

## **Standing Committee on Copyright and Related Rights**

**Special Session**  
**Geneva, February 18 to 22, 2013**

REPORT

*adopted by the Committee*

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the “Standing Committee”, or “the SCCR”) held a special session in Geneva from February 18 to 22, 2013.
2. The following Member States of the World Intellectual Property Organization (WIPO) and/or members of the Berne Union for the Protection of Literary and Artistic Works were represented in the meeting: Afghanistan, Albania, Algeria, Andorra, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belarus, Belgium, Benin, Bosnia and Herzegovina, Brazil, Canada, Chile, China, Colombia, Costa Rica, Cuba, Cyprus, Czech Republic, Democratic People’s Republic of Korea, Democratic Republic of Congo, Denmark, Dominican Republic, Ecuador, Egypt, El Salvador, Ethiopia, Finland, France, Germany, Greece, Guinea, Haiti, Holy See, Hungary, India, Indonesia, Iran (Islamic Republic of), Ireland, Italy, Japan, Jordan, Kazakhstan, Kenya, Kuwait, Lebanon, Libya, Lithuania, Madagascar, Malaysia, Mali, Mauritania, Mexico, Monaco, Morocco, Myanmar, Netherlands, Nigeria, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Russian Federation, Senegal, Serbia, Singapore, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sudan, Sweden, Switzerland, Togo, Trinidad And Tobago, Tunisia, Turkey, United States of America, Venezuela (Bolivarian Republic of), Viet Nam, Yemen and Zimbabwe (92).
3. The European Union (EU) participated in the meeting in a member capacity.
4. The following intergovernmental organizations took part in the meeting in an observer capacity: African Union (AU), International Labour Organization (ILO), Organization of Islamic Cooperation (OIC), South Centre and the World Trade Organization (WTO) (5).
5. The following non-governmental organizations (NGOs) took part in the meeting in an observer capacity: Actors Interpreting Artists Committee (CSAI), *Agence pour la protection des programmes* (APP), American Council of the Blind (ACB), Central and Eastern European Copyright Alliance (CEECA), Chamber of Commerce and Industry of the Russian Federation (CCIRF), Computer and Communication Industry Association (CCIA), *Confédération française pour la promotion sociale des aveugles et amblyopes* (CNPSAA), Copyright Research Information Center (CRIC), Daisy Consortium, European Broadcasting Union (EBU), Fédération internationale de la vidéo/International Video Federation (IVF), Ibero-Latin-American Federation of Performers (FILAIE), Instituto de Derecho de Autor (Instituto Autor), International Association for the Protection of Intellectual Property (AIPPI), International Authors Federation (IAF), International Authors Forum, International Centre for Trade and Sustainable Development (ICTDS), International Federation of Library Associations and Institutions (IFLA), International Federation of Reproduction Rights Organizations (IFRRO), International Group of Scientific, Technical and Medical Publishers (STM), International Literary and Artistic Association (ALAI), International Publishers Association (IPA), Internet Society (ISOC), Knowledge Ecology International, Inc. (KEI), Library Copyright Alliance (LCA), Max Planck Institute for Intellectual Property and Competition Law, Motion Picture Association (MPA), National Federation of the Blind (NFB), *Organización Nacional de Ciegos Españoles* (ONCE), Royal National Institute of Blind People (RNIB), Society for Collective Administration of Performer’s Rights (ADAMI), Software and Information Industry Association (SIIA), South African National Council for the Blind (SANCB), Transatlantic Consumer Dialogue (TACD), *Unión Latinoamericana de Ciegos* (ULAC) and World Blind Union (WBU) (36).

#### ITEM 1: OPENING OF THE SESSION

6. The Assistant Director General opened the Special Session of the SCCR and expressed an apology on behalf of Mr. Francis Gurry, the Director General of WIPO, for not being present. It was noted that Mr. Gurry would return to Geneva on February 20, 2013. In December 2012, the WIPO General Assembly in its Extraordinary Session had taken the landmark decision to convene a diplomatic conference in June 2013 to complete negotiations on a treaty to improve access to published copyright protected works for visually impaired persons and persons with print disabilities (hereinafter referred to as the “Treaty”). The Assistant Director General

expressed his gratitude and the gratitude of WIPO to the Delegation of the Kingdom of Morocco for agreeing to host the Diplomatic Conference. The WIPO General Assembly also decided to convene a Special Session of the SCCR in order to advance on the text of the draft Treaty. The goal was to have a Preparatory Committee of the Diplomatic Conference at the end of the Special Session, with the objective to agree on a cleaner text of the draft Treaty that would be used in the final negotiations at the Diplomatic Conference. The draft Treaty reflected the significant agreement amongst delegations. It was noted that there were some difficult issues remaining that needed to be negotiated, but those difficulties were not insurmountable. The WIPO Secretariat would assist to ensure the progress of those negotiations. The Assistant Director General highlighted that there was not much time left for negotiations until the Diplomatic Conference in June 2013 and asked delegations to keep that in mind. The Assistant Director General turned to item 2 of the draft Agenda which referred to the election of the Chair and two Vice Chairs. Interested delegations were invited to put forward their candidates.

## ITEM 2: ELECTION OF THE CHAIR AND TWO VICE CHAIRS

7. The Delegation of Algeria, speaking on behalf of the African Group, nominated Mr. Darlington Mwape, who had been the Chair of the SCCR and was the former Ambassador of Zambia in Geneva, as Chair.
8. The Delegation of Sri Lanka seconded the nomination of Mr. Darlington Mwape as Chair.
9. The Delegation of the Dominican Republic, speaking on behalf of the Group of Countries of Latin America and the Caribbean (GRULAC), nominated Mrs. Graciela Peiretti, Director of International Cooperation of Copyright for Argentina, as Vice Chair.
10. The Delegation of Nigeria seconded the nomination of Mrs. Graciela Peiretti as Vice Chair.
11. The Delegation of Belgium, speaking on behalf of Group B, nominated Mrs. Alexandra Grazioli from the Delegation of Switzerland as Vice Chair.
12. The Delegation of France seconded the nomination of Mrs. Alexandra Grazioli as the Vice Chair.
13. The Assistant Director General confirmed the nomination of Mr. Darlington Mwape as the Chair for the Special Session of the SCCR and the nominations of Mrs. Alexandra Grazioli and Mrs. Graciela Peiretti as Vice Chairs. The Chair was expected to arrive at the Special Session of the SCCR within the last two days of the session. For that reason, Mr. Francis Gurry had asked the Chair of the WIPO General Assembly to assist the Special Session of the SCCR as an Ad Hoc Chair in the interim.

## ITEMS 3 AND 4: ADOPTION OF THE AGENDA OF THE SPECIAL SESSION AND ACCREDITATION OF NEW NON GOVERNMENTAL ORGANIZATIONS

14. The Ad Hoc Chair stressed that the main focus of the Special Session of the SCCR was to reach a sufficient level of agreement on the draft text of the Treaty. The meeting was a crucial step in the roadmap for completing the Treaty on limitations and exceptions for visually impaired persons and persons with print disabilities. Therefore, delegations were encouraged to work constructively over the duration of the Special Session of the SCCR to reach that objective. The Chair expressed his personal commitment and the support of the WIPO Secretariat and the two Vice Chairs. The Chair outlined the planned working hours for the week. The Chair then turned to item 3 of the Agenda, which contained the adoption of the Draft Agenda included in document SCCR/SS/GE/1 Prov. A number of NGOs had approached the WIPO Secretariat and had requested the status of ad hoc observer to the Special Session of the SCCR. Therefore, the Chair proposed to insert a new item 4 in the Agenda entitled

“Accreditation of Non-governmental Organizations”. It was noted that the Final Agenda would have to reflect that correction. Delegations were invited to approve the Final Agenda with the insertion of item 4 regarding the Accreditation of NGOs. The Agenda was declared adopted as amended.

