabilities, KEI proposed that the SCCR use the language in Article 15, paragraph B of document SCCR/18/5 as a basis for joint resolution to extend the benefits of the Marrakesh Treaty to persons with other disabilities who – due to their disabilities need an accessible format of a type that could be made which would allow them access to the same degree as a person without a disability. That would be consistent with the UN Convention on the rights of persons with disabilities. KEI endorsed Brazil's proposal for WIPO to convene future regional seminars to address the issue of limitations and exceptions regarding people with other disabilities.

144. The Representative of the International Confederation of Societies of Authors and Composers (CISAC) thanked the Secretariat for the comprehensive report on the regional seminars and international conference on limitations and exceptions for libraries, archives, museums, and educational and research institutions. The Representative reiterated some elements that had emerged during the intense days of the debates. First, when discussing about limitations and exceptions, it was imperative to have in mind the rights of creators, who were at the base of the process of preservation and dissemination of culture; without creative activity, there was no cultural heritage to preserve; without the creators, all that debate would have no reason to be. Second, the current system of collective management of copyright, offered solutions that respond to the need of museums, libraries, archives and educational and research institutions. And those solutions had been evolving under the pandemic crisis, in order to meet the specific challenges and difficulties of the users. CISAC explained that an international legal framework applicable to limitations and exceptions already existed, under the three-step test principle, established in Article 9.2. of the Berne Convention. That legal framework provided sufficient flexibility for each member country, to apply the system of limitations and exceptions, that best fits its needs. CISAC believed that the Committee would make the best decision regarding the best way to move forward with that item on the work agenda. CISAC supported the proposal launched in previous sessions by different delegates, to continue facilitating the exchange of information and develop an assistance program to which Member States could rely upon to find the most appropriate solutions at the national level. In that regard, CISAC offered its help and support to the Committee. CISAC noted that the pandemic had been a catastrophe for creators. It caused long term loss of income and jobs, damage to economies and devastation to communities built on culture and arts. The impact of

the pandemic on creators was particularly severe because most of them were individuals or very small businesses who had little or no safety net to help them. It was not surprising that the OECD had identified the cultural and creative sector among the most affected by the current crisis, due to the impact of containment measures. According to a recent study published by E and Y, only in Europe, the creative sector as a whole experienced losses of over 30 per cent of their turnover for 2020 – a cumulated loss of €199 billion. CISAC counted on the support of the SCCR to work on developing best ways to revive culture and creation during and post-pandemic period, with dedicated support and by strengthening the rights of creators. The value of creators' works – for society, public health, culture and economy – had become clearer than ever as they had provided help and solace to the public during lockdown. CISAC recommended adopting a holistic approach in the organization of the regional consultations. Such consultation should cover the impact of the covid on copyright and the creative sector as a whole, including the devastating effect on creators, who were among the categories most affected by the pandemic.

145. The Representative of the International Federation of Library Associations and Institutions (IFLA) recognized that those exceptions and limitations were essential to enable libraries, archives, museums, educational and research institutions to continue their public service missions. Ahead of COP26, which would focus on how to limit the impacts of climate change, IFLA believed that preservation of heritage was a priority. IFLA encouraged discussion towards the development of a model law or provisions that would allow heritage institutions to make copies of their collections for preservation purposes across borders, and allowed access on similar terms to that given in analogue form today. In parallel, experts could be convened to design the contours of an international instrument that would deliver on the 2012 mandate. In the face of the COVID crisis, IFLA recognized the limits of a lack of legal flexibility in the context of exceptions and limitations for education and research purposes. IFLA believed strongly that governments, and so libraries and their users, would benefit from a clear enunciation of the possibilities that existed under international law in the form of a recommendation. IFLA cautiously welcomed the suggestion of regional consultations on the impact of COVID for libraries, archives, museums and education and research institutions. That would certainly be a good way for SCCR to complement its work to date, and tackle issues related to that emergency in a timely manner. However, to be effective, such seminars would truly need to focus on the experience of libraries, archives, museums, educators and researchers, and ensure that organizations representing their interests were involved fully in the planning of such sessions. There could also be a report of such sessions at the following meeting of SCCR, or preferably a special session earlier to bring together the conclusions and explore implications and following steps. Sessions on the wider impact on copyright industries would be welcome, although would most logically represent a continuation of work on copyright in the digital environment under Agenda Item 8.

146. The Representative of the Electronic Information for Libraries (EIFL) proposed that work should begin on priority areas highlighted in document SCCR/40/2, Report on Regional Seminars and Conference. The report set out a number of actions that WIPO could take, starting with model laws or provisions to guide countries. On preservation, discussions on the way forward referred to oceans rising, fires raging and paper deteriorating. Previous statements urged countries to act before it was too late. The recent fire at the University of Cape Town's Jagger Library was a stark reminder of what could happen. The unique African Studies collection, used by scholars from all over Africa and the world, was devastated in the fire - most of the printed publications were lost (70,000 items), as well as the entire Film Collection (3,500 items). Due to copyright barriers, some items had no digital backup copies. It was a reminder of the pressing and urgent need for robust preservation rights to mitigate against disasters. EIFL recognized that the WIPO study showed that only 102 Member States, or 53 per cent, explicitly addressed preservation in their copyright laws, and others did not permit preservation at all, even for print formats. That situation needed to change, and only WIPO could drive the change needed at a global level with international action, in line with the outcomes of the

Regional Seminars, and the 2012 mandate. In addition, in the light of COVID-19, WIPO should develop a recommendation to clarify and promote existing flexibilities that permit online uses for education, and access to library collections during an emergency. It would provide immediate guidance for governments, and support libraries who still faced problems providing materials to students and teachers for study and exams.

AGENDA ITEM 8: OTHER MATTERS

Analysis of Copyright in the Digital Environment

Recordings of the presentations done during in this agenda item are available here:
<https://c.connectedviews.com/05/SitePlayer/wipo?session=112560>

147. On the topic of the analysis of copyright in the digital environment, the Chair noted that there were three topics under other matters plus a proposal for a new study on public lending right. After those subjects had been considered, participants would be given the opportunity to deliberate on other issues. The Chair invited participants to listen to the presentation of the studies on digital music services and then formulate any general comments on the subjects, or indeed, to raise questions to the authors of those studies.

148. Ms. Susan Butler, an investigative business journalist, business analyst and licensed attorney with more than thirty year's experience working in the music industry internationally, welcomed participants to a very brief summary of her study titled Inside the Global Digital Music Market, document SCCR/41/2. The report was to help Member States gain an understanding of how the digital music market worked globally in the year 2020, not five years before, not 10 years before, but that day. Current information was important because the ways in which the digital music services offered music and changed their services in order to erode consumer engagement with music and grow the number of subscribers was always changing in nearly every country and nearly every month. As services and consumer preferences changed so to do the contractual and business relationships between those individuals and companies most active in today's world of music. Susan Butler described the full report and highlighted some areas. The report highlighted an overview of the shift in rights, how rights and recorded performances and musical compositions were granted to others. That shift from the once dominant physical market of CDs and cassette sales, to the digital market and of course the corresponding value chain. The report explained that rights and recordings flowed from rightsholders to digital music service providers or DFP's in a far less complex way than writing compositions. Not only because a single composition typically had several co-writers and several right holders or publishers, but as a result of the network of collective rights management organizations developed over many decades. Details about how rights and compositions were granted around the world for digital uses which dramatically changed after the European Commission's recommendation relating to cross-border licensing. The report explained how money flowed in the digital market and explained details about many specific topics which often attracted the attention of the press after being raised by various advocacy groups throughout the music industry. For example, from the report, in the global digital music market where DSPs were the links between paying consumers and music providers, the terms of the contract that DSPs entered into with record companies and to a lesser extent directly with large music publishers, were often highly sought after by various industry participants and some members of the press. They were also nearly always confidential because they contained a highly sensitive business information that formed the foundation of a competitive digital music market. The report explained why comparisons of digital revenue flows to the physical market revenue flows and comparisons of digital streaming revenue flows to radio broadcast revenue flows were generally inaccurate comparisons. The old and new revenue models were very

different from each other and the report also described the business models for digital music services used money to generate money from consumers. The preparation of the report was conducted through the lens of an investigative business journalist and a former litigation attorney. The report represented the results of selecting, based on extensive experience in finding experienced individuals with first-hand knowledge of specific information and formally interviewing more than 85 individuals across 25 territories on six continents and reviewing material as described throughout the report. Note that the information in that report did not only come from the individuals formally interviewed, but other documents reviewed over the two months in preparing that report. Nearly every week for the past 15 years, Susan Butler had continued to formally interview experienced individuals who were actively working in the digital music market, discussing changes that were occurring around the world and the impact of those changes. In fact, that report reflected information gathered and confirmed with multiple individuals each time as factual and accurate with easily more than 3000 individuals over the past 15 years. The work for that report involved updating for changes, verifying and triple checking all of the facts for accuracy in that report. The report also contained and explained information about the role of playlists. Essentially playlists were compilations of music tracks on digital services and how those playlists came about. Note that much of that particular information in that section came from expert's declarations filed in a legal proceeding and sworn to be the truth under penalty of perjury. The report also explained the role and importance of user engagement with digital music services and why it was important for consumers to actively engage with the services and the role that consumer access played in the marketplace. That was the necessity and importance of broadband connections and of portable mobile devices with a portable data plan. The report also summarised some issues related to the digital market, including performers and songwriters. For example, there was incredible competition among performers and songwriters for the ears of consumers because there was so much music available with practically no gatekeepers to the market today. As the report stated, during the three years following the appearance of Napster, 2000-2002, the record industry distributed an average of about 33,500 recording releases per year in the US. That meant that consumers could choose from about 33,500 new releases to buy, plus all the recordings they had not already purchased. While that figure only reflected the US, it was then and remained the largest recorded music market in the world. In 2021 with a large number of roads into digital music services, whether with major record companies or the thousands of independent record companies or through the aggregators, there was an almost limitless network of performers and songwriters who were recording or having their songs recorded by others. For example, the most popular multinational music services received on average more than one million recordings each month as of April 2020; from more than 500 main sources that were aggregating approximately 40,000 additional sources. Those sources being traditional record labels, non-traditional record labels, aggregators, distributors and self-released recording artists. They were delivering new recordings each month. That meant that the number of recordings expected to be delivered to the streaming services in 2020 alone would likely add another 12 million recordings to the tens of millions of tracks already available. It was a very competitive marketplace. The report explained the differences between streaming and radio broadcast, especially in the way anyone may improperly count the number of streams and try to compare those to the number of radio plays, the number of streams and the number of radio plays were completely different. The report also explained some differences among recording contracts. Indeed, past and present recording contracts with artists varied in contractual terms, especially today. Not only within major record labels but also throughout the more than estimated 10,000 traditional independent record labels. Those agreements ranging from worldly based agreements to distribution only to agreements which were joint ventures or even a sharing of net profits. The report distinguished the roles played by recording artists who signed recording agreements and the roles of background performers. The report noted issues involving songwriters related to the accurate identification of their works as well as the remuneration issues and work for hire agreements. The report described in a more complete way, the transparency issues and what they meant, including the results of the review for that report of

artist royalty portals available from the three major label groups and songwriter royalty portals available from three major publishing groups. Those were the online portals that their songwriters and recording artists could access to get up to date information on their royalties, their sales etc. In addition to providing certain revenue figures for recordings and for compositions based on verifiable reports, the report explained the nuances of reading and interpreting revenue figures more accurately across multiple sectors. Finally, the report briefly dived deep into the world of metadata, and summarised the highly complex operational infrastructure and pipelines for the flow of information, the challenges that were faced every day and how many of the challenges were being met.

149. The Chair recalled the next presentation was on the Study on the Artists in the Digital Music Marketplace: economic and legal considerations, document SCCR/41/3, prepared by Mr. Christian L. Castle and Professor Claudio Feijóo.

Mr. Castle and Professor Feijóo presented the study, pointing out that the video described its content focusing on the digital music marketplace. Professor Feijóo explained that the study was about performances in the music marketplace, of which an important factor was the streaming. Although value of recordings was proven, little revenue was paid to performers and no revenues were paid to non-featured performances. That study was looking at alternatives and suggested a path forward to solve that issue because if the imbalance was not addressed, then it would represent a long-standing problem. The study showed that although there were different models of music consumption, streaming was dominant based on the figures provided. Mr. Castle noted that even under record deals of featured artists, that did not really account to very much per stream basis. The non-featured performers did not make anything at all, there were some exceptions but not anything to be of tremendous significance because in most countries, they got absolutely nothing at all. In the business model, there were some factors to be analysed to understand what was happening in those data markets. The first important one was that there were several consumption models at the same time. So, users, consumers and platforms provided different services at the same time and one that was particularly important for that study was the lean back consumption model. This was relatively similar, a little bit of a substitute for the traditional broadcast of media. So, in a way, the platforms they were using information provided from consumers data assets. They were trying to understand consumers and they were getting value from those profiles. Another factor was all of those services put together. In a typical streaming license agreement, all of the artists had royalty payment so they were put together and non-featured performers did not participate at all in digital payments. In the current model, the reason they did not participate was because of a particular royalty deal that was common to all music services. With an international company like Spotify, it was the same deal present in every country they operate. There was basically one deal structure for all of those services and as streaming has become more dominant, that became a greater problem. The reason was because the way the money was divided up was by taking a bigger market share distribution of revenue. There was an assertion that higher market share would always get more revenue. Mr. Castle also highlighted some discrepancies like subscription fees going to other artists other than those subscribers selected and the ever-increasing number of recordings on those services. On average, there were 60,000 uploads in a day. That ratio of the revenue pool was also always climbing on a per stream basis, so it needed to be measured over time. According to the research conducted, per stream rate would always decline which made mathematical sense. Professor Feijóo noted that every type of stream rate had moved down in the past years, comparing Spotify figures and Apple music figures, basically, it was declining. It looked like it was happening in practice, it was not just theory. Another interesting perspective was that traditionally what happened with stream rates compared to the consumer revenue or the money that it was transferred to artists and musicians from labels. There was another interesting comparison. In the part of the value that was given and transferred to artists, as compared to real value, that was being extracted from the data profiles, as described in relation to business models. It was about creating profiles and data assets from consumers.

