



Council of the
European Union

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NOTE

From: Presidency
To: Delegations

Subject: WIPO SCCR - Exceptions and limitations
- Strategy for the SCCR going forward

Delegations will find attached a Presidency text on the strategy for the SCCR going forward, for discussion at the Working Party meeting on 31 October 2014.

Strategy for the SCCR going forward

Further to the inconclusive 27th and 28th meetings of WIPO's Standing Committee on Copyright and Related Rights (SCCR) and the lack of decisions by the last General Assembly (GA) as to its work going ahead, a new meeting of the SCCR will take place in Geneva from 8-12 December 2014.

The draft agenda for the December meeting currently circulated by the WIPO Secretariat includes the same agenda items as for previous meetings, irrespective of these developments and the manifest lack of agreement among WIPO Member States (MS) on the way ahead. These include:

- Protection of broadcasting organizations
- Limitations and exceptions for libraries and archives
- Limitations and exceptions for educational and research institutions and for persons with other disabilities

Given recent developments, the European Union should, ahead of the next SCCR meeting, have a clear opening (and negotiating) stance, which takes into account (in addition to the EU's offensive and defensive interests):

- The failure of the GA to take decisions on this matter;
- The uncertain status of the past mandate on exceptions and limitations for libraries and archives;
- The inevitable linkages that are made between the different files on the agenda of the SCCR (broadcasting and exceptions and limitations), and files in other WIPO fora (e.g. designs, geographical indications);
- The likelihood that those WIPO MS that support faster progress and a normative outcome on exceptions and limitation ask for the continuation of substantive discussions and reiterate their requirement that all matters on the agenda are treated equally, including as regards the time allocation;

- The risk of a complete suspension of SCCR work;
- The readiness of the EU to act in isolation and be blamed for blockage and lack of any progress.

Discussions at the next SCCR meeting could, in principle, range from a continuation of substantive discussions (or attempts to do so, as per the last two meeting), following the agenda order, to the complete questioning on the need to proceed with any work at all and the suspension of SCCR meetings. Intermediate scenarios could include a discussion focusing purely on mandate, work programme, agenda and procedural matters, or the replacement of the (expired) libraries and archives mandate with a reformulated, more open, one that covers all possible desired outcomes, including exchanges of best practices, recommendations, principles and objectives up to the more binding instruments. The European Union's position will have an influence on the direction of the next meeting and should be decided accordingly.