15. Delegations were invited to consider Document SCCR/SS/GE/13/2 which contained basic information and details of the NGOs requesting observer status. The document had been prepared by the WIPO Secretariat on the basis of voluntary submissions provided by the NGOs. The delegations were invited to approve the accreditation of new NGOs to participate in the Special Session of the SCCR.

16. The Delegation of Spain expressed its support for the artists and performance management body of Spain, *Artistas Interpretes y Ejecutantes* (AIE), to participate in the Special Session of the SCCR. The Delegation of Spain stated that the experience of AIE would enable it to make contributions to the work of the SCCR.

17. The Chair declared that the NGOs listed in the document were accredited as observers to the SCCR.

18. The WIPO Secretariat informed the SCCR that a preliminary list of participants was available and that additions, corrections or any other changes should be forwarded to the WIPO Secretariat.

#### ITEM 5: LIMITATIONS AND EXCEPTIONS FOR VISUALLY IMPAIRED PERSONS/PERSONS WITH PRINT DISABILITIES

19. The Chair moved to item 5 in the adopted Agenda, which pertained to limitations and exceptions for visually impaired persons/persons with print disabilities. It was noted that Document SCCR/25/2, the draft agreement on limitations and exceptions for visually impaired persons/persons with print disabilities, reflected the substantive articles of the basic proposal for the Treaty to be signed at the Diplomatic Conference. The aim of the Special Session of the SCCR was to clean up the draft text of the Treaty by deleting all brackets and not adding additional ones. Furthermore, decisions had to be taken on the basis of general consensus. The Chair proposed that informal consultations be held to work on the text of the Treaty. In the mornings, information on the progress made during those informal consultations would be provided by the Chair at the plenary. The Chair proposed that, as agreed with the regional coordinators, the core group that discussed the text of the Treaty would consist of regional coordinators joined by six delegations from their regions. The Chair pointed out that work had to be finished by the end of the Special Session of the SCCR, therefore time had to be used efficiently.

20. The WIPO Secretariat informed delegations about the possibilities for those who were not taking part in the informal consultations to follow the negotiations.

21. The Chair asked the WIPO Secretariat to present the document which reflected the changes made to the draft text of the Treaty the previous day.

22. The WIPO Secretariat reported the changes made on Article C of the draft text of the Treaty. Footnote number four referred to the wording of a reference to the right of making available to the public, and had to be amended and proofed. Footnote number five referred to the right of translation, which was in brackets at the time. Two countries had proposed to work on an Agreed Statement regarding the inclusion of the right of translation in national jurisdictions. Footnote number six referred to the issue of commercial availability in connection to Article C. A group of delegations committed themselves to work on a text proposal regarding that provision. Article D included footnotes seven and eight, which referred to the availability of accessible format copies. This was proposed to be discussed further and would be removed from the draft Treaty if no agreement was reached by the end of the Special Session of the

SCCR. Footnote number nine in Article E referred to the importation of accessible format copies. This would also be deleted from the text of the draft Treaty if the wording was not agreed on by the end of the Special Session of the SCCR.

23. The representative of the World Blind Union (WBU) requested the possibility to hear an audio of the discussions as they proceeded and, if possible, to see the text captioning if there was a technical solution for that option and if delegations agreed to it. The WBU stated that it was the organization that had originally asked for the Treaty and hence its interest in following the discussions was considerable. The representative of the WBU underscored that the text of the Treaty needed to be very clear, simple and effective to serve the relevant beneficiaries. The proliferation of clauses on things such as commercial availability, especially checking what was available in another country at a reasonable time and price across borders, raised concerns on how that could work in practice. The WBU did not consider that those clauses helped to achieve the aim of the Treaty, which was to ensure that a greater number of books and information were available to print disabled and blind people. Thus, the representative of the WBU urged delegations to make sure the Treaty was practical and worked for print disabled and blind people. The representative of the WBU also asked delegations to allow an element of trust and flexibility when it came to the implementation of the Treaty.

24. The Chair clarified that it was not the intention to open a long discussion on this issue, namely whether or not to allow observers access to the audio of the discussions taking place in an informal setting.

25. The representative of Knowledge Ecology International (KEI) agreed that countries should be able to freely float ideas without being identified as to who said what, but on the other hand, noted that it was also important to remember that observers needed to have freedom to report the character and the nature of the substantive issues discussed in the SCCR to those who were interested in the discussion but could not be present at the meeting.

26. The Vice-Chair pointed out that regional coordinators had agreed to follow the same rules as had been followed during the Intergovernmental Committee (IGC) on the issue of audio feed access. Expert groups met for informal negotiations among Member States in Room B. For all other members and observers, there was an audio feed accessible in Room A. The rules also implied that there was no possibility to disclose or re-distribute any information related to the discussions, whether in general terms or by quoting specific individuals or delegations. The information would not be publicly available. It was noted that sometimes delegations were trying to find compromises and therefore were not necessarily expressing cleared positions. If everything was public, this could potentially restrict delegations from being creative and constructive in that informal setting. No fundamentally opposed reaction was received in response. It was decided that the SCCR would follow that rule. The Chair stressed again that the integrity and the informality of the SCCR negotiations should be respected and maintained.

27. The Vice-Chair asked the WIPO Secretariat to brief the SCCR on the major achievements and outcomes of the informal negotiations regarding the draft Treaty.

28. The WIPO Secretariat said that unfortunately, at that point, there was no consensus text to present to the plenary. Work would continue and it hoped something positive would come out for the following day. With respect to the informal discussions, there was a proposal to address the situation in which a particular country that joined the Treaty might not actually be a member of the Berne Convention or TRIPS or the WCT and might not have in its national law a provision on making available and distribution that would address the situation where imported accessible format copies were being redistributed in that country. There was a general agreement that such a situation was probably not going to be addressed in the importation of accessible format copies provision, but that a small group would talk further about the issue. It was agreed that such a situation was narrow, but one that could be addressed. The small group had not yet met to work on text of the Treaty that might address that particular situation. Some Member States did articulate that perhaps the Treaty provisions already addressed such a situation by limiting the distribution of accessible format copies to beneficiary persons as defined in the Treaty. The

small group also turned to some of the concepts in the principles of application cluster package. One Member State proposed a series of scenarios that could be considered with respect to some of the topics that were covered in that package. Those scenarios, broadly speaking, were focused on the treatment of the three-step test and how it would be treated with respect to the existing situation before the adoption or entry into force of the Treaty. There was a general discussion on having a non-derogation clause. A general agreement seemed to be reached to insert such a clause into the draft Treaty. The second scenario was to think about the treatment of the three-step test within the Treaty itself and how it would work within the Treaty. The third scenario was to think about a situation where there were new developments, perhaps technological developments that would lead to the development of new exceptions for visually impaired or print disabled persons not anticipated in the Treaty and how the three-step test might interact in that situation. It was decided that a small drafting group would work on wording on those three scenarios and that the small drafting group should meet for most of the day. The group was asked to mostly focus on the first scenario, in other words, how to express a non-derogation provision that ensured that nothing in the Treaty would affect existing obligations under whichever copyright treaties or other relevant agreements Member States happen to have signed. Elements that were raised for discussion but not fully resolved included whether there should be an enumeration or specification of the particular treaties to which Member States might already have acceded. A second topic that was discussed, but not resolved, was whether there would be a specific discussion or specific reference to the three-step test and how it might be referred to as an existing obligation in those treaties that might or might not be listed in those provisions. Beyond that, there were a number of proposals for clarifications and footnotes that could explain some of those concepts. It was a full conversation providing positions on the various topics, including consideration of the situation for least developed countries that might have a unique situation with respect to obligations, particularly under the TRIPS agreement. Unfortunately, there was no consensus on any draft text for the Treaty. Some elements of the other two scenarios, obligations that were created by the Treaty and possible new future exceptions, were discussed tangentially during the meeting. There was also a proposal for some text of the Treaty by one Member State on clarifying the methods of implementation of the Treaty within a given legal system. This included providing exceptions and limitations that were specific or how to treat exceptions and limitations that might be more general but might still apply to the specific situation of visually impaired persons.