It made sense to use that data to compare whatever it was given to featured or non-featured artists, which was already low, even zero in the case of non-featured as compared against real value created from the user profile it was much lower than the standard figures, normally used. Mr. Castle explained that they worked through a number of possible options. The general sense was that one could not continue the status quo. Other models would fix part of the issue but what would be a sustainable fix was to create a streaming remuneration payment that would be paid directly to performers featured and non-featured, by the platforms through the CMOs, without creating a compulsory licensing. It would not get in the middle of private contracts and it did not undermine anything. It really created incremental revenue to book featured and non-featured performer that was paid by the people who got the value as represented by their market capital associations. Spotify had turned into a multibillion-dollar company but paid nothing to non-featured performers. So that did not seem fair and that seemed to be a way to remedy that situation and it was discussed in some detail in the study. Professor Feijóo noted there was a struggle for performers, and there was a need for sustainable and transparent remuneration. Since the publication of the report there had been a number of developments and interestingly, one of the majors, Sony Music had changed their policy on balances. That was a sign that things could be slowly improving and everyone was aware that there were difficulties which should be addressed in some way. The good news was that there were many opportunities to try to find a better balance for everybody related to the music industry, in particular featured performers and non-featured performers. He expressed appreciation to WIPO for exploring possible ways to strike a better balance.

150. Ms. Leila Cobo, the Latin music industry expert for Billboard presented on her report, *The Latin American Music Market*, document SCCR/41/4. She started her session with music by Bad Bunny, a Puerto Rican Reggaeton star singing mostly in Spanish and was named the most streamed artist of 2020. Bad Bunny was streamed 8,300,000,000 times, and his album which is an acronym by the way, it means I do whatever I please, was the most streamed album globally on Spotify with over 3,800,000,000 streams the previous year. Bad Bunny was just one example of the explosive growth of Latin music worldwide. Latin music, defined as music performed predominantly in Spanish, was the largest growing sector of music in the world. According to the IFPI's 2021 report which was the only source of details on music revenues in every country, in 2020, Latin America was by far the region with the biggest growth in music revenues in the whole world. It grew 15.9 per cent, the only region in the world to register double digit growth. Not only that, Latin America had generated 11 straight years of growth, from 2010 to 2020, in terms of music revenue. And it was also the fastest growing region in those years despite COVID, despite inflation, despite turmoil. The regions good fortunes were driven by the highest total growth rate in the world of 24.6 per cent with every single country in the region, seeing double-digit growth in this area. To fully appreciate the growth, we could consider that in 2010, Latin America's music derived revenues represented a mere 1.8 per cent of the global market. Today, the region accounted for nearly 4 per cent of the total global market, and if there was not such a rapid evaluation, that percent would be much bigger. There was growth despite many obstacles, because Latins love their music and they consume it voraciously. And, perhaps, for the first time ever, that consumption was finally visible. In the Billboard global 200 chart, in June 2021, there were two songs in Spanish in the top five. Two songs in a language that was not English were among the most listened to around the world according to MRC data. Nearly every week since Billboard launched its global charts the previous September, there had been at least one Spanish-language song in the top five. In fact, the song that debuted at number one when we launched the chart was *Hawaii* by Maluma. Puerto Rico was the second most represented territory on Billboard's global 200 chart, it was third behind the United States of America and the United Kingdom. Ms. Cobo presented statistics of Spanish music on the global music charts. The fourth most represented territory was Colombia. The home of Shakira, J. Balvin and Maluma. Tracks that were predominantly in Portuguese and Spanish made up roughly 15 to 20 per cent of Spotify's global top 50 track. YouTube, videos of tracks featuring Portuguese or Spanish on average represented 30 per cent

of the platforms weekly global music charts. And Latin Artists made up 30 per cent of all entries on YouTube's famed Billion view club. 65 videos featuring Latin artists had achieved a billion-view status, including, Despacito, which was the most viewed video in the world.

151. Lord Alajiman, an artist, author, interpreter, performer, entrepreneur, and cultural expert spoke on the music market in the digital economy which was also highly flourishing in Africa. He presented on his Study on the Digital Music Market in West Africa, document SCCR/41/6. The study was carried out in a very specific context, that was COVID-19 pandemic. The context allowed to identify very rapidly what was at stake, what the opportunities were, and specifically an overall vision of what music could become. In terms of digital music in Africa, authors, stakeholders, radio, television and other users were crucial partners of the value chain. Because it gave access to internet, they had the means for payment which was the most penetrating as far as the ecosystem was concerned in the operation of music. Controlling the points of payment through mobiles, mobile banking, made those the stakeholders who had a portfolio of clients and users which could enable music to be distributed. Broadcasters, radio and TV collaborated with those platforms at a local level. There were few stakeholders in those sectors in the African countries. They could help producers and artists to obtain more visibility, an higher profile in a continent that had difficulties in penetrating international platforms. That report was put together in a framework that showed the role of collective involvement management organizations. They could enable the artists to gather data and obtain recognition which could then be used to influence on how music was distributed. He stressed that in Africa the main challenge was lack of training of human capital, the understanding and controlling the technical jargon which could enable stakeholders, artists and producers, to understand how digital markets work. It was something that should have happened before moving on this digital model. The report also spoke about the so-called value gap. That was a phenomenon quite common in Africa. He pointed out that the African continent was a continent where telecommunications were in full growth. Lord Alajiman thanked the Secretariat that supported him also exchanging ideas on the project.

Ms. Irene Calboli and Mr. George Hwang presented their Report on the Online Music Market and Main Business Models in Asia: Overview and General Trends, document SCCR/41/7. They discussed music marketing and business models in Asia, overviewing the general trends. Ms. Calboli handled the first part of the presentation which related to the rise and development online music in Asia while Mr. Hwang handled the second part of the presentation which related to the impact of online music in Asia. Ms. Calboli revealed that Asia was one of the largest areas for growth in music both in consumption and revenues. It was the second region for growth in revenues in 2021 and the internet infrastructure and mobile connectivity infrastructure was also growing exponentially; internet penetration ranged from 95 to 60+ percent depending on the level of development of countries, and the number of smart phones was growing across the region and at the same time the number of phones was actually outnumbering the population. That could affect the bandwidth and ability to download large videos on phones without smart phones. The other thing that was to be considered was the fact that the vast majority of the connection was prepaid in the region and in developing countries and emerging markets was more difficult to access banking services. Prepaid phones were more common, but through prepaid internet service and the ability of connection was quite developed and very developed in cities, but still, the free streaming services were more common than the paid subscriptions. Even though the gap between the two was shrinking. The other thing was that Asia is diverse. Diverse in terms of players in the region, even though there was certainly a clear relevance of Spotify, Facebook and other western platforms. She made reference to regional platforms such as TikTok and other regional platforms for music. Catalogue preference was also reflected in that diversity, the role of aggregators and the changes in music dynamics between artists and service providers was also quite common in Asia. Mr. Hwang noted that in order to understand the disruption to copyright management it was imperative to understand something about value chain. The value chain was not a chain but a web. The value of the music followed the rights granted. He compared a flowchart of the value chain prior to streaming

and the flowchart related to streaming. Royalty shift occurred within the technology change and in that case, streaming did not need to use mechanical rights anymore. There was no more permanent storage or reproduction. Disruption to management happened when there were different rights to deal with. They were both physical employment and most of the time, online was used in terms of the delivery of music in the marketing and promotion. The current debate centered on performers' rights, CMOs and value gap. Much concentration was centred on that simply because they either resulted directly from streaming or, as part of the ecosystem of music and contract management. Performance rights dealt with the disparity of income between performers featured and un-featured. Value gap dealt with the share of revenue between content creators and platforms such as YouTube and Facebook. The regulation of CMOs started because in Asia, there was rising complaints by consumers and members of CMOs. In conclusion, as could be seen from the stats, Asia was a very diverse region. The study was superficial, in order to have any meaningful in-depth study it was encouraged that there was a country-by-country analysis. Ms. Calboli thanked the Committee for its time and wished participants a very fruitful conversation during the Committee and looked forward to future collaborations on the topic of online music and business models in Asia.

152. The Chair thanked the experts for their submissions and invited Member States, NGOs and IGOs to make their statements.

153. The Delegation of the United Kingdom speaking on behalf of Group B thanked the respective authors of documents in SCCR/41/2, SCCR/41/6, presenting their findings and presenting their work to the Committee. The Delegation also thanked the Secretariat further summary of the work done on that topic. Each of the reports highlighted important aspects of the rapidly evolving digital music marketplace. Keeping her fingers on the pulse of the digital music market, the Group stated that Ms. Butler explained the changing nature of the way in which music was produced and accessed in the digital environment, including the chain of rights, or so called how rights flow, and the value chains, or so-called how money flows, in the digital music marketplace. The study of Mr. Castle and Professor Feijóo drew on the specific legal and economic impact of the digital shift of rights and value chains for performers. Finally, regional studies in documents SCCR/41/4 through SCCR/41/7, were useful for giving in-depth perspective on international markets as each had their own unique character, the studies could be useful and helpful in fostering an exchange of shared experiences and subsequent lessons among regions.

154. The Chair stated that Delegates could pose questions to the authors of the respective studies.

155. The Delegation of the United States of America thanked the authors for their thoughtful studies on various aspects of the digital music market place. After carefully reviewing all five studies, the Delegation emphasized the long-standing view that copyright policy issues as opposed to marketplace issues were more likely to result in productive exchanges in the SCCR. The Delegation pointed out that there seemed to be no consensus on how artists and performers should be remunerated today much less in the global music digital marketplace of the future. More broadly, the Delegation reaffirmed its commitment to request discussion in the SCCR of timely, significant, substantive issues without preparing for norm setting. The Delegation stressed the nature and role of the studies prepared by outside experts that were commissioned by the Secretariat on behalf of the Member States, to inform the deliberations within the SCCR. The Delegation believed that such studies should be fact-based, policy neutral, and subject to rigorous, independent peer review process. The Delegation stressed that it was the responsibility of WIPO Member States to develop policy recommendations through the deliberative process in the SCCR. As a result, the Delegation believed that WIPO commissioned studies should, generally, be free of policy recommendations, which could influence or prejudice the discussion in the SCCR. WIPO commissioned expert studies that

were posted on the WIPO website, in advance of any SCCR meeting should be accompanied by a prominent disclaimer, making it clear that any opinions expressed in the paper were those of the author and should not be attributed to the WIPO. Consistent with that framework, the Delegation remained open to considering other timely, significant, policy issues related to copyright policy in the digital environment for discussion at future meetings of the SCCR.

156. The Delegation of Ecuador acknowledged the authors for the valuable reports presented. In relation to document SCCR/41/3, finding opportunities to reduce the value gap was particularly important for Ecuador. The Delegation believed that promoting a balanced, holistic, and just regime enabling artists to receive compensation for their work, was important. The Delegation believed that the Committee needed to find mechanisms to safeguard cultural diversity to improve over the current market distribution models. The Delegation believed that it would be good to promote discussions around the generation of a new reality on those three missions. The Delegation proposed that the Secretariat consider hosting a debate with the authors present at the following meeting in person of the SCCR. The Delegation called for having an actual agenda item on artists in the digital environment rather than having it discussed under other matters.

157. The Delegation of Pakistan thanked the authors for their hard work and those useful studies, particularly for document SCCR/41/3. Pakistan recognized that the user centric models failed to compensate performers adequately for different reasons and also failed to adequately compensate non-featured performers, especially in least-developed markets. The study examined the current economic and legal aspects of exploitation of recorded music by streaming platforms and the effects on the performers who helped create it across national jurisdictions. The Delegation agreed that those models needed to evolve. The Delegation also agreed to the proposed possible solutions of new streaming rights to remunerate royalty's payable by interactive music systems in respect of phonograms made available on demand. The Delegation was already working on supporting and monitoring CMO's as recommended in the study.

158. The Delegation of the European Union and its Member States referred to the presentation made by the authors of all the studies. As expressed in previous occasions, the Delegation believed that the issue of copyright in the digital environment merited attention and discussion in order to ensure that copyright could be more efficiently protected and able to play its role in the digital era. In that regard, the Delegation thanked the authors of the studies for their presentations.

159. The Delegation of Georgia speaking on behalf of the Central European and Baltic States (CEBS) thanked the authors of the documents SCCR/41/2, SCCR/41/3 and SCCR/41/7. The findings of that document would contribute to the findings of that Committee. CEBS also thanked the Secretariat for the summary and the work done on that topic. CEBS noted that it found the issues of online music markets and business models as well as those on rights, licensing practices and collective management very pertinent.

160. The Delegation of Peru speaking on behalf of countries in Latin America and the Caribbean (GRULAC) thanked the Chair for the presentation of that topic and thanked the Secretariat for preparing the documents and organizing the video presentations which were of great use for their deliberations. The Delegation thanked the authors of the five studies for sharing their knowledge on the digital music market, and their opinions regarding the principal issues at stake for creators in the digital environment. That would be very useful for reflections on that topic in the committee. GRULAC, as one of the main components of that discussion hoped that the studies and the discussions ahead would shed light on the way that the digital music sector functions, and the topics related to the remuneration of artists in the environment, improving transparency so that a broader range of the creative sector stakeholders, and digital

music service consumers could be involved. The Delegation believed that it would help to understand the broader implications of the current technological trends for the copyright system and smooth the road to in-depth discussions in the future. The Delegation welcomed the invaluable contributions of Member States to that discussion and reiterated their readiness to participate in the fruitful debate.

161. The Delegation of Brazil aligned with the statement made by the Delegation of Peru speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC). The Delegation thanked the Secretariat for the work invested in that agenda item, preparing and organizing documents, and for making available the videos from the authors, an innovative way to inform deliberations and to transmit the content of the studies in a more approachable manner to a larger audience. The Delegation believed the digital revolution had important implications for the copyright system, implications for artists and consumers alike, which were most of the times still unknown to stakeholders. The Delegation recognized the need to enhance knowledge of the functioning of new tools used to commercialize content in the digital environment to better assess the challenges and opportunities of technological trends to existing rules. The recently published studies presented material to start a discussion. As stated in past SCCR sessions, “The Analysis of Copyright in the Digital Environment” proposal was broad and mature enough to become a permanent agenda item in that Committee. The Delegation suggested that the topic should be maintained in the SCCR agenda in order to delve deeper in the rich material provided to by the five studies and reflect upon possible following steps for those discussions in the SCCR. One issue that studies had highlighted that the Delegation felt would deserve a more focused discussion by Members was the issue of remuneration of artists and performers. The Delegation expressed readiness to debate with Member States possible areas for more focused discussions based on the issues raised by the studies. The Delegation hoped that those studies could pave the way for later studies on audiovisual and literary markets, which would complement the current analysis of the music sector. Therefore, there were plenty of avenues to explore in those discussions. The Delegation invited the views of Member States and looked forward to a fruitful and constructive debate.