29. The Vice-Chair said that the status of the negotiations was clear and opened the floor for Member State interventions.

30. The Delegation of the Dominican Republic, speaking on behalf of GRULAC, emphasized that the objective of the negotiations was actually to focus on the needs of the visually impaired and their need to have access to those formats. The Delegation pointed out that it was essential to finalize the work during the session in order to meet the goal of helping visually impaired and persons with print disabilities. It therefore urged all delegations to show full flexibility and to work proactively to conclude the work satisfactorily during the diplomatic conference. Member States could be assured that GRULAC would put every effort in without losing sight of that objective.

31. The Delegation of Venezuela supported the statement of GRULAC. It pointed out that the problems of the negotiation did not really relate to the text of the Treaty, but were in fact political issues. The Delegation did not believe that the possibility of amending the date for the conference should even be raised, nor should it be considered an option. There was a clear and urgent need to solve the few outstanding technical problems of the Treaty, without introducing bureaucratic elements. GRULAC and the African Group made clear that they were fully engaged in the process.

32. The Delegation of Peru supported the statement made on behalf of GRULAC by the Dominican Republic, and echoed the call for general flexibility to complete the negotiating text of the Treaty. Member States were committed to aid visually impaired persons and persons with print disabilities. The position of GRULAC was clear and it was very constructive.

33. The Delegation of Mexico reminded the SCCR that around 280 million people suffered from visual impairment and 90 percent of those people lived in developing countries. They were anxiously awaiting the signature of the new Treaty. Mexico had more than a million blind people, of which 150,000 were under 30 years of age. On average they could not manage to finish their basic education due to lack of access to information and study materials. The Delegation therefore felt there was nothing less worthy than to work on the inclusion of persons with visual impairments and persons with print disabilities so that they could succeed in their education.

34. The Delegation of Nigeria stressed the importance of the work of the SCCR by reminding Member States that most visually impaired persons were only able to earn a fraction of the income earned by those who were not visually impaired. The quality of life of most visually impaired persons was constrained by both physical, material and health challenges, and for those visually impaired persons living in Africa, those conditions were worsened by the degree of poverty and the lack of access to basic human needs. The demand by certain countries for provisions in the Treaty, while necessary for the implementation of that Treaty, had created challenges, both structural and substantive, but also normative for the capacity of individual countries to do even more for their visually impaired persons. The question for Member States was whether the cost of not accomplishing what they had set out to achieve, in the interests of economic considerations would not, in fact, weigh more on the WIPO membership community in the years to come. The Delegation's plea and encouragement was to focus on the mechanisms, the provisions, and the means to ensure that the work could be completed.

35. The Delegation of Trinidad and Tobago echoed the comments made by Venezuela, Peru and Mexico. It stressed the need to complete the negotiations without any form of obstruction, in any form or fashion. It looked forward to the flexibility of all Member States in that process. The Delegation was fully committed to finalizing the negotiations and it looked forward to the completion of the Treaty.

36. The Delegation of Ecuador gave full support to the statement made by GRULAC. It stated that Ecuador was fully engaged in getting the Treaty adopted, and noted that was a matter of particular importance. It believed that the common agreement to help visually impaired persons should supersede all other interests and problems. Ecuador showed, and would continue to show, flexibility within its proposals and would spare no efforts to be present in virtually all of the Treaty negotiations.

37. The Delegation of the European Union and its 27 Member States reiterated its commitment to the process. It stated that it shared the common objective of adopting the Treaty at the Marrakesh Diplomatic Conference to enhance the availability of special format materials for the visually impaired persons. The Treaty should be joined by as many of its Member States as possible. It pleaded for focused negotiations during the remaining discussions to achieve progress.

38. The Delegation of the United States of America endorsed the previous interventions which had expressed commitments to the process and a willingness to achieve the objectives that the SCCR had been striving to achieve since 2009, 2010 or 2011, depending on how years were counted. One possibility was to consider that the process had started when the Delegations of Brazil, Ecuador and Paraguay had submitted the proposal of the World Blind Union, or that the process had started in the summer of 2011 when many delegations, including the Delegation of the United States of America, had proposed a consensus working document text, which had become the Chairman's text of the Treaty. While 57 jurisdictions were already providing exceptions and limitations in their national copyright laws for the benefit of persons with print disabilities, there had not been any attempt to issue judgment on them. Similarly, the Delegation of the United States of America had not sought any recognition for Section 121 of the United States Copyright Act, which was one of the earliest exceptions and limitations provided for blind people. The purpose of the SCCR negotiations was not to make any judgment on existing national exceptions or limitations. It had always considered that the greatest achievement of the new Treaty instrument would be the establishment of a cross

border system that would allow for the exchange of special format copies as a significant addition to the international copyright system, which remained the primary goal of the negotiations.

39. The Delegation of Chile aligned itself with the statement made on behalf of GRULAC, and confirmed its commitment in pursuing the SCCR's work. It considered that the SCCR had reached a crucial step in the negotiations. The successful adoption of the Beijing Treaty had been made possible thanks to three elements which could be looked at in the context of these negotiations. First, the willingness of delegations to reach agreement, second, the support from the beneficiaries of the Treaty which in the current negotiations were the visually impaired persons and last, the fact that the topics of the Treaty were self-contained. Specifically, a consensus to agree on the boundaries of the Treaty was now missing from the discussions. While there was willingness from all to make progress, further focus was needed on the initial objective of the Treaty and practical solutions with a view to providing a simple instrument which would not attempt to incorporate additional elements which could be regarded as falling outside its original scope.

40. The Delegation of France stated that in the negotiating process no delegation could claim the monopoly of kindness to visually impaired persons or was entitled to give any lessons in that regard to others. No one could claim a monopoly on defending human rights and could use the issue of visually impaired persons in a way entirely inappropriate to the process. The Delegation of France noted that it had always wanted to work towards a Treaty that would provide solutions to the problems of visually impaired persons who were eagerly awaiting answers and solutions to their concerns. Some delegations were addressing hidden agendas and the inclusion of legal provisions which went beyond what was necessary under the current process. Copyright was not just there to protect the interests of developed countries but was intended to protect the creativity of all creators no matter whether they came from developed or developing countries. It was willing to facilitate any diplomatic informal process to achieve a Treaty that addressed the specific needs of visually impaired persons.

41. The Delegation of Senegal aligned itself with the previous delegations that had expressed their commitment to finalize a Treaty at the diplomatic conference in Marrakesh. It was fully committed to moving forward the Treaty negotiations to achieve that objective.

42. The Delegation of Tunisia stated it had been closely working with some delegations of other regional groups in trying to identify commonalities in their respective positions, rather than focusing on differences. It was up to the various delegations to build on the existing momentum to advance discussions.

43. The Delegation of Algeria, speaking in its national capacity, stated that it considered that three basic principles should guide the negotiations, namely commitment, confidence or trust and lastly, flexibility. It noted that political commitment existed and it had to be put into practice. When the African Delegation had stated that all it wanted was a Treaty which would help the visually impaired persons, that was the truth.

44. The Delegation of Brazil reiterated its commitment in favor of a Treaty which would make a difference on the ground. It believed that the core articles of the draft Treaty related to national limitations and cross border importation of accessible formats, but it was mainly the cross border dimension which added new value to the Treaty. It was challenged by the negotiations of the so called 'systemic clause' which addressed how the Treaty would fit within the bigger context of the copyright system and how the new instrument would differ from the way in which other copyright obligations were being implemented. It could see that developed countries were concerned with preserving the existing copyright system which required a 'carve out' for the visually impaired persons as far as exceptions were concerned. Countries did not have hidden agendas but there were practical and objective concerns to ensure a neutral clause which would not add or diminish rights and obligations which Member States had to each other within the existing copyright system, in order to address basic concerns in favor of visually impaired persons.



45. The representative of the World Blind Union (WBU) expressed appreciation for the goodwill expressed in the SCCR to work towards language in the Treaty that would facilitate the sharing of materials across country borders. The WBU had been encouraged by a number of comments that had shown understanding of that issue. The possibility of having materials in an accessible format would not only provide leisure reading, but the real core of education and opportunities for a full and productive life to all visually impaired persons. The WBU did not have any specific views on the three-step test, fair dealing or fair use, but only views on the language agreed to facilitate the practical implementation of a system that allowed the maximum access to materials by blind and visually impaired people throughout the world.

46. The representative of the International Group of Scientific, Technical and Medical Publishers (STM) called on the SCCR to create an enabling legal framework that would empower, rather than threaten, the ability of rights holders to serve the markets of visually impaired persons and which would provide the legal infrastructure for cooperation while encouraging public/private partnerships without undermining market access. STM had always supported the creation of an enabling legal framework that would allow access for print disabled persons consistent with existing conventions which would yield effective, well crafted, cross border mechanisms to facilitate the smooth and secure international exchange of works in accessible formats through mainstream markets and through assistive measures. WIPO and especially some of the Delegations from Latin America had been at the forefront of seeking greater access for the blind and visually impaired since 1971. Fortunately, WIPO was now close to achieving a lasting result with a Treaty that would be in force for many decades to come. Fortunately, technology was also advancing fast making mainstream access for the blind and visually impaired through normal market channels also a reality. It hoped that the Treaty would lead to exponential growth of commercially available accessible works and well-crafted exceptions that would provide legal certainty to authorized entities, while avoiding duplication with other initiatives such as TIGAR, to enhance not only the accessibility of works, but the discoverability of these works.

47. The representative of the International Publishers Association (IPA) referred to the three-step test and the issue of commercial availability. The IPA noted that it was of critical importance that the international exchange of copyright protected works in digital formats for visually impaired persons would not be a white space in the international copyright framework. It was important to publishers that digital content followed the same rules of the international legal framework and national copyright laws. The WBU had stated that commercial availability was not an important aspect of this debate however the IPA considered this was a core issue. The changes that had occurred since 2003 had to be taken into account and the trend was clear. Namely, commercial publishing and commercial products would increasingly become the primary direct source of accessible books for persons with print disabilities both in the developed countries and in the developing countries. Commercial publishing and commercial products were therefore an important aspect of providing access to persons with print disabilities. The IPA was delighted to see that recently adopted Indian copyright legislation included provisions regarding commercial availability referred to as 'normal formats'. Publishers did not want to interfere with the effective international exchange of files and commercial availability could be worded in such a way that it would not entail any bureaucratic burden or liability. Simple mechanisms that were easy to use and which derived clear results could be spelt out. Any organization which acted in good faith should not refrain from the international exchange of accessible files because of liability issues. Such organizations acting in good faith had to all be encouraged to participate in that exchange and most of them were wonderful partners for publishers to collaborate with. The new Treaty instrument had to reflect current realities where publishers were part of the landscape of providing equal access to visually impaired people at the same time, at the same place, and at the same price as other persons.

48. The representative of the International Federation of Library Associations and Institutions (IFLA) stressed that it was indispensable that exceptions in the Treaty instrument were made subject to the three-step test. The IFLA suggested that this should be reiterated in the Treaty instrument as it was in the recently adopted Beijing Treaty, as not all WIPO Member States had

ratified all of the international copyright treaties. The reference to the three-step test was essential in order to create an appropriate balance between rights-holders' and users' rights in the distribution of works. The IFLA appreciated the objectives expressed by representatives of the print disabled communities to be allowed access to intellectual property on basically equal terms with other groups. Exceptions in favor of the print disabled should have been made subject to copies not being commercially available. That was particularly important with respect to the cross border transfer of accessible product copies as it would maintain the necessary incentive for the publishing industry to serve the print disabled as it would serve any other customer groups. An enabling technology framework had been developed jointly by the print disabled and rights holders organizations that allowed more cost efficient production of works for the print disabled. The IFLA encouraged WIPO Member States to contribute to the dissemination of that technology framework.

49. The representative of the Computer and Communications Industry Association (CCIA) stated that its members represented a broad cross-section of the information and communications technology sector's most innovative companies and generated many of the intellectual property systems' most valuable innovations. The CCIA stated that at a fundamental level everybody was engaged in the process of negotiating the Treaty to ensure access to works by the visually impaired, as the normal operation of the market for such materials had failed to deliver access at a level any reasonable person would see as adequate, anywhere in the world, for any language group, at any time. There were a number of things the CCIA had not come to the Special Session of the SCCR for. The CCIA was not attending the SCCR to re-negotiate the Berne Convention or the TRIPS Agreement. Inserting the three-step test into the Treaty, when it did not apply in the context of the Berne Convention to create an exception for the blind, limited options for signatories to the Treaty to grant access to the visually impaired over what Berne Convention parties could have done if they did not adhere to the Treaty for the visually impaired. The CCIA highlighted that it was not attending the Special Session of the SCCR to protect the interests of any specific industry sector by including their favorite provisions from other treaties. The idea that provisions like the three-step test needed to be included in the Treaty because there were countries that were not signatories to the Berne Convention or parties to the TRIPS Agreement did not stand up to any test of logic or reasonableness. The CCIA pointed out that there were a total of fourteen countries that were not in the process of joining the WTO and therefore the TRIPS Agreement. That list decreased every year, as did the number of countries that were not parties to the Berne Convention. Therefore, if rights-holders wanted to further protect their rights they should feel free to advocate that those fourteen missing countries join the WTO, rather than inserting provisions into the Treaty that benefited them at the expense of the visually impaired. Furthermore, the CCIA was not attending the SCCR to create a Treaty that protected publishers from the blind but, if anything, the other way around. It appeared that numerous provisions which limited the effectiveness of the instrument for its intended purpose and beneficiaries kept being inserted into the text of the Treaty. The result of the negotiations had to be to provide access for the visually impaired. Therefore, the nature of every provision was to facilitate that access. If it did not, then that provision had to be deleted or amended until it met the purpose. Some stakeholders had suggested that the Treaty should balance the needs of the visually impaired and the rights of publishers and authors. In the CCIA's view, nothing was further from the truth. Existing international law fully protected the interests of publishers and authors already. The Treaty for the visually impaired was simply a way to provide access that the Berne Convention and TRIPS Agreement already allowed but did not require contracting parties to grant. The CCIA stressed that the more complex the Treaty became, the more likely it would lead to legal uncertainty and negative unintended consequences. The international copyright system did not need further complexity or uncertainty as it was already complex enough. Keeping the Treaty simple was an adequate way to create a result which was most effective for the beneficiaries.

50. The representative of the British Copyright Council (BCC), also speaking on behalf of the International Authors Federation (IAF), asked WIPO and the delegations to remember that there were writers in every country, both sighted and visually impaired, and to remember that what was ultimately being discussed during the negotiations was their work. However, the BCC expressed the view that all of the 280 million visually impaired had the right to access writers'

works and to take both pleasure and instruction from them. The BCC believed that technology would solve many of the pragmatic problems that had been faced in the past and that still existed and urged all delegations to take into account the artists during their deliberations. The BCC and IAF had to be sufficiently supported in order to keep on providing the works, without forgetting those 280 million unsighted persons.