162. The Delegation of Colombia thanked the rapporteurs for the studies they had conducted and presented with regards to that issue and the update from the Secretariat on those studies. The Delegation stated that it was GRULAC that initially proposed to conduct a study on artists in the digital environment because of the concern with the low level of remuneration of creators and artists in the digital environment. There was a need for a legal and economic safeguard for artists, both featured and non-featured and that was why in 2015 it started raising that issue and the need to ensure that the Committee could find ways to overcome the problems that had been highlighted by the studies. Thus, the Delegation supported Ecuador’s proposal that that should be a permanent agenda item for the committee from its following session. The Delegation thanked Ms. Cobo for the Report on Music in Latin America, document SCCR/41/4, which clearly showed the importance of music in the region, and it also confirmed some of the trends in the region where one of the major growth areas was the digital market. Although it was one of the fastest growing digital markets in the world, given there was an international consumption, it was imperative to have an international solution and the platforms used in Latin America had led to greater usage but falling incomes for artists who needed to exercise their rights. Obviously, there were people like Shakira who were internationally known and internationally played, but there were many artists who were just local. They presented their own content in a local market using popular and folkloric music, popular in Latin America and in the case of Colombia, over the last two decades the Department of Music had been producing a lot of music in the digital environment in our country. Colombia had a lot of producers and artists. Colombia had 74 professional music schools under the Ministry of Education and so it was necessary to professionalize the sector of music production, but that studio showed the broad opportunities that Colombia really had to share its musical heritage in the digital

environment and bring it to consumers of the world. Including music in Spanish and native languages. The Delegation indicated that it wanted the item to stay on the agenda as a standing agenda item.

163. The Chair invited other organizations, intergovernmental and nongovernmental organizations.

164. The Representative of the Latin American School of Intellectual Property (ELAPI) pointed out the contributions of Latin America to the growth of the music industry in the digital environment in the form of compositions, production, art management and human talent. Even the musical genre most listened to on digital platforms came from the region. The authors and artists in Latin American had first-hand experience of the impact of the value gap produced by the pandemic, where concerts used to be the main source of income in the sector, they found themselves compelled to migrate to a digital environment, the business model that still failed to provide a fair return on their work. The pandemic only reaffirmed the need to close the value gap, and the management of and respect for copyright played a fundamental role in meeting that objective. ELAPI recognized that the Committee was at a crucial turning point and should facilitate change for the benefit of creators. ELAPI, therefore, sustained the position taken at the Committee's fortieth session, where it expressed interest in participating in the activities of its members with a view to reducing the value gap in the digital environment. The Delegation also expressed readiness to engage in academic cooperation with the Committee and GRULAC.

165. The Representative of the Library Copyright Alliance (LCA) noted with keen interest that vastly more music was being created and distributed than ever before. The concern about the remuneration of artists appeared to centre on the question of the so-called value gap. LCA queried whether the value gap was really a copyright issue at all, and therefore within the jurisdiction of that Committee or rather was it an issue of competition and cultural policy and therefore not within the jurisdiction of that Committee.

166. The Representative of Knowledge Ecology International (KEI) spoke on the market for recorded music, the topic of several of the studies. Revenues paid to authors, performers, producers and copyright holders had increased sharply from streaming services, as illustrated by Figure 1 in study SCCR/41/3. IFPI estimated that music streaming revenues grew from \$1 billion in 2012 to \$11.3 billion in 2019. There was, however, widespread dissatisfaction with the royalties received by individual performers or authors, despite the fact that the leading streaming services distribute more than 70 percent of revenues to performers or other rightsholders. The royalty payments from streaming were often based upon a division of streaming revenue, that was zero sum, in the sense that money paid to one group reduced the money available to others. In that sense, the greater the share of royalty revenue paid to a handful of popular artists reduced what was available for everyone else. But also, the amount of money paid to authors or producers reduced what was paid to performers, and vice versa. The same was true with money paid to holders of copyrights and related rights that existed long after the death of authors or performers. KEI proposed allowing consumers of streaming services to choose, at least in part, the methods of allocating royalty payments to authors, performers and producers, by opting into competing collection societies to distribute revenues. That was the so-called Blur-Banff model.

167. The Representative of the Ibero-Latin-American Federation of Performers (FILAIE) thanked the WIPO Secretariat for the studies presented at the session of the Committee. The Representative acknowledged the initiative by GRULAC in 2015 and its support for the defense and development of artists' rights. FILAIE wished to highlight the conclusions of the studies as a whole, while paying special tribute to the study carried out by Chris Castle and Claudio Feijoó, which highlighted and confirmed two deeply uncomfortable truths. First, while the industry

enriched itself through streaming (\$13.4 billion in 2020), artists were paid derisory amounts or nothing at all. Second, and no less important, the recording industry was not transparent towards artists. Mr. Castle and Professor Feijóo were not alone in stating those truths. The European Union, in its Directive 2019/790, the former Director General of WIPO, Francis Gurry, and more than 150 British artists who, led by Paul McCartney, recently signed an open letter to the British Prime Minister, Boris Johnson, requesting the Government of the United Kingdom to enable fairer pay for musicians in the Internet, have all drawn attention to this. FILAIE, therefore, urged the Member States of WIPO to propose changes in the current legal framework, as the WIPO Performances and Phonograms Treaty no longer protects artists' rights in the digital environment effectively. They also proposed, as put forward in the study, that music (and its artists) benefited from a similar arrangement as that provided in Article 12(3) of the Beijing Treaty on Audiovisual Performances, namely the recognition of the right to receive remuneration for any use of the performance, independent of the transfer of exclusive rights to performers or producers. Finally, FILAIE highlighted the urgent need to incorporate the Proposal for Analysis of Copyright Related to the Digital Environment as a standing item of the Committee's agenda, and to hold an honest and substantial debate on the lack of remuneration for artists in that environment. However uncomfortable that was, the situation of musicians in the digital environment was unsustainable, and artists therefore called on WIPO and its Member States to legislate to reverse the situation.

168. The Representative of the International Authors Forum (IAF) stated that in the digital environment, creators' works were used more than ever. IAF thanked the members and speakers who had acknowledged the importance of appropriate remuneration to foster the work of creators. IAF hoped that analysis of Copyright Related to the Digital Environment proposed by Group of Latin American and Caribbean Countries (GRULAC) could holistically consider the impact of the digital environment on authors and, in particular, the impact of business models in streaming on creators. IAF thanked GRULAC for its proposal on that important area of work and hoped that issue would remain on the agenda. While the works of authors across the world were now being accessed online more than ever before, creators were not always fairly remunerated for such access. Screenwriters, for example, often remained unpaid for the use of their work online despite audio-visual works generating significant revenues for on-demand services. It was often difficult to resolve that lack of remuneration, given the huge inequality in the negotiating relationship between producer and screenwriter. Authors' organizations such as the Federation of Screenwriters in Europe (FSE) and the Federation of European Film Directors (FERA) had called for the need for an additional right as well as better creator contracts to resolve this. Therefore, authors urgently need remuneration rights that reflected the myriad uses of their works in the digital age. An Unwaivable Right to Remuneration (URR) for online uses would ensure that authors were properly rewarded for their contribution to the vast libraries of work now being made available by on-demand streaming services. At a webinar hosted by IAF earlier that year on URR, we witnessed the success of URR in Spain, Italy, France and Belgium. The Representative urged WIPO to consider the role of URR in the digital environment, particularly given the rising dominance of streaming platforms.

169. The Representative of the International Federation of the Phonographic Industry (IFPI) was the organization representing the recording industry worldwide. Through its network of national groups IFPI represented over 8,000 record companies operating across the globe. IFPI had a longstanding history working with WIPO on various matters, ranging from providing input to WIPO's normative work to participating in WIPO's technical assistance activities. IFPI's aim continued to be to work with WIPO and its Member States towards developing and implementing fair and effective copyright systems worldwide. IFPI regarded WIPO as the leading authority in the area, and the source of objective and impartial information on copyright and related matters. It was against that backdrop that IFPI expressed deep disappointment regarding the paper "Study on the artists in the digital music marketplace: economic and legal considerations" prepared by Mr. Castle and Professor Feijóo, under the agenda point "Copyright in the digital environment", in the materials for the forty-first session of the SCCR. Rather than

being an objective and independent study, in line with WIPO's standards, the paper was a one-sided advocacy paper. It failed to provide a serious analysis of the development of industry practices in the digital marketplace and contained a number of factual errors and accepted unsubstantiated claims as established facts. IFPI commented on the "Study on the artists in the digital music marketplace: economic and legal considerations" by Mr. Castle and Professor Feijóo in June 2021. For instance, the paper claimed, based on a sample of only 38 performers, that "there is little doubt that the problem of sustainability exists... broadly with performers throughout the world". Yet, there were recordings by up to seven million recording artists on the streaming services. In those circumstances, a sample of 38 performers did not entitle the authors to draw any conclusions about global developments; failed to consider the fact that not all of those millions of artists whose recordings were available on streaming services, could, as unfortunate as it was, make a living out of streaming, especially as the number of artists distributing their music on streaming platforms was increasing faster than streaming revenues; failed to consider the impact of the new digital distribution models and the increasing choice artists had. Independent artists working directly with digital distributors were rapidly growing in numbers and increasing their share of total digital revenues. At the same time, the competitive pressure had led incumbent record companies to constantly review the terms of their artist contracts; failed to mention let alone consider the contribution and role of record companies, as the artists' partners, who invested in and worked with the artists; referred to, what it claims was "the fundamental and potentially permanent collapse of performer sustainability" but failed to mention the fact that "digital royalties" paid to artists tend to be higher than those paid for CDs, and as a result, artists' recorded music revenues had not only increased, but they had increased faster than overall recording industry sales revenues; failed to mention that non-featured performers continue to be paid, in advance, their fees regardless of the success of the recordings just like they had been paid for the use of their performances recorded on CDs and other products; repeatedly referred to "per stream royalties" even though all the main streaming services paid right holders a share of their revenues, not a "per stream" royalty. There were no "per stream" royalties and referring to such non-existent rates was incorrect and misleading; claimed that "communication to the public remuneration was being cannibalized by "lean back" enterprise playlists distributed by the dominant streaming platforms that were intended to directly compete with broadcast radio on a global scale". Such a claim was not backed up by any evidence. On the contrary, global recorded music performance rights revenue grew by over US\$ 920 million between 2010 and 2020. There was no evidence of the alleged cannibalization; omitted to mention the fact that broadcasters paid right holders a fraction of what streaming services do; in 2020 global streaming revenues were around more than US \$12 billion, whereas radio revenues were US\$ 985 million. Applying a "broadcast model" to streaming would lead to a massive loss of revenues for artists and record labels alike. As a result of those and other errors, omissions, and selective use of data, the paper made a misguided policy recommendation. The policy recommendation, an additional and collectively managed remuneration right, was untested (such a right only exists in one country, notably Spain), but would likely disrupt the industry practices and ultimately reduced the record companies' investment in artists and their music. It would, however, certainly benefit the performers' collective management organizations. IFPI observed that Professor Feijóo, one of authors of the report, could not be considered an independent expert, on the grounds that he had acted as an expert Advisor to the Spanish performers' collecting society, a strong proponent of the proposed policy. Regrettably, it appeared that some lobbying organizations had already misleadingly referred to the paper as representing the WIPO position in the matter. A letter addressed to the UK Prime Minister claimed that: "[T]his week the World Intellectual Property Organization (WIPO) produced a report concluding, in agreement with us, that a remuneration right for streaming was the correct approach to our problem." In light of all the above, IFPI requested that WIPO withdrew the paper from the meeting materials and its website to avoid any future misunderstanding and to ensure the integrity of WIPO.

170. The Representative of the International Confederation of Societies of Authors and

Composers (CISAC) thanked all the rapporteurs for their informative studies and their brilliant presentations. CISAC welcomed the dialogue on copyright related to the digital environment undertaken by the SCCR. CISAC shared the view that the international community should engage in discussing the challenges posed by modern technologies to the different market players in the music field. The Representative observed that one of the greater priorities for the global community of music creators was the need for fair remuneration in the digital market. That topic was addressed extensively in the reports presented today. In that regard, CISAC suggested that the Committee maintained constructive discussions on the best way forward to tackle the biggest challenges faced by music creators in the digital environment, and namely: the detrimental impact of the rules on liability exemption of the internet platforms, which exploited creative works but, in many cases did not share their benefits with the creators; the need for enhanced cooperation from internet platforms to ensure the unavailability of unauthorized content, by adopting measures such as prevention and notice and stay-down; the need for transparency and accuracy of information from internet platforms. Transparency and accuracy of information from online content sharing service providers were vital to ensure a more balanced allocation of revenues from those who made available, promote and monetize content, and those who created and invested in it. The importance of transparency and accuracy of information was enshrined in the 2019 EU Copyright Directive, under Article 17(8). CISAC highlighted the problem of the buy-out clauses, imposed by big VOD platforms, that forced creators to surrender all their rights on their works in exchange of a lump-sum payment. That practice was becoming more and more frequent in the video on demand market with harmful effects on creators, and particularly on young creators, who consented to buyout clauses because of their weak bargaining position when negotiating AV production contracts with big online services. The recent adoption of the EU Copyright Directive was an important step in the right direction. The Directive helped rebalance the unfair bargaining relationship between digital services and creators. Article 17 of the Directive clarified that online content-sharing service providers performed an act of communication to the public when they gave the public access to protected content uploaded by their users and therefore needed to be licensed. Article 18 established the important principle that authors should receive appropriate and proportionate remuneration where they transferred their exclusive rights. Moreover, it provided for the mandatory nature in the EU of certain rules relating to the remuneration of authors in copyright contracts. It applied to the provisions regarding transparency and best-seller clauses contract adjustment mechanisms when the remuneration originally agreed became too low, what was called the “best-seller clause”. Those provisions would play an essential part in ensuring that copyright could, in the future, still play its role as an incentive and a reward for creativity. CISAC was confident that the future work of that Committee would be inspired by the recent developments in the European Union.

171. The Representative of the International Federation of Musicians (FIM) thanked the Secretariat for presenting the mandate of the SCCR in a faithful, rigorous and well-balanced manner. The choice of interesting and very regionally specific studies was both wise and in accordance with the objectives of the proposal from GRULAC. The study published in document SCCR/41/3 provided a precise analysis that the revenues that the main artists received online were often very, very low and that some artists received no remuneration despite proactive models which made consumers pay for music which they were not listening to. Since the beginning of that discussion, delegations stressed the need to see that the rights of artists for online uses be reflected in remuneration. The study by Mr. Castle and Professor Feijóo provided a working base which enabled the SCCR to make headway on that topic while examining all possible alternatives which could include the introduction of equitable remuneration to be distributed to artists by collective management organizations. FIM supported the proposal of several Member States to organize a real debate on the five studies during the forty-second session of the SCCR in the presence of the authors, so as to enable deliberations and exchanges of opinions in a framework better adapted to the importance of that work, and of the subject, which deserved to be included as a standing item on the SCCR

agenda.