51. The representative of the National Federation of the Blind (NFB) highlighted that the blind needed an opportunity to access the vast amount of information that sighted individuals had access to every day. The NFB suggested to the delegations that they first discuss the substantive issues of the Treaty and then address the rest of the Treaty document. Once resolution and consensus on those issues had been reached, it could then be worked out where they fitted in the international copyright schemes and how those provisions did, or did not, adequately address the application of the three-step test. If controversial issues like commercial availability and authorized entities were solved, the rest could be unraveled much more easily.

52. The representative of the Motion Picture Association (MPA) stated that the MPA supported an instrument that was effective to facilitate access to text-based works for the visually impaired, provided it was consistent with the existing international copyright framework. Redefining basic copyright principles was unnecessary and unfair to both creative sectors relying on copyright as an incentive to create and finance new works as well as visually impaired persons, who deserved a successful outcome in Marrakesh. The MPA stated that the three-step test was a practical device based on compromise and that it set limits on the scope of exceptions. Countries that ratify and implement the discussed Treaty instrument would have to create new exceptions in their laws, where necessary. Those exceptions were defined by the three-step test; hence, a new Treaty on exceptions and limitations had to necessarily include the three-step test.

53. The representative of the Library Copyright Alliance (LCA) indicated that the LCA represented three large copyright organizations in the United States and it considered its members to be authorized entities, therefore the LCA had great interest in the discussions taking place. With respect to the issue of commercial availability, the LCA noted with surprise that the libraries had greater faith in the operation of the market than the publishing industry did. The LCA was of the opinion that if works were commercially available on reasonable terms and reasonable prices, they would always be the primary source for people with print disabilities to access information. Beneficiaries would only turn to authorized entities if the work was not commercially available. Therefore putting the requirement that one had to first go through an authorized entity and then trying to come up with some kind of definition would be bureaucratic and would defeat the operation of the marketplace. If the work was available in the right format at the right price, the beneficiaries would always prefer that, rather than going to an authorized entity, getting it through those means. The LCA also expressed concern about the three-step test becoming an additional filter through which any exception that was derived and developed during the negotiations had to pass. It would be very unfortunate to come up with a framework under which each national implementation had to be double checked on whether it complied with the requirements of the three-step test.

54. The representative of the American Council of the Blind (ACB) thanked the delegations for their commitment to the Treaty. Nevertheless, many issues that were very important to the practical value and usefulness of the Treaty remained unresolved. The ACB representative stated that she had to leave the Special Session of the SCCR in order to do a broadcast for the blind community worldwide over an internet radio station. She would also be giving report about the ongoing Treaty negotiations. In that regard, she wished to ask all delegations what she should be reporting to the blind community.

55. The Chair announced that the plenary was suspended. A group of experts from the delegations was convened to decide how work should be continued.

56. The Chair opened the session and invited the WIPO Secretariat to provide the plenary with an overview of the actual situation of the negotiations on the text of the Treaty.

57. The WIPO Secretariat informed the delegations that there were still open issues expressed in the form of brackets and alternatives on basically every article, as well as in the principles of application cluster package at the end of the document. With the exception of the privacy provision, it was noted that the text of all other articles was only partly resolved. On Article C footnote 5 corresponded to Article C(1)(b), the right of translation, which was in brackets. There had been a request from the Delegations of Nigeria and Switzerland to propose an agreed statement on that topic. One Delegation had provided proposed language on a statement which followed at the end of footnote 5. That was not yet consensus text and there had not been any discussion on the proposed text. Another issue that had been discussed concerned Article C(4), commercial availability. In footnote 6 there was proposed text in brackets and the drafter's note at the end of the footnote. That proposed language was again subject to the provision that if it had not been agreed on by February 22, 2013, it would be removed from the document. In Article D, the cross border exchange of accessible format copies, there were a number of brackets and alternatives and there were two footnotes of text that had been discussed at the Special Session of the SCCR. Footnote 7 related to Article D(2)(b), the making and distributing of accessible format copies to beneficiary persons in another Member State without the authorization of the rightsholder, and contained text for discussion. Footnote 8 referred to Article D(3) Alternative B, which was a discussion about reasonable time and reasonable price for distribution of works to beneficiary persons. There had been a little, but not extensive, discussion about the language proposed in footnote 8. Article E, the importation of accessible format copies, had two footnotes that contained proposed text. Again, while those text proposals had been made, there had not been time for extensive discussion. On footnote 10 there was an agreement that a small group would get together to work on that text but there had not been any alternative text delivered so far. Some discussion had taken place with respect to the content of footnote 10, questioning the placement of the footnote at that part of the text. Therefore, it was possible that it could be moved. The WIPO Secretariat stated furthermore that there had been some discussion about whether Articles F and I, which referred to obligations concerning technological measures and the interpretation of the three-step test, should be addressed, especially if some particular language in Article I should be proposed. However, it was decided to focus on the work on the three-step test being done in a smaller drafting group rather than addressing those particular issues so far. As a result, there were no new proposals for language. Concerning the principles of application cluster package, the main focus had been to address the three-step test from a number of perspectives, work was being done from the first perspective of explaining the current status and the impact that any agreement of the Treaty would have on existing obligations under existing copyright treaties. There was a proposal but as yet, no consensus text. The topic had been discussed extensively following on from the discussion on the same topic the previous day. That text enumerated several specific articles of intellectual property agreements and stated that existing obligations would continue to exist and new obligations would not be created. Regional coordinators had met with their groups to see whether, in fact, the proposed text could become consensus text. Work had also been done in a small drafting group regarding the implementation of the Treaty and how it related to the three-step test.

58. The Chair concluded that progress had been made on some substantive issues but a lot of uncovered text, including brackets and alternatives, remained. The session was adjourned. Time was provided for further consultation to discuss the implementation part of the Treaty. Following this, a drafting group would meet to work on the text of the Treaty.

59. The Vice-Chair opened the session welcoming the Chair, Ambassador Darlington Mwape, and informing the delegations that he would continue chairing the Special Session. The Vice-Chair thanked the Ad Hoc Chair on behalf of the SCCR. The Vice-Chair highlighted the good work that had been done on the previous day, which resulted in a compromise that created some good solutions that they could hopefully adopt. The Vice-Chair requested the WIPO Secretariat to brief the delegations on this.

60. The WIPO Secretariat informed the delegations that very productive work had been done on the previous day, mainly on the principles of application cluster package. The WIPO Secretariat indicated that the document had not been distributed among the delegations at that point, as it had initially been circulated among Regional Coordinators in order for them to consult within their groups prior to presenting the document as the final result of their work of the Special Session. The WIPO Secretariat explained that the three-step test language included in the principles of application cluster package remained as agreed two days earlier, and highlighted that a number of specific copyright treaty texts which had articles related to the three-step test and on exceptions and limitations had been included. The national implementation provision was described as the core of the discussions held on the previous day. It was noted that a close-to-final text, without brackets, had been agreed. The WIPO Secretariat informed the delegations that there were still two issues that needed to be confirmed that day: first, that there was general agreement that Member States or Contracting Parties would undertake to adopt measures necessary to ensure the application of the Treaty; and second, that there would be a sentence reflecting that nothing would prevent parties from determining the appropriate method of implementing the provisions of the Treaty within their own legal systems. The WIPO Secretariat highlighted the fact that it appeared the delegations were very close to consensus on these issues. The WIPO Secretariat also observed that there was a simple statement in the text indicating that there were different ways Contracting Parties could fulfill their rights and obligations under the Treaty, including a reference to limitations or exceptions specifically for beneficiary persons, other exceptions or limitations, and combinations within national legal traditions and systems. Reference was also made to judicial, administrative, or regulatory determinations for the benefit of beneficiary persons as to fair practices and dealings to meet their needs. Concepts of fair use and fair dealing, on which there were a lot of discussions, were observed to be broadly incorporated into the text, although not in the original form that was proposed, but in a slightly more general form that applied more broadly to more legal systems. There was still discussion on where in the Treaty to place the statement: "This instrument/Treaty is without prejudice to other exceptions and limitations for persons with disabilities provided by national law." A matter that was still in brackets and needed further discussion by Member States was the development provision. Items in the footnotes also still needed to be discussed. Potentially duplicative provisions had been eliminated from the principles of application cluster package. Article Bbis had been deleted, except for a provision to ensure the implementation of the Treaty in a timely and effective manner, a standard treaty clause. Member States agreed they would look for models in other agreements and build in some appropriate text. The WIPO Secretariat concluded by indicating that there was a general consensus on subjects but that more work needed to be done to find the appropriate text of the Treaty. Finally, the Article Ebis and Article I provisions on the three-step test had been entirely deleted, with both provisions being replaced by language in the principles of application cluster package.