172. The Chair invited Mr. Castle and Professor Feijóo to provide clarifications.

173. Mr. Castle pointed out that the objective of the study was to provide a number of different solutions. He noted that there were a lot of things to avoid and did not want to impose on a process led by Member States. He noted that the study was a performers' impression of how the world was turning in streaming in particular to the exclusion of some of the other verticals. That was mostly because streaming represented the biggest share of the income of major labels, so naturally it was a concern for performers. It was determined that there were some inherent issues such as the Big Pool Analysis, and that was going to be inherent in the math; which was described in more details in the study,. It was an issue that had come up repeatedly around the world and it was something which some people were trying to solve with a user-centric model, which was a way to more closely tie usage to revenue. Though he explained that the model did not seem to be as compelling as the equitable remuneration model, which could be incorporated into copyright law in a few different ways. The general idea was that streaming was an important vertical in the exploitation distribution model. There were copyright issues that could be addressed. That discussion was happening in the UK with the streaming legislation which was to be introduced. Copyright law reform had not been introduced, but the hearings took place in December of 2020. He noted that those different solutions being proposed, could be thought about in advance and in a more structured way as a matter of copyright policy. There were business issues and economic issues that had to be dealt with but ultimately, copyright policy would play a big role.

174. Professor Feijóo thanked participants for their positive comments. Complementing on his co-author's statement, the question was that there was an issue, from an economic perspective, there was a market failure for performers and especially non-featured performers. They did not enjoy enough market power. Leaving that situation to be addressed by competition and market practices was not enough. Copyright was the remedy. At that stage, that was the main idea of the report, there were many possibilities to solve the issue, the study was mostly pointing out the issue, that it was real and it provided as much evidence as possible. There were many possible remedies, which was a good news because when there were many pathways open for discussion. He noted that in his view a copyright avenue was the right way.

175. Mr. Castle invited the Committee to provide reviews, comments and he was more than open to having discussions off-line, online, on the record, off the record, about any of those issues. He observed that it would set the tone for great dialogue. The other thing was the talk about per stream rates in different parts of the study. Per stream rates were typically not a negotiated deal point in those licences between the producers and the services. There was a nominal per stream rate, however, because of the way revenue share was calculated. In order to know how much revenue share was to be assigned. Labels were receiving one cheque for all of its artists and needed to be able to divide that up amongst its artists, so it was essential to calculate a per stream rate to the particular tracks and to the particular artist. There was a number of industry standard tables out there, a couple of which were included in the report. Those tables could not be viewed from the official governing bodies of the record industry, but in the more crowd sourced and practitioner-oriented publications that had delved into that. Digital Music News was one, and that came up in the Digital, Culture, Media and Sport Committee in the UK, which by the way was a treasure trove of information on those matters. With everyone in the known universe weighing in and providing extensive work on it. Those materials were also considered in the study. He emphasized that in the study, there was no negotiated per stream rate as an internal deal point, but there was a nominal rate which was a function in the mass in order to calculate revenue distribution.

176. The Chair invited Lord Alajiman to provide clarifications on study on digital music in West

Africa.

177. Lord Alajiman shared the vision and the issues prevalent in Africa. He noted that it was particularly linked to a dependency on telecommunication because there was no local platform or label for the musicians to be able to put their music on the network. There were economic models which sometimes led to an imbalance in the value chain, because most of the music was accessible via telecommunications networks. As far as the network streaming in general, YouTube and other platforms which were accessible for artists, the only operational model possible was something that was free, based on a sharing revenue of advertising, and that pertained to the deliberations. It was very important to note the value of human capital and capacity. Because usually producers were artists who were within and using the digital environment, and did not know the appropriate language, were unfamiliar with the economic models, and the vertical models for music. Then there was the legal framework within which collective management organizations operated. However they found it very difficult to negotiate particularly when they were faced with the giants of the internet who were operating in Western Africa, such as Google and Facebook. The digital revenues of artists had increased because of the pandemic, thanks to COVID-19 because artists immediately saw a golden opportunity to move straight into the digital era, but they did not have the same competence or were totally unfamiliar with what had to be done and what could be done to be able to take advantage of those possibilities in the digital world. To conclude there were other avenues for growth in West Africa, particularly in Senegal. The government quite recently gave an international opportunity to help store local content, then using the music environment so as to complete its infrastructure. It was a good political desire, but it was not advisable to compare that to policies and implementation of certain things which were ready at his private copy and focused on the status of the artist. As you know most of the African countries see artists and musicians who did not yet have the status of a real worker. Senegal had made headway on that and hoped that it was going to become widespread and spread throughout the African continent so that the ecosystem of the operation and use of music and the digital media would be a golden opportunity, any opportunity and would be the future than in the real development which could take place.

178. The Chair invited Ms. Calboli and Mr. Hwang to provide clarifications on their study.

179. Ms. Calboli thanked the Chair, Member States, the Secretariat and everyone who helped in preparing the study. She noted that the study was just barely scratching the surface of the many issues in the overview of a continent as complex as Asia. It included many diverse economies from very mature music markets, to developing giants such as China and India or Indonesia. And emerging markets that were very vibrant, but still in many ways in their infancy of setting up a copyright system, a CMO system and other regulatory systems, both from a business infrastructure and legal infrastructure, and so it was very vital for the Member States to remember those complexities. Those complexities were similar in the African region and in the Latin American region, and perhaps also in parts of Eastern Europe and the emerging economies in the European continent as well. She cautioned about not making main statements about every country being similar because there was the idea of concern that were different, but certainly from results, they were similar to the other studies regarding the concerns on the value gap. She highlighted the economic and business models review of the study. The trend in Asia could be the same in other regions like the African study and in the Latin American study respectively. There was not just a value gap or some issues in the value chain between performers, other parties and intermediaries, but also within intermediaries themselves. Asia as mentioned was a diverse region, but there was also the issue of a moving target and were seeing smaller platforms, smaller intermediaries being absorbed by bigger ones, the power of bargaining between bigger platforms like multinationals which could become, it's on a different standpoint between artists and more local platforms and so, there was a change in the market dynamics as well. As mentioned that was a moving target and it was not reflected in the study

and the economic studies conducted. Certainly, there were several concerns expressed by a variety of stakeholders from CMOs, to performers to artists, to telecoms and others that had been interviewed. There were more materials that were included in the study and appreciated the fact that several Member States had expressed a desire to continue investigation in that area, particularly in regions which were complex with many different countries at different levels of development. A bit more in depth country-by-country studies could be very useful to really map and understand the scale of issues and how those issues were developing on the ground. The rapporteurs remained open to responding to questions and remain open to responding to emails.

180. Mr. Hwang addressed the point on the value gap. Basically, there were complaints from record companies and creators because of the little remuneration generated from free streaming. They found it was difficult for new records and new creations be put onto the markets and the competition was so large from cover versions. The other thing about performers rights was that a lot more education was necessary. There were limited interviews with performers, and it indicated that a lot of them do not know anything about equitable remuneration. He noted that there were some difficulties in getting some data because the study showed the income of revenue streams from streaming for Asia, but could only get it for the world. He pointed out that they would like to show the different income for music publishing and for the record companies that could only get for the world, but not exclusively for Asia. There was a little bit of difficulty in data gathering.

181. The Chair thanked the experts for their work and for taking their time to answer questions posed.

Resale Right

182. The Chair opened the floor to another issue on other matters, the resale right. The Chair discussed that the working group established during the thirty-sixth session of the Committee prepared a response to the questions raised by the Japanese delegation during the previous session of the Committee. The Chair referred to document SCCR/41/9, Clarifications Provided by the Task Force on the Artist's Resale Royalty Right in Response to Questions Raised by the Japanese Delegation, which was available on the SCCR meeting page. One of the members of the group of experts had prepared a video which was going to be presented.

183. Marie-Ann Ferry-Fall stated that during the fortieth session of the SCCR in November 2020, the Japanese delegation raised several interesting questions regarding the resale right. Their response was the object of a written report addressed to all the delegates which was submitted. The first question was how to ensure traceability of resale rights transactions when they occurred outside the framework of public auctions. In other words, among several solutions that traceability could be insured by a setting up of legal obligations for a declaration of the sales by professionals of the art market as well as the holding of them in a professional register listing the income and outgoing stock, their stock, which then could be checked by the authorities or by sworn officials of the collective management organizations. Beyond the collections of the resale right, the professional register allowed the public authorities of the states to fight against the trafficking of stolen works or to ensure the traceability of sales of weapons and jewellery and precious metals. Secondly, on how to guarantee transparency of distribution of the resale right, there again the solution was based on a legal obligation to redact and publish. That was on the part of the collective management organizations of a report, a transparency report, with the main indicators of a proper rights management that was the fees received, fees paid, the management costs deducted and the delay between the cashing in of the amounts of payments to artist. That law provided for the monitoring of the transparency reports by account certifiers and by administrative or judiciary authorities. Moreover, at the level

of the chart, individually, the collective management organization needed to indicate sale by sale, the amount received, and the amount repaid or reversed. The third question, how could one distribute those amounts when the beneficiaries of the resale rights were not identified? If national registration allowed the right to be collected when the artist, the beneficiaries were not identified, several solutions exist as to the use of these amounts, and it was the state's choice for a solution. Reimbursement to the art market professionals after a certain time, three years, five years, and research to find the artist concerned had been unsuccessful. Third solution used by the CMOs of collective, social and cultural activities but also of artistic education and promoting the artistic scene internationally.

184. The Chair invited the Member States followed by IGOs and NGOs to share their submissions.

185. The Delegation of the United Kingdom thanked Professor Ricketson for his work on the resale right and stated that the video and document SCCR/41/9 were useful. The Delegation acknowledged there were a number of different approaches, implementation and operation of the resale right schemes, and considered the use of the task force invaluable to inform the basis of understanding.

186. The Delegation of Georgia speaking on behalf of the Central European and Baltic States (CEBS) thanked the Delegations of Senegal and the Congo for the proposal and also thanked the representatives of the task force for the update. The Group looked forward to further discussions on the topic in the future work of the Committee.

187. The Delegation of South Africa speaking on behalf of the African Group thanked Ms Ferry-Fall for the clarifications provided, and for the video presentation and that were available in document on SCCR/41/9. The Delegation believed that all of those updates had enriched the work of the Committee on that matter and had enabled the Group to gain more understanding on that topic. The African Group maintained its support for the proposals of the Delegations of Senegal and the Congo to include the resale right to the standing agenda on the future agenda of the SCCR. It could be seen that a number of countries had incorporated it into their domestic initiations. The Delegation observed that a number of previous studies had also shown that resale rights had not had a negative impact on the sale or volume of art works. That was an important factor that the Delegation believed should alleviate some fears about the resale right. Unlike other types of artists, visual artists had long been excluded from benefiting fairly when it was trading during the first sale. That lack of benefit should not be set aside. It should be recognized, and they should be awarded accordingly, and the introduction of resale rights could only serve to encourage further positive contribution of visual artists. The African Group believed that although it had been done on the subject in the past, it implored the Committee to add that agenda as a permanent item in the SCCR, considering the Senegal and the Congo proposals dated as far back as the twenty-first session of the SCCR. The Delegation believed that enough time had passed for the Committee to finally include that item on the permanent agenda. The Delegation thanked the task force for all its work on the matter.

188. The Delegation of Japan aligned itself with the statement made by the United Kingdom on behalf of Group B. The Delegation commended the work of Ms Ferry-Fall and the task force for further contributing to the SCCR and their answers to previous questions on resale right. It provided more insights on Resale right. The Delegation asked the task force to proceed with that research further. The Delegation also reiterated its expectations of the research on a broader scope, that was, from the viewpoint of the protection of artists, resale right was not only meant to protect artists, it would be pertinent to discuss the impacts for retailers in the future. Therefore, a broader study for better ways to protect artist right under the copyright system was also important, possibly, the Delegation looked forward to the result and thanked the task force again for their support.

189. The Delegation of the European Union and Member States thanked and supported the Delegations of Senegal and the Congo for the proposal to include the resale rights in the agenda. The Delegation also thanked the representative of the task force for the updates on their work carried out so far. The Delegation attached great importance to the resale right, it had actually formed part of the EU legal framework for more than a decade and there was dedicated legislation applicable and experiences able to draw upon. The Delegation noted that it would give support on discussion of the resale rights in the SCCR. The Delegation recalled that the proposal to include the topic on the agenda of the SCCR dated back to SCCR 27 and tabled at SCCR 31. For that reason, the European Union and its Member States stated that should that SCCR agenda be expanded in the future it should be given to the resale right over any other topic.

190. The Delegation of the United States of America thanked the representative of the taskforces on the resale right for the update on their work. Consistent with the view that the SCCR should be a forum to discuss timely, significant, substantive copyright issues, the Delegation looked forward to the continuing discussion of that topic under other matters, with the express understanding that such a discussion was not intended to lead to norm setting.

191. The Delegation of France thanked the Secretariat for the work done on document SCCR/41/9. The Delegation endorsed statements made by the Delegation of the United Kingdom on behalf of Group B and the Delegation of the European Union and its Member States, in particular in supporting the proposal submitted by the Delegations of Senegal and the Congo for the resale right. The Delegation supported the request for a study on the impact of the pandemic on the art market by moving from theatrical or gallery auctions to online sales. Such a study would indeed make it possible to objectify the situation and better understand that phenomenon.

192. The Delegation of Colombia recognized work of the task force and the resale right and reiterated what was it stated in the previous session of the Committee that it supported the guidelines for future work, and document SCCR/40/6 in which there was the idea that studies and other countries and continents beyond Europe should be included. The Delegation reiterated that Columbia supported the resale right and therefore, looked forward to various different aspects, transparency, traceability, and also to work together with CMOs and representatives of artists.

193. The Representative of the International Federation of Journalists (IFJ) congratulated the acting Chair on the smooth running of that meeting and thanked the members of the Secretariat for their tireless work under those difficult circumstances. The IFJ wholeheartedly supported the proposal for an instrument on the droit de suite. A resale right giving artists a fair share of the proceeds of re-sale of their work, which were typically far higher than the proceeds of first sale - was a simple matter of ensuring equitable treatment and was a necessity for a fair authors' rights system that promoted innovation and creativity for the benefit of all. Because the art market was inherently international, and because relatively few WIPO Member States had implemented such a resale right, it was appropriate for WIPO to develop a binding Treaty, in order that the art market not be fragmented to operate under "flags of convenience" that permit intermediaries to evade their responsibilities to the artists whose work enriched lives.