61. The Vice-Chair indicated to the delegations that as the consensus reached on the previous day was still merely a proposal, it had to be agreed upon by the SCCR. The Vice-Chair highlighted that they still had a lot of work to do, despite the good progress. It was suggested to immediately move to the drafting group and continue the work to clarify the matters that were still pending so that they could have more clean text. The Vice-Chair informed the delegations that they should consider when they would be ready to start with the Preparatory Committee Meeting and how they could finalize the work before that time.

62. The Delegation of Dominican Republic, on behalf of GRULAC, expressed its satisfaction with the way that all delegations had shown flexibility and noted that they had reached a point

where they were beginning to see the “light at the end of the tunnel”. The Delegation urged all those delegations that still had pending issues that could present an obstacle for their final goal, to ensure that they would further explore those pending issues so as not to stop them from reaching their final goal.

63. The Delegation of Brazil indicated to the Chair that an important point had been missed from the briefing made by the WIPO Secretariat regarding the three-step test. Namely, a long clause had not been included in the document circulated to the regional groups. The Delegation indicated that it was not entirely sure if it was mentioned or not during this briefing, but that it considered it important to stress the importance of this provision in the package of compromise text that they had been working on.

64. The WIPO Secretariat indicated that all provisions were included in the document, but there had been a misunderstanding the night before when putting together the document, which had now been revised so that the three-step test provision was at the beginning of the principles of application cluster package. The WIPO Secretariat informed the delegations that copies of this revised document would be available for the drafting group discussion in the Uchtenhagen Room.

65. The Delegation of the United States of America reiterated the concerns expressed by the Delegation of Brazil. The Delegation indicated that the clause should be put in the corresponding place in the principles of application cluster package, as it would be hard to analyze the document without having this provision back in the package.

66. The Vice-Chair invited the delegations participating in the drafting committee to continue their work, and informed the delegations when they would be updated about the time to meet in the Informal Session.

67. The Chair informed the delegations that they had come to the concluding stages of the Special Session of the SCCR. The Chair noted that the document they had worked on had been circulated among the delegations and that they had also created Draft Conclusions that they had discussed in the informal setting before that meeting. The Chair invited delegations to consider these.

68. The Delegation of the United States of America asked the WIPO Secretariat to clarify if there would be something included in paragraph 3 to acknowledge the appendix or annex that would have the proposals made by Member States that had not been agreed by consensus, to be included in the ad referendum materials.

69. The WIPO Secretariat indicated that there had been a proposal to include in an appendix the elements currently under footnotes that had not been discussed. The WIPO Secretariat confirmed that a reference could be included in the conclusions. If agreed, it would proceed to add language in the draft conclusions regarding the appendix, and to insert the ad referendum language that was reflected in paragraph 3A in the appropriate places, namely the General Clause and the Articles section.

70. The Chair asked the Delegation of the United States of America if the changes described by the WIPO Secretariat were sufficient.

71. The Delegation of the United States of America indicated to the Chair that the additional language in paragraph 3A to acknowledge the appendix would be most satisfactory. The Delegation also asked for confirmation on whether delegations would still be able to make proposals in a positive spirit during the Informal and Special Session of the SCCR or before that date, on Articles F and J.

72. The Chair indicated to the delegations that as those areas of the draft text had not been discussed yet, they had to get to them. Constructive proposals would be appreciated.

Nonetheless, it called the attention of the delegations the fact that they should not try to reopen areas on which they had worked very hard in order to try to finalize them.

73. The Delegation of Nigeria observed that they had not discussed the title of the Treaty and suggested that a footnote indicate this.

74. The Delegation of the Bolivarian Republic of Venezuela requested clarification on what was meant by an additional Informal Session referred to in paragraph 3B.

75. The Chair noted that some delegations had raised reservations on formal meetings of Committees running side-by-side. It was noted that there would be a meeting that would run on the 18th and 19th of April 2013. Accordingly, in order to accommodate the work, the Chair suggested that they could have an Informal Session and then a Formal Special Session on the last day to adopt the results of the Informal Session.

76. The Delegation of Dominican Republic on behalf of GRULAC asked the WIPO Secretariat to clarify the financing of developing countries to attend the Informal and Formal Special Sessions of the SCCR.

77. The WIPO Secretariat confirmed that funding would be provided for the Informal and Formal Special Sessions of the SCCR. Four participants would be financed per region at a special rate of 250 Swiss Francs DSA per day. The WIPO Secretariat also highlighted that if funds were accessed to finance these meetings, which were recognized as a priority for WIPO, it could consequently affect WIPO's ability to fund other activities during the rest of the year.

78. The Delegation of Algeria endorsed the clarification request made by the Delegation of Dominican Republic on behalf of GRULAC. The Delegation requested that the title of the Treaty included in paragraph 3B should be modified as it had not been discussed and approved by Member States.

79. The Chair observed that it had already been agreed to include a footnote in the conclusions indicating that the title of the Treaty was still to be discussed by Member States.

80. The SCCR adopted the Conclusions with the requested amendments.

81. The Delegation of Morocco congratulated all WIPO Member States for the work done during the course of the week. It had been a very difficult exercise but progress had been made to move to the Marrakesh Diplomatic Conference. The Delegation reiterated a warm welcome to Morocco and Marrakesh to all participants and members of the WIPO Secretariat. It informed the SCCR that the WIPO Director General and the Moroccan Government had signed an agreement regarding the organization of the Diplomatic Conference and Morocco had agreed to finance 119 delegates from developing and least-developed countries. It hoped that the April meeting would conclude all of the remaining details unless delegations wanted to work for two weeks non-stop in Marrakesh. But if in April the SCCR could take out all of the remaining square brackets, then all delegates would have more time to enjoy Marrakesh.

82. The Delegation of Sri Lanka, on behalf of the Asian Group, thanked the three Chairs and two Vice-Chairs and also the WIPO Secretariat for all of their work and ongoing patience. It also thanked WBU for being on call and being such a proactive proponent, and the rights-holders for meeting with the Asian Group and having discussions during the week. It also thanked the interpreters for the important work they had carried out. All the delegations deserved recognition for their spirit of commitment to a successful Treaty. The Asian Group was confident that the same spirit of cooperation would guide the April session.