194. The Representative of the European Visual Artists (EVA) indicated that the resale right was an irreplaceable part of artists income and should be applied in all member countries. Only the resale right allowed that visual artists benefit from the increase of value of their works selling in commercial secondary art markets, without causing market distortions of any sort. Visual collective management organizations had agreements with thousands of art galleries and auction houses active in the secondary art market and provided the legal certainty and

administrative capacity to manage the right on artists' behalf through an international collective management network. EVA called on the Committee to organize working groups and seminars to share the visual CMOs' know-how and expertise that facilitated the right's efficient application. The recent sudden increase of online sales and sales by private art dealers reacting on the pandemic made it possible that the upper end of the art market could continue selling virtually during the pandemic amid a broad shut down of all public sales and exhibition with 1 in 8 museums in the EU in risk to close permanently. However, online sales posed a new level of challenges to the management of the right, such as determination of applicable law and of tax status due to increased virtual border crossings. EVA called on the Committee to mandate the Resale Right Taskforce to study the situation and the impact of increased online sales on the application of the Resale Right. The resale right was still heavily fragmented requiring reciprocity to apply across borders - many Berne countries around the world did not apply it, including those with big art markets, like the US and China. Consequently, Artists continued to lose their fair share when their works were resold in those countries. Therefore, EVA implored the Committee to support and extend the work of the Resale Right Taskforces on the practical elements of the Artists' Resale Right, in particular regarding challenges in online sales and art galleries.

195. The Representative of the International Authors Forum (IAF) indicated that the resale right, through its global application, not only helped authors receive fair payment for work that would be sold before its value was known to them but could also be a means of fairness to artists when their work was resold into an international market. Resale right provided a fair contribution to artists from the proceeds of ongoing sales in the global art market, as well as an incentive to continue creating. Earlier, IAF hosted a panel discussion on the resale right, speaking with artists, artists' representatives and experts on managing resale right from multiple countries. Together those panelists discussed the success of the resale right in honoring the work of artists where it existed, and the need for it in more countries. That discussion could be watched online and was important for considering the view of artists on that subject. IAF wished to express its thanks and support to the proposal from the Delegations of Senegal and Congo to include resale right as a standing item on the future agenda of the SCCR. It was important that artists in all, countries could benefit from the resale of their creations. That was a matter of equity with how creators of other works were respected and rewarded for the continued enjoyment of their creation. Resale right could comprise a significant part of an artist's income. A survey of artists in the UK found that 81 per cent spent payments from resale right on their living expenses (DACS, 2016. Ten Years of the Resale right: Giving artists their fair share). The study in document SCCR/35/7 provided evidence that the resale right did not have a negative impact on arts markets, while better supporting artists so was a net positive to support the arts. It had been good to see reports from the resale right task force at WIPO, the increase of information on that subject would be of benefit to all countries that already had or could establish resale right. Given the obvious benefits of the Resale Right to artists, IAF hoped that more countries would establish that right. As the resale right acted as a matter of global fairness, IAF hoped that the task force would be able to look at the opportunities reciprocity of resale right bring to achieve its intention of fairness. IAF strongly supported the inclusion of resale right on the SCCR agenda and the progress of the resale right task force at WIPO.

196. The Representative of International Confederation of Societies of Authors and Composers (CISAC) thanked Ms. Ferry-Fall and Professor Ricketson for the comprehensive report on the activity of the taskforce on the resale right. In previous sessions, CISAC had expressed full support for the initiative of a forum of experts to discuss and report on the practical elements of the resale right. CISAC was pleased to see that the work of the task force was progressing swiftly, addressing several topics that raised concern among some delegates at the latest sessions of the committee. As a following step, CISAC fully endorsed the proposals of the task force, and in particular: the setting up of workshops and regional seminars on the effective application of the resale right, in particular on aspects of transparency, traceability and dynamism of the art market; the establishment of a toolkit relating to the law

applicable in Member States and to the legal and fiscal questions arising from international sales. CISAC also suggested the commissioning of a study on the progressive shift, of the art market to digital sales and auctions, and its impact on visual artists. That shift had been emerging in response to the global pandemic, since auction houses and galleries adapted their business model to the new opportunities in the market. However, that practice had a relevant impact on artists since the jurisdiction applying to sales was less clear, including the exercise of the resale right. Further, the activity of sellers online was in many cases more difficult for CMOs to monitor and invoice. CISAC was confident that the approach would bring added value to the discussions in the Committee and could shed more light on the different aspects of that issue. CISAC hoped that the work of the task force would encourage Member States to include the resale right as a standing item in the agenda of the future work of the SCCR. CISAC confirmed its availability to provide the Committee with information, evidence and testimonials from artists.

197. The Representative of the Intellectual Property Latin American School (ELAPI) reaffirmed its position in favor of enshrining the resale right for visual artists, especially for creators of three-dimensional works. In that field of art, and especially in the context of the pandemic, establishing a balanced business relationship between the artist and the target markets was particularly difficult. As a result, the only available resource for creators were legal instruments and links with their peers in the form of collective management societies. Those were the pillars of creating a balance and providing fair working conditions for artists so that they could sustain their livelihood. ELAPI proposed that the debate should include issues such as the role of the latest technological innovations related to blockchain and the development of non-expendable tokens (NFT), without losing sight of the guiding principles of copyright. ELAPI expressed readiness to participate in that Committee's work in order to bridge the differences in views on the matter and progress towards recognizing the difficulties faced by creators in the creative process and improving their livelihoods.

198. The Secretariat reiterated that participants should send their comments and suggestions to copyright.mail@wipo.int

Rights of Theater Directors

199. The Chair welcomed all Member States and other participants to continue to discuss other agenda items, and opened the floor to the topic of the protection of the rights of theater directors. The Chair pointed out that two videos had been prepared to sum up the studies and they were available on the meeting page of SCCR 41. The Chair invited Professor Ysolde Gendreau and Professor Anton Sergo to present on Study on the Rights of Stage Directors of Theatrical Productions, document SCCR/41/5.

200. Professor Gendreau stated that it was a pleasure to present their study on the Study on the Rights of Stage Directors of Theatrical Productions, document SCCR/41/5, which was conducted together with Professor Sergo. The study contained a highly condensed summary of the national protection that existed based on a number of countries. Among the countries that protected stage directors nominally within their laws, some laws that recognized them as authors rights, and other countries that protected them as performers. Of all of those countries, the Russian Federation was the one that had the most specific rules concerning their protection. When the laws did not protect stage directors, then sometimes the stage directors tried to go before the courts to have their rights recognized. In some countries, the courts were favorable to that kind of recognition, and some would protect them as authors, and others as performers. Some would be in between. Some would not want to grant them protection, and as observed notice from that list, all those countries derived from the copyright system of protection and the main difficulty lied with the notion of fixation. Moving on now to information based on the interviews. The first group of countries were the countries without professional associations. In

those countries they had discussions on the status of the stage director. Usually there was a fluctuation between a status as author, where they were seen as doing a lot of work, or a status as a performer where their intervention was considered minimal. That led to issues as to whether they were infringing on the author's work, or from another angle, if they could be considered a co-author of the work prepared by the original author. In Italy, it was quite settled that stage directors for operas were considered authors. The collaborative nature of their work was of course highlighted. They collaborated with authors, they also cooperated with the set designers, costume designers, lighting directors, eventually that could also lead to creation of the workshop creation category which was another feature of theater function. Also, the stage director himself could be playing different roles, he could be an actor in addition to being the director, and he could also be the producer. The remuneration issues would be quite similar according to all categories. In the sense that they would be looking for fees for the staging and the rehearsals, and eventually royalties for the performances that could be based on box office income, profits, obtaining royalties when plays were being remounted or there were new runs. Moral rights were often identified, the right of identity in particular, and they were concerned about changes that were made by others to their own stage directions. As for cross-border considerations, there was some awareness that very little was done about that. The more interesting information from the countries with professional associations. In those countries, again, the status was often dependent on the extent of their activity, the collaborative nature of their work was highlighted which created further difficulty for their recognition, their work was increasingly filled so their status combined with film director creates bloodlines between various roles. It was considered that the impact of the author stage directors and what they had written may encroach on their own artistic freedom. The names of the various associations were quite telling. In the United States of America, stage directors were part of the Stage Director and Choreographer's Association, therefore they were associated with people who were indeed protected as all that. In the United Kingdom and in Canada, stage directors were represented by the Actors Equity Associations, therefore more with performers. Those associations could also represent choreographers. Directors of musicals in particular were sometimes even considered choreographers. The agreements that those associations prepared could be binding or voluntary with the theater directors, it depended on the various systems. And there were also discussions about the ownership of the prompt book that could belong to the director of the production, but who nevertheless recognized that it was the stage director's work. The remuneration issues would be quite different in the United States and in the UK and Canada, those were very structured remuneration parameters. They were of course also concerned about payments for the remount. In other countries, some associations had very little involvement, and did not even negotiate for the members and some would issue guidelines. They could have a lot of work for staging, a lump sum for staging and then rehearsals and performance. Since the stage directors could be directors, opportunities for blurred lines, in the repertoire system, when the director was paid, it would usually mean that the stage director's work was something that belonged to the theater company, so the stage director had nothing in particular. Very little had been said in respect to right, they were very aware of the streaming of their stage productions, and even of lesser-known stage directors. They usually hoped that they would be paid if there was a remount abroad. Some had expressed concern with the comparison of terms, the most interesting information came with respect to United States productions, in the sense that if a US production went abroad, the country abroad would have to buy the US stage directors direction. But when a foreign company came into the US, except in some very specific situations, it was a US stage director who had to do the staging. So, there was some sort of inequity on that front. Professor Gendreau also added that there was a lot of human interaction in the work done, especially because performances were repeated night after night. Some had expressed a fear of a rights culture in that environment, and they also indicated that legal action was rare because they feared bad reputation and it was a closed world. Moving now to countries who had collected management association, some of them also had professional association, they play on two levels. The CMO's would negotiate at certain rights, but some rights would remain individual with the stage directors, and therefore, that was

a division of work that continued when there was representation abroad through other sister collecting societies. The collective societies could also offer model contracts, they would look for similar bases of payment, fees, lump sums, remount, box office receipts and so on. But sometimes the fees were determined by legislation or by decree. And if a stage director works for another theater, it was also the case sometimes that he would have to find a sponsor who paid for his stage direction in another theater where he was not permanently based. Moral rights were of course recognized in that situation. There could be specific mention was dealing with the right of integrity, the cross-border situations were a bit particular. EU societies could be recognized by sister societies in the EU, even in countries that did not recognize the stage directors as persons who were protected by the copyright laws. Or generally, the problem could be that they would hope to have some form of recognition through other societies, and it was not at all sure. Another important cross-border aspect was that the collecting societies would negotiate contracts with the major web platforms, and that, therefore, ensured remuneration for cross-border activities. Professor Gendreau pointed out that the presentation was very eclectic presentation of very different situations around the world.

201. Professor Sergo noted the TRIPS Agreement, the Rome Convention and the WIPO Treaties, had a number of ways of protecting theater productions. Among the regional agreements, very few mention protection, a particular exception was the Eurasian Economic Union Agreement which showed the protection of intellectual property rights of performance and that included directors for any kind of theater production including publishers, or any other entertainment performer. That meant that Armenia, Belarus, Kyrgyzstan, Russian Federation had agreed on characterizing the work of the theater and stage director as the performer or an exponent of production, and that comes under related rights. Such a variety could not provide the solution for legal matters and cross-border disputes. A simple numbers game that counted the number of countries that had adopted copyright or related rights was a method for protection for the directors, down from the basis for deciding which system was best for them. It was more appropriate to evaluate which system better affected the very nature of the creativity. Professor Sergo noted that the status of author would be best of the two. He supposed that the director's creative nature of work was identical to the nature of work of a film director which were covered by copyright. Due to the COVID-19 pandemic, the use of theater production in recordings had become more important than ever. It was likely that the impetus that had been given to the use of theater performances online would not be overturned even when they went back to normal, and it would remain high. Professor Sergo pointed out the need to ensure that there was protection under copyright and that would be the most appropriate mechanism and would correspond more to the nature of the law. Professor Sergo observed that it could be possible to work closely on that but that would need greater investigation to achieve that.

202. The Representative of the Intellectual Property Latin American School (ELAPI) thanked the Delegation of Russia for their unwavering support and for the extensive report. ELAPI endorsed the proposal to research the legal situation of the stage directors. Within that committee there was the need to deeply analyze the real nature of that group of people, because the issue of the copyright and related rights according to legislation in question would apply greater or less which would determine the real bargaining power and the capacity to live from their work. ELAPI would like to support the most adequate and appropriate system for stage directors, it was to count them as rightsholders of copyright. They sometimes intervene in the text of the theater text and of course that made up that perception of the work and it gave them the right to have an interpretation of the work. And the theater director could even be the co-author and could even seem as single holder in view of ELAPI and after some of the parts. The stage director should be right holders of that work. It was not just a whole set of ideas. They had to interpret them and that was not the characteristic or even its nature corresponds to copyright and related rights. EL Following the comments from the Delegation of Russia, ELAPI considered what would be most useful for state directors to distinguish what limits their intellectual rights had and then to negotiate with those objectives and they could give them an

appropriate way of making it.

203. The Delegation of the United Kingdom speaking on behalf of Group B thanked the professors for preparing the study on the rights of stage directors of theatrical actions contained in document SCCR/41/5, and further helpful presentations to that committee made. As the document recognized, there was no automatic single obvious conclusion to the question of the rights of theater directors. The global legal environment was complex making it difficult to address questions rather than cross-border situations including collective rights management and looked forward to an interesting discussion on the findings of the study.

204. The Delegation of the Russian Federation acknowledged the work conducted by those researching the rights of stage directors and Professor Gendreau and Professor Sergo for their work and the results of it. The Delegation was pleased to know that they had got more information than expected at the start of the analysis not only the legal system but the realities on the ground in practice and the experience of those taking part in the process, including lawyers, artists, members of various associations. The Delegation underlined the importance of that analysis for the work and it showed differences of the national approaches of Member States, to the determination of the rights and hoped for a constructive ongoing work, aimed at harmonizing those approaches to bring international protection of their rights to a new level.

205. The Representative of Innovarte thanked the Russian Federation for bringing that interesting issue its attention. The Representative thanked the Secretariat for the complete studies conducted. Those studies showed the paradox of types of artists that might be seen both as a creator of derivative work or a performer, yet had not got clear protection. In that study, Innovarte noted the very convention might have corporate protection but such a requirement was optional. Also noted by that, despite the lack of consensus, as performers, nothing as a matter of international law produced to expand such rights to stage directors. Therefore, the type of protection for stage directors, either copyright or related right was a matter of national law. Notwithstanding, Innovarte believed that further studies were needed to provide member countries with policy elements to make the best choice. For example, studies could be made around the scope and nature of the rights to be granted to stage directors that were better suited to maintain balance, both for other rightsholders like the authors of the underlying work, and also to the public. That further work should include recommendation of modern laws.

206. The Delegation of Ecuador believed that the way to ensure greater economic recovery was to work on the creativity sector and through that protection of rights and on document SCCR/41/5, the current legal heterogeneity was limiting to the protection, especially cross-border protection of the rights of the stage directors and therefore, they ought to be on par with audiovisual directors. The Delegation supported the Russian Federation, ELAPI and the professor to undertake the study with regard to their beneficiaries. The Delegation believed it was vital for that committee to undertake studies with regards to the regime itself, with regards to moral rights, matrimonial heritage rights and also remuneration. So that Member States could provide better elements to determine to increase the income and to protect better the rights of creators around the world.

207. The Delegation of the United States of America thanked the Russian Federation for their proposal, and the authors for their update on work, on the topic of strengthening the protection of the rights of theater directors. The Delegation looked forward to continuing the discussion of that interesting topic at the following session of the SCCR.

208. The Delegation of Georgia speaking on behalf of Central European and Baltic States Group (CEBS) thanked the authors of the study on the rights of state directors of theatrical productions for their work, and their video presentations.

209. The Delegation of the European Union and its Member States stated that it had listened with keen interest to the video presentations and understood the professors, including the updates on their work so far could be found in document SCCR/41/5.

210. The Chair pointed out that in certain countries, certainly those which followed the French law system, there was a difference made. Authors were creators of original works under Roman law, and interpreters of work, i.e., performers, were those who interpret the works or perform them, so, what would be the legal foundation for those who defined in the legislation, and artist or interpreter of a work?

211. Professor Gendreau noted that the way that presents was because there was a list under artists, interpreters, performers, and either there was an express mentioned in the list, or a desire to interpret, interpreter artist performer, and to include stage directors. Thus, there was no formal criteria that were expressed but rather it was a position decided on by the persons involved, either when they were undertaking modification of legislation, or in the way that the courts had interpreted the law, or consideration of the way that a stage director actually interpreted the original work and therefore the desire to see him as an artist interpreter.

Public Lending Rights

212. The Chair recalled that at the previous session of the SCCR, the Delegation of Sierra Leone, Panama and Malawi presented a proposal for an exploratory study on the public lending Right. The Chair invited the authors of the proposal to give an update on the situation.

213. The Delegation of Sierra Leone recalled that a proposal was put forward by the Delegations of Sierra Leone, Panama and Malawi to formally request the SCCR to commission to WIPO a study to provide detailed information on Public Lending Rights (PLR), their advantages and disadvantages, the different ways in which they could be implemented, and how countries could access the support and capacity building needed to take a PLR scheme forward, if they chose. Before turning to the proposal, the Delegation clarified a few procedural and administrative points. First, the Delegation understood the SCCR had a number of items under consideration on its agenda. As such, it did not wish or intend for PLR to be added as a substantive item for discussion, and not asking for a legal instrument or a treaty under that topic. The core objective of the Delegation was for countries, particularly developing countries, to learn about PLR and their potential. The study was a standalone project that would be carried out by WIPO and presented to Member States when it was ready at a future SCCR, in a similar way as the study on theaters' directors rights. There was therefore no risk of overburdening the agenda of the SCCR. The study would only provide an opportunity to learn more about an important element of the ecosystem that supported the creative industries across the world. Additionally, it understood that the Secretariat had the resources available to undertake the study if requested by the Committee. Second, the aim of that study was to know more about PLR - in a similar manner as the resale right agenda item which looked exclusively into the resale right, not about other remuneration systems for visual authors. Broadening the scope of the study would be self-defeating and would not allow to learn about PLR as expected. Other remuneration schemes could be explored by other similar studies, as needed. The Delegation also highlighted that it was not. The Delegation also highlighted that it was not requesting a substantive discussion on the merits of PLR at that meeting, rather asking for a study on PLR as it would be better to have more information from the study first in order to take an informed position. The discussion was on the procedural point of requesting the WIPO Secretariat to prepare a study/factual mapping of PLR/ to provide the Committee with more information about PLR. Therefore, supporting that request would not amount to having taken any substantive position on PLR. Finally, it was important to stress that while the Delegation believed that

PLR had a real potential as one form of remuneration scheme to improve the situation of authors in developing countries, it did not wish to prejudge the outcomes of the study. The study would be comprehensive and consider all aspects of PLR schemes. The Delegation recalled that at the fortieth session of the SCCR, it presented the proposal and requested support from Committee members. The proposal enjoyed support from several Committee members and the African Regional Intellectual Property Organization (ARIPO) and was deferred for discussion at this session. PLR remunerations could be a serious boost to our creative industries as they helped maintain creativity and strengthen and promote local languages, traditions, and cultures. African creators, and truly many creators all around the world, had waited too long to reap in the benefits from the works that they create, and societies and economies needed to incentivize and develop the creative sector. The Delegation hoped that the study would show how PLR could be implemented and how it could benefit local creators. The flexibility and adaptability to local circumstances made PLR a particularly good choice for developing countries seeking to support poets, novelists, authors of academic books, and our libraries. As such, many African countries had expressed interest in PLR, including Malawi and Zanzibar that were actively working to implement PLR, and Burkina Faso, Ethiopia and Mozambique had exclusive 'lending right' recognised in their copyright legislation. It was also included in the recently adopted ARIPO Model Law on Copyright and Related Rights. The core objective was for Committee members to learn about PLR in order to decide with facts in hand whether introducing PLR was a good idea or not. The Committee was established, more than 20 years ago, with a mandate to "consider emerging issues" in the field of copyright and related rights. A Study on Public Lending Right, which was generating interest all across the world, would contribute to fulfill that mandate. The Delegation invited Committee Members to join in its request to mandate the Secretariat to carry out the study, without further delay. Too many projects and discussions had been stopped due to the pandemic. However, since the Secretariat was in a position to undertake that study if requested by the Committee, it was our sincere hope that by the following SCCR, we would have made great progress on exploring the benefits of PLR schemes. The Delegation thanked the two co-sponsors Malawi and Panama, and looked forward to a fruitful discussion on PLR.

214. The Delegation of Malawi recalled that during the fortieth session of the SCCR, the Delegations of Sierra Leone, Panama and Malawi as had been stated present a request for support from the Committee members of WIPO to undertake a study and provided detailed information on the public lending rights systems. The Delegation noted that as co-sponsor of the PLR proposal, Malawi still supported that proposal actually, and reiterated its request for the Committee's consideration. It was now viewed that the study which would be a stand-alone project would provide vital information for countries, particularly in the developing world, to appreciate the importance of PLR to the development and growth of the creative industries globally. And in particular, the study intended to provide information on advantages and disadvantages of the PLR system or possible ways in which it may be introduced, capacity on building the PLR how it could be accessed, the benefits authors and other rights would gain from participating in the scheme, it would facilitate the implantation of PLR across the world. It would identify the issue of setting a PLR in countries, and of course identify best practices in working with other cultural agencies such as libraries operating in the PLR scheme. The Delegation was of the view that the study would not lead to substantive discussions on the advantages of PLR at the meetings of the Committee. Further, it would not lead to negotiations on legally binding instruments or a treaty, and was not meant to derail negotiations on the other issues that were already on the agenda of the Committee. The Committee expressed appreciation to the Committee and looked forward to hearing more about the proposed study.

215. The Delegation of Panama stressed that with regards to the proposal, having study on the public lending Right was all the more pertinent as the way to look for solutions to old solutions with new measures. It was clear that the cultural sector and the creative and cultural industry had suffered significantly as a consequence of the health emergency, COVID-19. The

action of countries in emergency situations went through three main actions during before and after, of states and each of those stages was crucial, not only to facilitate but also as a main actor in strategies, particularly for recovery. And therefore, it believed that exploring for a steady on the Public Lending Rights, it could find more information to countries who had not yet implemented it. The Delegation recalled the impacts on authors and artists, and the conditions in each country, and how they were managing today's uncertainties, but also noting that it was time to look for possible solutions. Therefore Panama, together with the Delegations of Sierra Leone and Malawi, reiterated the interest in that initiative for a proposal for to provide scientific information on the results obtained in those countries and regions which had already implemented the Public Lending Right. The Delegation called for information on cost benefit analysis, mechanisms of implementation, policy, economic and social implications and best practices. Those considerations could give us greater tools for making decisions in the future at the national levels, and those would be timely and well informed. The effort to boost the economy and make it recover in each country would need decisive intervention by government investing in each sector. In many cases, that would mean using intellectual property strategies. To take decisions and make things more efficient, required scientific information. Carrying out the study would make available information to help with informed decisions, and with interest already being expressed in the meeting with the director-general and the directors of the offices of IP on the importance of strengthening the role of intellectual property as a tool of intellectual growth, therefore the Delegation of Panama reiterated and submitted for consideration as the Committee, the approval of exploring through that study, new strategies.

216. The Chair invited Member States, intergovernmental organizations and non-governmental organizations to present their statements.

217. The Representative of the International Federation of Reproduction Rights Organizations (IFRRO) supported the proposal of the PLR study as that would provide useful and important information about the different systems to both Member States and observers. PLR was part of an ecosystem that nurtured a reading culture by supporting the role of libraries and rewarding creators. That could be implemented in different ways under corporate systems were outside copyright. For instance, as a cultural policy. IFFRO understood the project to implement PLR on each continent. The current pandemic had really harmed the creative community. It also had a dramatic impact on teaching and learning, with millions of children unable to go to school or pick up a book from the local library. That showed the relevance of libraries today enabling access to works, and the necessity for local craters to be properly generated, so that they could continue writing and populating libraries with locally created books. PLR was targeted support for local authors whose works were lent by libraries. PLR remuneration helped to maintain creativity and strengthen cultural diversity. In particular for minority languages. IFRRO commended the Delegations of Sierra Leone, Panama and Malawi for taking that progressive step in asking for a study to be undertaken. IFFRO stressed it was essential to share knowledge and experience through a study of PLR.

218. The Delegation of Chile thanked the Delegations of Malawi, Panama and Sierra Leone for the proposal on the study on PLRs. Regarding that aspect, the Delegation felt that the topic was new both in the Agenda Committee as well as the legal panorama of many Member States who thought it was important, that any study established in that respect with information in nature should not prejudge results or future activities of that Committee. Likewise, it considered it important that any study drawn up in that regard should not just deal with the potential benefits for the authors, but also the potential costs for developing countries and the national budgets. The Delegation suggested that the Committee should take into account that the payment of that right would affect tax funds and could be considered as specific subsidies. Finally, the Delegation considered it important to understand whether the countries where that right exists, the payment received by the authors, the editors of both and in the last case of what proportion and what distribution was used. Also, to understand the rights granted to them when talking

about the most favored nation clause and the treatment received in those countries.

219. The Representative of the International Authors Forum (IAF) strongly supported the 'Proposal for a Study Focused on Public Lending Right in the Agenda and Future Work of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization (WIPO) put forward by the Delegations of Sierra Leone, Panama and Malawi. IAF wholeheartedly supported remuneration measures such as Public Lending Right (PLR), which fairly rewarded authors and ensured they could keep creating, while helping to maintain indigenous arts, literature, language and culture. PLR was a positive mechanism that provided recognition for authors for the loans of their books from libraries. The scheme was greatly valuable to authors both as a connection to ongoing readers and enhancing literacy, as well as providing the seed of the authors' following creation. It could be a valuable way for governments to support authors writing in local languages and was a means to reward authors for the contribution they made to a vital public good; the availability of culture in public libraries. PLR could also be a valuable way for governments to protect authors' writing in local languages. It was a recognition of creators' contributions to culture and also supported the role of education, helped maintain psychological health and protected a country's cultural heritage by preserving literature and language. PLR ensured that public libraries provide access to culture for all while ensuring the principle of payment for use to creators, to ensure the sustainability of culture. At the PLR International Conference in London in 2019, and the side event on PLR held at WIPO during the SCCR 38, IAF recalled the successes of PLR systems around the world in supporting authors and cultural sectors. That meant enabling more authors to continue to create while their work was enjoyed in libraries. At the end of last year IAF hosted an event "Creating a living; how PLR helps". At that event a range of speakers, being authors, authors' representatives and PLR experts discussed the positive impact it had on the ability of authors to make a living from their work. PLR experts at that event also detailed some of the technical challenges that PLR systems had faced and how those had been successfully overcome to the benefit of authors and users. That discussion could be watched online and was important for considering the view of authors and experts on that subject. IAF supported the development of centrally funded PLR schemes that were to the benefit of authors – writers and visual artists alike – readers and libraries, and hoped the committee could look to support international cooperation to that end. Government support for libraries remained as vital as ever, and went hand in hand with PLR, but PLR encouraged the surge of industry support for cultural goods from local creators in indigenous languages. IAF strongly supported the proposal for a study, outlined in SCCR/40/3. IAF particularly supported the intent to study the benefits of PLR for authors. It was particularly positive that the proposal considered opportunities for setting up PLR in developing countries, while considering the benefits for a nation's cultural and linguistic support. That proposal was a significant step to achieve support for authors and diverse cultures around the world.

220. The Delegation of the United Kingdom speaking on behalf of Group B took note of the proposal submitted by the Delegations of Sierra Leone, Panama, and Malawi for a study on the Public Lending Right contained in public document SCCR/41/3, and recognized interest of the Member States in that topic. Group B, however, noted the changes in adapting work in a hybrid format and considered therefore that it might be better to take this topic forward when there was more time to dedicate to the discussion.

221. The Representative of the Electronic Information for Libraries (EIFL) observed that public lending was the non-commercial lending of works by libraries to the public. The main concern was that Public Lending Right (PLR) posed a risk to free public lending services, to library budgets, and to government budgets that would bear the costs of the introduction of a lending right fee. In the 1990's, WIPO rejected PLR because it would interfere with the goals of governments of developing countries to support literacy, and implementation of PLR would strain already limited state support for public libraries. EIFL indicated that the COVID-19

pandemic threatened to have devastating consequences on state budgets in developing countries. Global human development, as a measure of the world's education, health and living standards, was on course to decline for the first time in 30 years. EIFL urged caution on starting any work that would impact on the core services of libraries, institutions that would aid recovery of the education and research sectors in those countries. EIFL believed that there were other, more efficient ways to support authors. However, if there was to be a study on PLR, it should be holistic. It should include all the ways that governments could support authors, such as direct grants and tax breaks, and issues such as rights reversion, unfair contracts with publishers, and transparency over revenue, particularly when it came to digital works.

222. The Representative of Intellectual Property Latin American School (ELAPI) thanked the Delegations of Panama, Sierra Leone, and Malawi for proposing that study. ELAPI expressed to the Committee that it had called on that intervention to be necessary and joint cooperation of all those delegations to be done to protect authors and artists to promote their rights, therefore it was important to point out that in respect of that test and the collective management organization so that the income really reached the authors to be able to close that divide which was envisaged. ELAPI suggested that the Committee moved ahead with the protection of people in copyright and to remind the Committee to think about the authors and their rights, which were not accompanied by the creativity at that point in the pandemic. With the proposed study the Latin American School for Intellectual Property was ready to cooperate with the group of countries, with the Committee, and GRULAC, to cooperate academically in the study only avail itself. ELAPI thanked the Chair and thank the Secretariat for the management of that Committee, and also underscored the impeccable work of the interpreters.