83. The Delegation of Poland, on behalf of the Regional Group of Central European and Baltic States, congratulated Mr. Darlington Mwape for his election as Chair and thanked Ambassador Zvekic for assuming his position as Chair *ad-hoc* of the Special Session of the SCCR in unexpected circumstances. The Group also thanked the Vice-Chairs and WIPO Secretariat for

their dedication and readiness to extend their working hours. The Group expressed special thanks to the facilitator of the drafting group, Mr. Martin Moscoso Villacorta, for his leadership which greatly contributed to the achievements of the week. The goal of the session was to find satisfactory solutions in order to ensure that the text of the future Treaty would not require additional lengthy discussion at the Diplomatic Conference in Marrakesh. The Group attached special importance to the work achieved on the application cluster package and the consensus reached on the proper application of the three-step test provisions.

84. The Delegation of Poland, on behalf of the Regional Group of Central European and Baltic States, also noted that one week of intensive negotiations had still left the SCCR with a number of questions that were open and far from a clean and finalized text. The Group hoped that delegations would work seriously in the April session and bring no surprises to ensure that they could secure a successful Marrakesh Diplomatic Conference. It was crucial that appropriate and equitable participation of the representatives from all regional groups and key negotiators remained assured.

85. The Delegation of Belgium, on behalf of Group B, thanked the Director General for his continued commitment. It also thanked the Chair *ad-hoc* of the Special SCCR Session, the two Vice-Chairs, the Chair of the Drafting Group and the WIPO Secretariat for their relentless efforts and hard work over the week. Great improvements on difficult issues had been made in the draft document and that should allow the SCCR to move forward in the continued spirit of cooperation. Over the past years Member States of Group B had engaged constructively and extensively to find an appropriate and balanced solution that addressed the problems of visually impaired persons and persons with print disabilities, and also the need to have effective protection of the rights of authors. Group B looked forward to addressing the remaining concerns in order to achieve a successful Diplomatic Conference in June in Marrakesh.

86. The Delegation of Algeria, on behalf of the African Group, thanked the officers that had presided over the negotiations during the week. It also thanked the delegations that had worked tirelessly for the successful negotiations, the WIPO Secretariat for being so available and the observers who had contributed in a significant way to the discussions. It reminded the delegations that the objective of the African Group was to achieve a successful conference in Marrakesh and to adopt an effective Treaty to allow visually impaired persons and persons with print disabilities throughout the world to have access to accessible format copies within a reasonable time. That objective had always guided the African Group during the negotiations. Having in mind the magnitude of the work still to be done in April in Geneva, and in June in Marrakesh, the Delegation asked all delegations to spare no effort to achieve consensus on the draft text. It echoed the words of the Ambassador of Morocco and encouraged the SCCR to work harder so that more time was available to enjoy Marrakesh.

87. The Delegation of Dominican Republic, on behalf of GRULAC, expressed its thanks to the Government of the Kingdom of Morocco and the WIPO Secretariat for the organization of this Diplomatic Conference. All delegations had been guided by a common objective of a successful Diplomatic Conference in June and GRULAC was determined to spare no effort to complete the work in a satisfactory way to all. It trusted that the constructive spirit would be maintained in the negotiations to be held in April 2013. Finally, it thanked the Chairs and Vice-Chairs and, of course, the WIPO Secretariat and the interpreters for all their efforts throughout the week.

88. The Delegation of the Bolivarian Republic of Venezuela commended the work and dedication of the Ambassador of Morocco in the organization of the Diplomatic Conference and asked Member States' delegations to ensure that the agreement was concluded in a satisfactory way for all, including the community of people with print disabilities.

89. The Delegation of European Union, on behalf of its Member States, thanked Ambassadors Mwape and Zvekic, the Vice-Chairs, the Chair of the Drafting Committee, Mr. Martin Moscoso Villacorta, the WIPO Secretariat and the interpreters for their hard work. It congratulated the SCCR for the progress achieved although it had not been as much progress



as the EU and its Member States would have wanted. There was still a considerable amount of work to be done and a number of issues of great importance had to be tackled during the April session. Besides the hard work, negotiations needed continuous goodwill and a strong political commitment from all parties towards a common goal: an agreement to be reached in June, in Marrakesh, on a Treaty to facilitate the access of visually impaired persons to published works that would not prejudice the rights of the authors and other rights-holders. There was a long road to travel in a short time to a successful Diplomatic Conference.

90. The Delegation of Nigeria thanked Ambassador Zvekic for his ad-hoc chairmanship and Ambassador Mwape for his tireless work. The Delegation gave particular thanks to the WBU and all of the representatives of the beneficiary groups for their courage and for reminding the SCCR why delegations were ultimately there. The Delegation also thanked the rightsholders who reached out in several different ways to express concern and their thoughts and inputs into the process. It was wonderful to hear their affirmation of the importance of the Treaty as well as their concerns about ensuring that there was an endless supply of literature for all to enjoy. The Delegation gave special thanks to the Chair of the drafting group, Mr. Moscoso Villacorta, for his pivotal role in “herding cats” and getting the SCCR to a more stable text. Special mention was made of four delegates that had ensured that all delegations were able to take a step forward together: Ms. Maria Martin-Prat of the EU Commission and Judith, her colleague; Mr. Justin Hughes of the Delegation of the United States of America, and Mr. Kenneth Nobrega of the Delegation of Brazil. Behind the scenes, in front of the scenes and in between sessions, those four individuals had exchanged suggestions and comments with many delegations. It also thanked the Kingdom of Morocco for its warm welcome to host the Diplomatic Conference. Lastly, it thanked the WIPO Secretariat and the interpreters and, in particular, Mr. Carlos Castro and Mr. Paolo Lanteri from the Copyright Law Division, for being first in the morning and last in the evening sessions, and for all the work that sometimes went unnoticed but was extremely important. All delegations had learned the importance of patience, perseverance and shared responsibility, even if these could be painful at times.

91. The Delegation of the United States of America thanked everyone for the frank discussions that enabled a deeper understanding of the different points of view. It thanked the rights-holders, the library representative and, above all, the representatives of the blind who went through an enormous amount of trouble to advise the SCCR and provide the necessary information. It thanked the Chair *ad-hoc*, Ambassador Zvekic, and the elected Chair, Ambassador Mwape, together with the lovely Co-Chairs, Ms. Graciela Peiretti and Ms. Alexandra Grazioli, both with stunning Italian names. Finally, it gave special thanks to Mr. Martin Moscoso Villacorta and concurred with what other delegations had said, namely that he had been a wonderful and magnanimous Chair of the drafting sessions with patience far beyond what Members of the SCCR could have expected. He had listened to what everyone had said, giving it the best possible spin and taking conversations that often were going in circles and making it seem like they were going forward. For all of those things, the Delegation was appreciative of the excellent spirit that had evolved over the week and looked forward to the SCCR meeting in April and the Diplomatic Conference in Marrakesh.

92. The Delegation of Senegal congratulated the Chair on his election and the two Vice-Chairs who had contributed to the success of the work that week. Each delegation had put forward legitimate claims, but had left them in the background in order to ensure flexibility and make progress. That flexibility had been particularly evident over the last two days and not surprising in light of the objective of the meeting, which was to have limitations and exceptions for visually impaired persons regarding access to published works. The Treaty was very important for Senegal where young people from the visually impaired community had not been able to go to university because of the lack of adapted teaching materials. That meant that accessibility to works by the visually impaired should be at a reasonable time and cost and in languages that were accessible at the national level. The April meeting would lead to a text that could be satisfactory to all parties involved and delegations would be able to enjoy Marrakesh to the full. Finally, the Delegation thanked Professor Okediji for her generosity and spirit of help, as well as other experts and interpreters who had taken part in the session and had contributed to the successful conclusion of the SCCR’s work.