223. The Delegation of the United States of America thanked the Delegations of Sierra Leone, Panama and Malawi for their update on their thoughtful proposal for a study on the Public Lending Right. The United States, like many other delegations, did not have a Public Lending Right. As a result, the United States did not support normative work in that area. Therefore, the Delegation thanked the Delegations of Sierra Leone, Panama and Malawi for their helpful clarification at the previous session of the SCCR, and that was not seeking to make the PLR part of the standing agenda of the SCCR, nor to adopt an international instrument. Consistent its view that the SCCR should be a forum to discuss timely significant substantive corporate policy issues, the Delegation did not object in principle to sharing national experiences and further discussion of the Public Lending Right around the world. The Delegation believed that a purely factual report describing the existing Public Lending Right around the world would facilitate such a substantive conversation in future sessions of the SCCR. At the same time, the Delegation noted that any future discussion of the Public Lending Right would need to be balanced with the work already underway in the SCCR.

224. The Representative of Innovarte thanked the Delegations of Sierra Leone, Malawi, and Panama for the clarifications. Innovarte noted that was an important topic, but it was too complex to be dealt with in the precarious circumstances. The Representative supported the proposal from the UK to leave that matter for normality had been restored. In any case, Innovarte stressed that the complexity of that issue was because of the lending rate, in fact it was the right to restrict lending for those who had legally bought a book normally from a library. Because it was a right to charge them to lend those books. That was extremely complex, and especially because if it was done through copyright, it would apply national treatment provisions of the Berne Convention and others. So, what was collected by a collective society to libraries in developing countries, normally most of the money would not stay with local actors was being commented or look for, and instead would go to publishers in developed countries. So, it was a very contentious issue, and if it was to be dealt with the study, the study should specifically deal with the issue of national treatment and flow of payment to developing countries.

225. The Representative of the Canadian Copyright Institute (CCI) revealed that the creators,

publishers and directors that worked in the CCI were strongly in support of the Proposal for a Study Focused Public Lending Right put forward by the Delegations of Sierra Leone, Panama, and Malawi. CCI noted that PLR and the rights of theater directors on the agenda of SCCR reported an important right to incentivize the creative sector. That was in contrast to the inclusions and exceptions as the vocabulary of that Agenda Item suggested that justice in the corporate environment was solely achieved by disincentivizing and reducing its rewards, and that Member States and observers should note that with real caution. CCI could see that with two positive measures, PLR, ARR and the rights of theater. CCI strongly supported proceeding with the proposed study on PLR.

226. The Representative of the European Writers' Council (EWC) thanked the Chair for the opportunity to submit a written comment on the topic of Public Lending Right (PLR), related to the proposal prepared by the Delegations of Sierra Leone, Panama, and Malawi. The core aim of the proposal was: "... a WIPO-sponsored study to provide a more detailed information on the different ways in which PLR could be introduced, on limitations and solutions, and how we could access the support and capacity building that would need to take a PLR scheme forward." The European Writers' Council represented the interests of 160,000 authors in the book and text sector from 46 writers' and translators' organizations in the EU-, EEA- and non-EU countries including Belarus, Iceland, Montenegro, Norway, Switzerland, and Turkey, who write and publish in 31 languages and in all genres. The commitment to PLR in the sense of a sustainable future policy for writers and translators, the original sources of knowledge and literature, was one of its core tasks. The EWC was part of the PLR International Steering Committee, holds PLR seminars for its members, and had access to a large stock of experiences on PLR. With that in background, EWC noted as noted follows: Investing in PLR was investing in Human Rights, in Democracy, and in a sustainable economy. PLR implemented the principle of 'every use should be remunerated' which was based on the Universal Declaration of Human Rights and by which writers and translators were entitled to receive remuneration from every use of their work. The EU had had a Lending Right Directive since 1992. Nearly all Member States had successfully implemented a PLR scheme, although in some countries, like Portugal, Romania or Bulgaria, it had either not been implemented or in disadvantage for authors. PLR payments intended to "recompense for the harm suffered by the author", and should be appropriate, not only symbolic. PLR was funded directly by the government. For the budgeting it required the political will and the knowledge about the positive impact of a reasonably funded PLR-budget, from which libraries, readers, society and authors all benefit. The right to access culture, and the right to be remunerated for the usage of one's cultural work should not be played off against each other in a democracy. Accordingly, PLR found the necessary third way to both motivate the bright authors' minds from every financial background to take up that profession - and to ensure access to knowledge and "to the doors to the world" that a book always opened. EWC encouraged WIPO and its Member States to approach the proposal positively. EWC also made an important addition with regard to the proposal and its intention to "support (of) the linguistic and cultural diversity of translations": Especially for authors from developing countries and translated into other languages, PLR payment from strong markets is essential. Consequently, bilateral contracts between CMOs or governmental entities should be included in the study, and how PLR-reimbursed translated books benefit the local writers. Similarly, that needed to be put in the context of national environments where there were no CMOs or authors' organizations that could enter into negotiations, and how appropriate conditions could be created.

227. The Representative of The Authors Guild was the oldest and largest professional nonprofit advocacy organization for writers in the United States. It was founded in 1912, and its more than 10,000 members include novelists in all genres and categories, nonfiction writers, journalists, historians, poets, and translators. The Authors Guild worked to promote the rights and professional interests of authors in various areas, including copyright, freedom of expression, and taxation. It also provided its members with certain forms of legal assistance

(including contractual reviews and disputes, assistance in getting paid, obtaining reversion of their rights, and copyright and libel advice), as well as author website services and educational seminars and webinars relating to the writing profession. As part of its advocacy efforts, the Authors Guild conducted periodic income surveys of U.S. authors; those surveys had evidenced a steep decline in authors' income over the past 12 years. Its 2018 Income Survey showed a 42 per cent decline in median U.S. author incomes from 2009, down to \$6,080 in 2017. Authors made a vital contribution to education, to literacy, and to society. When author incomes fell too low, they could no longer afford to write as much, as well, or at all. Impoverishing authors therefore risked impoverishing our national and global culture. As the PLR International Network describes it, the "public lending right (PLR) is the legal right that allows authors and other rightsholders to receive payment from governments to compensate for the free loan of their books by public and other libraries." Thus far, 35 countries—including the United Kingdom, every country in the EU, Canada, Israel, and Australia—had established Public Lending Right systems that support their nation's authors by creating a system of micro-payments for authors each time a free public library lends one of their books; those fees were usually paid by the national governments, rather than the libraries. PLR was an ideal means of ensuring that authors were compensated when readers engage with their books, and of supplementing author incomes at a time when it was becoming crucial to give authors greater financial support—that is, if to ensure that there a future generation of great writers. The Authors Guild had advocated for a Public Lending Right in the United States for more than 40 years, initially inspired by the U.K.'s example, and encouraged by the other nations that had created their own PLR systems. At its core, PLR acknowledged two fundamental principles: the need for society to provide readers with free access to books, and the right of authors to be remunerated for their work. Those principles needed not be in conflict, and, as 35 other nations had shown, they could be reconciled to benefit both society and the author. It could not forget that if the author could not afford to write, everyone loses. Countries had dealt with PLR in differing ways, from individualized payments to more generalized state support for culture. The Author's Guild was trying to work with U.S. libraries to create a system that would benefit authors and libraries alike, and had proposed that the U.S. Congress adopt a PLR to be supported by federal funds and administered by the Institute of Library and Museum Services or another U.S. federal agency. Under such a system, a book's author would receive a small payment each time a user borrowed one of the author's books from a library as compensation for the public use of the author's work. As the Authors Guild had observed, the amounts paid out under other nations' PLR systems appeared to be miniscule in proportion to their national spending—and yet, those relatively small amounts were hugely important to authors in allowing them to continue writing as a profession. The proposed PLR Study would provide much-needed information to enable the Authors Guild to more effectively advocate for a PLR in the U.S. Many of the issues confronting the members of the Authors Guild were affecting authors internationally, and many other countries, like the U.S., still did not have PLR systems of any kind. The Authors Guild believed that PLR was a key part of the solution toward ensuring the future of books. That was why the Authors Guild was pleased to be an Observer to the SCCR, and to support the proposal submitted by the Delegations of Sierra Leone, Panama, and Malawi for a study focused on the Public Lending Right.

228. The Delegation of the European Union indicated that it was still considering the proposal from the Delegations of Sierra Leone, Malawi and Panama, and could not take a final position today.

229. The Representative of the Knowledge Ecology International (KEI) observed that public lending rights which were essentially attacks on libraries, might be appropriate in some countries but were controversial and not an area for harmonization. That said, if countries wanted to adopt laws on Public Lending Right, they should ensure that revenues were solely distributed to the original and, still living authors, regardless of contracts or who now owned the copyrights for works to ensure the money collected benefits those who actually created the

works as opposed to the corporate owners of the rights.

230. The Representative of The International Federation of Library Associations and Institutions (IFLA) noted that agenda item 8 contained a significant program including the long-standing work on copyright in the digital environment, the rights of theater directors and a proposal for work on Public Lending Right. Given the nature of the agenda currently, IFLA believed that a focus on public lending right was not a priority, given that was not a question for international copyright law, but rather a cultural policy. Furthermore, while IFLA had always been a strong supporter of fair remuneration of authors and creators, it noted that the proposal as it stands was marked by a number of inaccuracies, and a failure to consider the costs and drawbacks of public lending right alongside its potential benefits. With tight fiscal times likely in future, including of course in developing countries, it was clear that any money to pay for PLR would need to come from budgets which would otherwise be used to promote reading and literacy, access to information and knowledge, the fight against misinformation, and access to research, or of course to provide more targeted support for culture. It risked therefore limiting the capacities of children, teenagers and adults and their educational and professional perspectives. Therefore, IFLA considered that a credible effort to consider how better to support authors would involve a wider, more holistic, examination of the cost effectiveness of all potential tools available to governments, including direct support, stronger rights when (re)negotiating contracts, reversion rights, tax support and beyond.

231. The Representative of the African Library and Information Associations and Institutions (AFLIA), an independent, institution supported libraries in Africa that enhanced and improved lives with everyday access to knowledge, information and innovation services. AFLIA did not support the PLR as that introduced the requirement of pay to learn. It was against the service being free. In Africa, PLR raised particular charities, the majority of the African countries were classified as for income by the World Bank, the privatized public education at primary and secondary levels, as a means of developing the much-needed human capital. Libraries were a critical part of Africa's commitment to free public education, and at the heart of book and reading strategies, but many countries struggled to fund those initiatives, with many relying on foreign book donations like Book Aid International. Instead of creating a new mechanism for supporting local culture, governments should therefore strengthen the existing mechanisms at its libraries as a first step to put allocated budget for public libraries to purchase works by local authors that could direct support authors and publishers. AFLIA noted that by investing in libraries, governments in Africa were investing in authors, literacy, education and developed it. Those issues often stemmed from cultural issues and thus, did not belong at WIPO.

232. The Representative of The Visual Arts Copyright Society in Sweden (BUS) expressed support for the proposal from the Delegations of Sierra Leone, Malawi, and Panama. PLR was an important conversation for authors of all kinds. It was a support for introduction of national culture and worked as a supporter of libraries above.

233. The Representative of the Library Copyright Alliance (LCA) echoed the concerns of various library colleagues around the world had raised regarding the proposal. LCA also acknowledged and expressed appreciation to IFFRO for their statement on the importance of libraries and the recovery of the pandemic, and also the acknowledgement that that issue really was an aspect of cultural policy and that it was a form of cultural policy. LCA also expressed appreciation to the countries proposing that concept, for at least now acknowledging that the study should not only look at the advantages of a PLR system but the disadvantages and also the costs. And if there was going to be a study it needed to be recognized that there were costs as well as benefits, disadvantages as well as advantages. LCA also stressed that if there was going to be any study of that issue, it should take a holistic approach. Because of cultural policy, the holistic approach, not only would it look at other ways of supporting authors, but in particular the fact that among the other issues that had been talked about, there needed to be

an examination of the allocation of royalties and making sure that publishers were fairly compensating the authors, and that aspect needed to be included in any study as well. LCA referred to the libraries that were purchasing the books, the real question then was, were the publishers paying the artists fairly?

234. The Representative of the Canadian Federation of Library Associations (CFLA) observed that the Public Lending Right program in Canada was a cultural heritage program outside of copyright that recognized Canadian authors and permanent residents and was highly valued. It was national in scope, providing support for Canadian authors in an environment where the majority of material borrowed in libraries and sold in stores comes from outside of the country. CFLA pointed out that Canada was a developed country with strong literacy and public library funding. It must be recognized that authors benefit from library lending and book promotion, and libraries legally purchased or license the content they lend. There was no right to payment for lending in WIPO international treaties. Libraries pre-existed our copyright systems, and creating a right to prevent lending when there was no payment could introduce a policy and financial threat to a well-established public institution. PLR could be a valuable cultural heritage program, however, there were many ways to support authors financially outside of that approach with its significant administrative burden. There were many items before SCCR, and believed the item should not be a priority given its purpose was cultural support at the national level, and it was not intended to have an international or cross-border benefit. However, should that study be undertaken, CFLA suggested that the scope be limited to how that could impact developing countries, and consider the cost and efficiency of that approach to cultural support relative to other national funding supports for authors.

235. The Delegation of Sierra Leone reiterated the intention of the proposal and thanked the delegations and organizations who engaged in that discussion. The intention was to provide, through the factual mapping and fact-finding of the study, to provide detailed information on Public Lending Rights which was including the advantage in different ways that could be implemented based on country context. In developing countries, if they chose to go through with it, having that factual mapping, how they could be assisted, how they could access support and capacity building if they choose to do so. But the study was just a study, and it was about finding out more about PLR, not necessarily to defend it. The Delegation indicated that it did not intend to prejudice the outcome of the study and it would be more comprehensive and would consider all aspects of the PLR schemes. Essentially it would be an extension of the ongoing conversation but in a more informed and authoritative manner for the study that would be done by WIPO. The Delegation thanked all delegations for the engagement hoped to formalize that discussion in a more substantive manner and provide a factual mapping study.

236. The Chair thanked the Delegation of Sierra Leone for those clarifications on the intentions with that proposal. The Chair invited the Secretariat to present the Chair's Summary.

237. The Secretariat presented the Standing Committee on Copyright and Related Rights, forty-first session, Geneva, June 28 to July 1, 2021, the summary by the Chair contained in document SCCR/41/summary by the Chair.

238. The Chair welcomed Member States and Delegations to give any comments, suggestions or corrections.

AGENDA ITEM 9: CLOSING OF THE SESSION

239. The Chair invited the regional coordinators to present their closing statements.

240. The Delegation of Georgia speaking on behalf of Central European and Baltic States

Group (CEBS) thanked the Chair and Vice-Chair for their skillful guidance during the work of the session of SCCR 41. In the same way, CEBS also extended appreciation to the Secretariat for their efficient efforts invested in the preparation and advancement of the work of that Committee. CEBS also thanked the interpreters, the conference service teams and all other stakeholders who had contributed to the session. The Delegation acknowledged constructive discussion on the protection of broadcasting organizations and was optimistic about advancing further work towards developing an effective instrument. CEBS reaffirmed its support to advance the work of the Committee.