93. The Delegation of Brazil echoed the thanks expressed by other delegations regarding the work undertaken during the week. The SCCR had seen some dark hours at the beginning, but one and a half days later delegations had been able to find consensus on a very complex clause regarding how the Treaty would become part of the copyright system. That was an interesting achievement and the emergence of a kind of Marrakesh spirit. It endorsed the statement of the Delegation of Nigeria about the key Delegates that had contributed to make progress during the week. That was clearly a non-exhaustive list of Delegates, but special mention had to be made to Professor Ruth Okediji who had made a big difference in the quality of the debates since July 2012.

94. The representative of the World Blind Union thanked everyone in the SCCR for the hard work and sincere efforts on behalf of the blind and visually impaired people throughout the world. The issues confronted by the SCCR during the week were very complicated and, at times, very technical. Yet WBU saw a spirit of goodwill, a spirit of belief in the right of blind people to have the greatest possible access to the information they needed. WBU had great hope for the discussions to be held in April and in June during the Diplomatic Conference, and its message would continue to be one of supporting language that encouraged the greatest possible access to information in specialized formats for blind and visually impaired people with a minimum of bureaucracy and other complications that might impede facilitating that access. Finally, WBU thanked the Kingdom of Morocco for providing a venue for the Diplomatic Conference and for stepping forward and demonstrating a belief in the ability and right of blind people to benefit from these materials, to become educated, to become employed and to live normal productive lives.

95. The representative of the International Publishers Association thanked the delegations for the great spirit to achieve effective access to copyrighted works.

96. The representative of Knowledge Ecology International hoped that WIPO could continue the measures it had taken to be inclusive and open and to deal with issues in a transparent way, allowing people who were not in the room, who could not afford to travel to the SCCR negotiations, to listen remotely and have access to the documents.

#### ITEM 6: CLOSING OF THE SESSION

97. The Chair thanked all delegations for their statements. When at home, he was trying to get well to come to Geneva and chair the meeting. He was receiving updates, but some of those made the pain even worse because of the little progress made. It was a pleasant surprise when a different scenario of much success was presented on Friday morning. That was because delegations had spared no effort in trying to resolve their genuine problems and to move forward. Another reflection of the dedication was the fact that there was a commitment to preserving the text and keeping it stabilized. The Chair reiterated his thanks to the interpreters and translators who had worked every day on the documents. He also expressed his gratitude to the Chair *ad-hoc*, his good friend Ambassador Zvekic, who had chaired the meeting in his absence; as well as the Chair of the drafting group, Mr. Martin Moscoso Villacorta, who had done an excellent job in that small group. He thanked Mrs. Graciela Peiretti and Mrs. Alexandra Grazioli, the Vice-Chairs, for the continued advice and support. Finally, he thanked the WIPO Secretariat who was always on time with every aspect of support to the SCCR. The efficiency of the WIPO Secretariat was evidence of the good leadership of the Director General. He noted that the Standing Committee unanimously had adopted the revised version of document SCCR/25/2 (to be identified as document SCCR/25/2 REV.) and closed the session.

[Annex follows]

**ANNEXE/ANNEX**

**LISTE DES PARTICIPANTS/LIST OF PARTICIPANTS**

I. MEMBRES/MEMBERS

AFGHANISTAN

Hashemi NOORUDDIN, Counsellor, Permanent Mission, Geneva

Habibi ABDUL AHAD, Second Secretary, Permanent Mission, Geneva

AFRIQUE DU SUD/SOUTH AFRICA

Pragashnie ADURTHY (Mrs.), First Secretary, Foreign Affairs, Permanent Mission, Geneva

Mandixole MATROS, First Secretary, Permanent Mission, Geneva

ALGERIE/ALGERIA

Ahlem Sara CHARIKHI (Mme), attachée, Mission permanente, Genève

ALBANIE/ALBANIA

Leonard KASTRATI, Second Secretary, Permanent Mission, Geneva

ALLEMAGNE/GERMANY

Kai NITSCHKE, Federal Ministry of Justice, Berlin

Pamela WILLE (Ms.), Senior Civil Servant, German Patent and Trade Mark Office (DPMA), Federal Ministry of Justice, Berlin

ANDORRE/ANDORRA

Montserrat GESSÉ (Mme), premier secrétaire, Mission permanente, Genève

ARGENTINE/ARGENTINA

Graciela PEIRETTI (Sra.), Directora de Coordinación y Relaciones Internacionales en Materia de Propiedad Intelectual, Dirección Nacional de Derecho de Autor, Buenos Aires

Matías Leonardo NINKOV, Secretario de Embajada, Ministerio de Relaciones Exteriores, Buenos Aires

María I. RODRÍGUEZ (Sra.), Consejera, Misión Permanente, Ginebra

AUTRICHE/AUSTRIA

Dietmar DOKALIK, Federal Ministry of Justice, Vienna

AUSTRALIE/AUSTRALIA

James BAXTER, Deputy Permanent Representative, Permanent Mission, Geneva

David KILHAM, First Secretary, Permanent Mission to the World Trade Organization (WTO), Geneva

AZERBAÏJAN/AZERBAIJAN

Guliyer ELCHIN, Third Secretary, Permanent Mission, Geneva

BANGLADESH

Nazrul ISLAM, Minister (Political Affairs), Permanent Mission, Geneva

BÉLARUS/BELARUS

Aleksandr PYTALEV, Third Secretary, Permanent Mission, Geneva

BELGIQUE/BELGIUM

Bertrand de CROMBRUGGHE DE PICQUENDAEL, ambassadeur, représentant permanent, Mission permanente, Genève

Mathias KENDE, deuxième secrétaire, Mission permanente, Genève

Gunther AELBRECHT, attaché auprès du Service public fédéral de l'économie, Bruxelles

BÉNIN/BENIN

Charlemagne DEDEWANOU, attaché, Mission permanente, Genève

BOSNIE-HERZÉGOVINE/BOSNIA AND HERZEGOVINA

Lidija VIGNEJEVIC (Mrs.), Director, Institute for Intellectual Property, Mostar

Jovan SARAC, Deputy Director, Institute for Intellectual Property, Mostar

BRÉSIL/BRAZIL

Kenneth Felix HACZYNSKI DA NOBREGA, Head of Intellectual Property, Ministry of Foreign Affairs, Brasilia

Marcos ALVES DE SOUZA, Director, Intellectual Property Rights, Brasilia

Leandro ALVES DA SILVA, Second Secretary, Permanent Mission, Geneva

CANADA

Sara AMINI (Ms.), Senior Policy Analyst, Industry Canada, Strategy and Planning Directorate, Ottawa

Sophie GALARNEAU (Ms.), Second Secretary, Permanent Mission to the World Trade Organization (WTO), Geneva

CHILI/CHILE

Karen SOTO (Sra.), Abogado, Consejo Nacional de la Cultura y las Artes, Santiago

Andrés GUGGIANA, Misión Permanente, Ginebra

Nicolás SCHUBERT, Consejero Jurídico, Departamento de Propiedad Intelectual, Santiago

CHINE/CHINA

DENG Yuhua (Mrs.), Director, International Affairs Division, Copyright Department, National Copyright Administration of China (NCAC), Beijing

WANG Qian, Consultant, National Copyright Administration of China (NCAC), Beijing

Fanny Shuk Fan PANG, Assistant Director of Intellectual Property (Copyright), Intellectual Property Department of the Government of Hong Kong Special Administrative Region (SAR) of the People's Republic of China, Hong Kong

WANG Yi (Ms.), Second Secretary, Permanent Mission, Geneva

COLOMBIE/COLOMBIA

Carolina ROMERO (Sra.), Subdirectora Técnica de Capacitación, Investigación y Desarrollo de la Dirección de Derechos de Autor, Ministerio del Interior, Bogotá D.C.

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\* Sur une décision du Comité permanent, la Communauté européenne a obtenu le statut de membre sans droit de vote.

\* Based on a decision of the Standing Committee, the European Community was accorded member status without a right to vote.



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