241. The Delegation of South Africa speaking on behalf of the African Group extended appreciation to the Chair and Vice-Chair for the excellent work in presiding over the forty-first session of the SCCR. The Group thanked the Secretariat and the entire WIPO staff, consisting of the interpreters, conference service teams and the technical teams that were involved in making this meeting a success. The Group also thanked all other delegations for their constructive engagement and positive contribution to the work of the SCCR. The Group noted the information provided on the Friends of the Chair informal group, which as heard, did important work to assist the Chair on the important topic of broadcasting. The Group hoped that the work of the Committee on broadcast would be expedited, and understood a need for transparency and inclusivity on the work done by the group. The Delegation observed the topic of limitations and exceptions remained ever so important, and there was an urgent need for the Committee to pursue that it would ensure that limitations and exceptions were adequately addressed at a global level. The Group hoped that the following session would agree on a clear way forward on that topic and was happy that the Committee had acknowledged that the COVID-19 pandemic had had a devastating impact on all stakeholders within the copyright framework, and that the issue could not be ignored. The Group thanked all the regional groups for their cooperation and flexibility, which ensured that the Committee could agree on holding an information session on the impact of COVID-19 on copyright, related rights as well as limitations and exceptions, during the forty-second session of the SCCR. The Group looked forward to participating in the information session. Finally, the African Group wished all of the delegations the best and looked forward to seeing all participants at the following session.

242. The Delegation of the United Kingdom speaking on behalf of Group B thanked the Chair and Vice-Chair for their able guidance during that session of the SCCR. Group B also thanked the Secretariat for its hard work, as well as the interpreters, conference service teams and the IT technicians for the continued professionalism and expertise as sessions continued in a hybrid format. Although consensus was not reached on some topics, Group B remained committed to restarting substantive discussions at WIPO to the extent that that was possible. Group B indicated they had all made concessions as to the timing and format of that SCCR, as well as other Committees at WIPO. The successful conclusion of that session was more proof of getting better in working. The Group hoped that with more experience, it would be able to become more comfortable and in time, capable of taking substantive work forward including in a hybrid format if necessary and welcomed the opportunity to take stock of the work within the Committee and hope that it would enable to resume discussions during the following session. Group B counted on the full support and constructive input of the delegations' fruitful discussions that were taking place in the Committee.

243. The Delegation of Bangladesh speaking on behalf of the Asia and the Pacific Group (APG) commended the Chair and Vice-Chair for their able leadership in guiding the meeting process to a successful conclusion under extreme circumstances and took the opportunity to thank the Vice-Chair, Member States and the regional groups for their contributions during that session. The Asian Pacific Group bemoaned the current situation did not allow to engage in substantial discussions on broadcasting issues. However, the Asian Pacific Group had noted the update on the informal work and was happy to see that it had taken note of the views expressed on the informal work, including the need to uphold the principles of transparency and

inclusivity in the Chair's summary. The Group looked forward to continued discussions in the coming days for a common understanding on the fundamental issues of progress towards the diplomatic conference on a broadcasting treaty. APG believed that limitations and exceptions for libraries archives, museums, educational and research institutions, as well as persons with other disabilities, were of critical importance to individuals in the collective development of societies. APG had taken note of the discussions of the report on regional seminars and international compliance. As mentioned in their opening statement, COVID-19 had made a profound impact on the copyright system and stakeholders, not only rightsholders but also users who had to respond to the pandemic's increased demand for creating and attributing existing work remotely. APG explained that it was time to begin planning for finalizing a program of work to move forward on that particular important matter of limitations and exceptions. The Group hoped for continued discussion on that in the following sessions. The Group thanked the Member States and the regional groups for their positive consideration of the APG's request to hold an information session on the impact of COVID-19 on the copyright framework including the rights, related rights and exceptions and limitations during the week of the forty-second SCCR session in a collaborative spirit. APG thanked the Secretariat for an excellent preparation of that meeting, and appreciated the interpreters and the technical persons who had worked hard to smoothly run that meeting.

244. The Delegation of China thanked the Chair and Vice-Chair for their skillful guidance during that session, as well as the Secretary-General, the Director General, the interpreters and technicians and the conference service teams. The Delegation acknowledged the hard work by the Secretariat and the regional groups for their positive guidance of the in-depth discussion. The Delegation remained committed in a constructive way to be engaged in future discussions.

245. The Delegation of Paraguay speaking on behalf of the Latin American and Caribbean Countries (GRULAC) thanked the Chair and Vice-Chair for the work carried out during the current session, and excellent proceedings of the Committee. GRULAC thanked the Secretariat for the constant support and the efforts made to sustain the organizations in that session, even in uncertain conditions regarding COVID-19 pandemic. GRULAC was aware that the current conditions made it very difficult to make progress with the substantive Agenda, however the presentations made, and suggestions of the Committee, had been very useful to know what was going on in several sectors as well as the present challenges. GRULAC welcomed the Committee's commitment to handle those issues during the following session. GRULAC welcomed those efforts and thanked the decision of the Committee to consider the holding of an information session on the impact of COVID-19 on the ecosystems of creativity and culture which include copyright and related rights as experts. GRULAC had taken note of the studies carried out by the experts in that situation of copyrights and the craters of the digital environment and, seeing that it was problematic. GRULAC specified further the nature of that problem and the alternatives for solutions which were more effective. GRULAC also thanked the other delegations with which their flexibility and constructive spirit had contributed to analyzing and progressing in the work and reaching an agreement which helped to build a consensus for the following stages. GRULAC reiterated the important contribution of that meeting made by the interpreters, the conference room technicians and all the technical staff and the staff of the WIPO. They had played an important part in the success of that meeting. GRULAC trusted that by the following session there would be conditions which would come closer to meetings in person without any restrictions.

246. The Deputy Director General acknowledged the Secretariat and thanked the Delegations for their recommendations, ideas and suggestions which were extremely useful for the work of the Committee and were done in a very constructive way during that session. The Deputy Director General hoped that during the following year, the circumstances would enable the Committee to resume its extensive discussions and enable headway on pending issues on the agenda, including possible future studies. The Deputy Director General stated that there as

tremendous work ahead on the preparation of the information session on the impact of COVID-19 pandemic on the cultural and educational ecosystem and on the creative industry, including copyright, related rights, exceptions and limitations. It was a challenge which needed to be resolved. She called for support from all stakeholders in order to advance the work of the Committee. The Deputy Director General explained that it would keep the Committee informed on the progress made for that preparatory work. The Deputy Director General thanked the colleagues who helped in facilitating that session of the Committee including those engaged in diplomatic relations, as well as the interpreters and the translation services who were hard tasked to prepare the studies, or at least some summaries of the studies, in all the official languages. The Deputy Director General also thanked colleagues from the audio-visual support and division of information and media without whom that hybrid session could not have been held and, in any case, not in the excellent conditions where it was held. The Deputy Director General also commended the Copyright Law Division, which was entrusted with the SCCR, Michele Woods at its helm, and all the colleagues who supported that work. The Deputy Director General also thanked the Chair and Vice-Chair for their support and contributions to facilitating that Committee meeting. The Deputy Director General was optimistic that the following session of the SCCR would be an in-person meeting.

247. The Chair thanked the Deputy Director General, the interpreters, the colleagues of the linguistic section, the colleagues from the audio-visual support unit, the information and media division, and the division of diplomatic relations of the assemblies for their precious work. The Chair also thanked all other stakeholders in that regard. He also commended the Secretariat for their excellent preparation of that SCCR. The Chair acknowledged that much of the Chair's work depended on the Secretariat and expressed gratitude to them for their unwavering support. He also thanked the coordinators who had been extremely helpful. The Chair also thanked the Vice-Chair for his cooperation and support. That session had been the only one in that year. The Chair explained that work had to be continued in view of the following session which would be taking place in the year 2022. The Chair hoped with a great deal of optimism that it would take place under more normal conditions. The Chair wished everyone well and looked forward to the following session.

[Annex follows]

ANNEXE/ANNEX

I. MEMBRES/MEMBERS

AFGHANISTAN

Sulaiman LAIQ (Mr.), Expert, Intellectual Property Directorate, Ministry of Industry and Commerce, Kabul

AFRIQUE DU SUD/SOUTH AFRICA

Petje KADI (Mr.), Senior Manager, Intellectual Property Office, Department of Trade, Industry and Competition, Pretoria

Mandla NKABENI (Mr.), First Secretary, Permanent Mission, Geneva

ALGÉRIE/ALGERIA

Nacira AIYACHIA (Mme), directrice général, Office national des droits d'auteur et droits voisins (ONDA), Ministère de la culture, Alger

Mohamed BAKIR (M.), premier secrétaire, Mission permanente, Genève

ALLEMAGNE/GERMANY

Thomas EWERT (Mr.), Legal Officer, Copyright Unit, Ministry of Justice, Berlin

Florian PRIEMEL (Mr.), Research Fellow, University of Cologne, University of Cologne, Cologne

Jan TECHERT, DR. (Mr.), Counsellor, Permanent Mission of Germany, Geneva

ARABIE SAOUDITE/SAUDI ARABIA

Alhanoof ALDEBASI (Ms.), Executive Director of Copyrights, Saudi Authority for Intellectual Property, Riyadh

BUSHRA ALSHEHRI (Ms.), Senior Intellectual Property Policies Analyst, Riyadh

Haifa BIN SALMAH (Ms.), Legislative and Regulations Analyst, Ministry of Justice, Riyadh

Ahmed ASIRI (Mr.), Head, Artistic and Literary Department, Copyright Department, Saudi Authority for Intellectual Property (SAIP), Riyadh

ARGENTINE/ARGENTINA

Walter WAISMAN (Sr.), Director, Dirección Nacional de Derecho de Autor Ministerio de Justicia y Derechos Humanos

Nadia SOCOLOFF (Sra.), Pimero Secretario, Dirección Nacional de Asuntos Comerciales Multilaterales, Ministerio de Relaciones Exteriores, Comercio Internacional y Culto,

Buenos Aires
Facundo CALVO (Sr.), Asesor, Misión Permanente, Ginebra

Betina Carla FABBIETTI (Sra.), Segunda Secretario, Misión Permanente, Ginebra

AUSTRALIE/AUSTRALIA

Oscar GROSSER-KENNEDY (Mr.), Second Secretary, Permanent Mission, Geneva

Amber O'SHEA (Ms.), Senior Policy Officer, Copyright, Infrastructure Australia, Canberra

AUTRICHE/AUSTRIA

Vanessa ERIKSSON (Ms.), Official in charge, Federal Ministry of Justice, Vienna

Michael REITER (Mr.), Copyright Law, Federal Ministry of Justice, Vienna

BANGLADESH

Mustafizur RAHMAN (Mr.), Ambassador, Permanent Representative, Permanent Mission, Geneva

Shanchita HAQUE (Ms.), Deputy Permanent Representative, Permanent Mission, Geneva

Mahabubur RAHMAN (Mr.), First Secretary, Permanent Mission, Geneva

BÉLARUS/BELARUS

Katerina YANTIKOVA (Ms.), Head, Department of Legislation, Copyright and Related Rights, Administration, National Center of intellectual property, Minsk

Anastasia PIKHTAR (Ms.), National Center of Intellectual Property (NCIP), Minsk

Dmitry DOROSHEVICH (Mr.), Counselor, Permanent Mission, Geneva

BOLIVIE (ÉTAT PLURINATIONAL DE)/BOLIVIA (PLURINATIONAL STATE OF)

Maira MACDONAL (Sra.), Representante Permanente, Misión Permanente, Ginebra

Carlos SORUCO (Sr.), Director de derechos de autor y derechos conexos, SENAPI, La Paz

Claudia DE LA GALVEZ (Sra.), Profesional en Derechos de Autori y obras artísticas, SENAPI, La Paz

Luis MAMANI (Sr.), Técnico en revisión de solicitud de registros, SENAPI, La Paz

Mariana NARVAEZ (Sra.), Segundo Secretario, Misión Permanente de Bolivia, Ginebra

BRÉSIL/BRAZIL

Sergio REIS (Mr.), Specialist, Administrative Council for Economic Defense, Brasilia

Laís TAMANINI (Ms.), Second Secretary, Permanent Mission, Geneva

Sarah VENITES (Ms.), Second Secretary, Intellectual Property Division, Ministry of Foreign Affairs, Brasília

BURUNDI

Claudette MUKANKURANGA (Mme.), directrice, Office burundais du droit d'auteur et des droits voisins, Ministère de la jeunesse, des sports et de la culture (OBDA), Bujumbura

BURKINA FASO

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CANADA

Samuel GENEROUX (Mr.), Senior Policy Analyst, International Copyright, Canadian Heritage, Gatineau

Jamie ORR (Ms.), Senior Policy Analyst, International Copyright, Canadian Heritage, Gatineau

Daniel WHALEN (Mr.), Senior Policy Analyst, Copyright and Trademark Policy Directorate, Innovation, Science and Economic Development Canada, Ottawa

Nicolas LESIEUR (Mr.), First Secretary, Permanent Mission, Geneva

CHILI/CHILE

Jose MOLINA (Sr.), Jefe, Unidad de Derechos de Autor, Ministerio de las Culturas, las Artes y el Patrimonio, Santiago de Chile

Pablo LATORRE (Sr.), Asesor, Legal División de Propiedad Intelectual, Subsecretaria de Relaciones Económicas Internacionales (SUBREI), Santiago de Chile

Valeria MORETIC (Sra.), Abogada, Unidad de Derechos de Autor, Subsecretaria de las Culturas y las Artes, Ministerio de las Culturas, las Artes y el Patrimonio, Santiago de Chile

CHINE/CHINA

ZHAO Xiuling (Ms.), Deputy Director General, Copyright Department, National Copyright Administration of China (NCAC), Beijing

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ORGANISATION DES NATIONS UNIES (ONU)/UNITED NATIONS (UN)

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ORGANISATION MONDIALE DU COMMERCE (OMC)/WORLD TRADE ORGANIZATION (WTO)

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ORGANISATION RÉGIONALE AFRICAINE DE LA PROPRIÉTÉ INTELLECTUELLE (ARIPO)/AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)

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Association internationale des éditeurs scientifiques, techniques et médicaux (STM)/International Association of Scientific Technical and Medical Publishers (STM)

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Association of European Performers' Organizations (AEPO-ARTIS)

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Authors Alliance

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Centre d'administration des droits des artistes interprètes ou exécutants du GEIDANKYO (CPRA)/Center for Performers' Rights Administration of GEIDANKYO (CPRA)

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