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Delegations will find at annex, for information, the EU/Member States statements as delivered at the above-mentioned WIPO meeting.

38th Session of the WIPO Standing Committee on Copyright and Related Rights (SCCR)

(Geneva, 1-5 April 2019)

Opening Statement

Agenda Item 1

Chairman,

1. The European Union and its Member States thank you for facilitating and directing the discussions during the last session of this Standing Committee. We once again count on your commitment and expertise to lead this session towards successful outcomes on the basis of constructive discussions, for the benefit of the global intellectual property system. We would also like to express our gratitude to the Vice-Chairs and thank the WIPO Secretariat for the smooth preparation of this thirty-eighth session.

Chairman,

2. The discussions on the Treaty for the Protection of Broadcasting Organisations continue to be of great importance to the European Union and its Member States. We remain committed to advance these complex discussions constructively in view of ensuring further progress during this session and open the way to reach consensus on important outstanding issues.
3. We would like to recall that in our view it is crucial that the treaty takes into account and responds to technological realities of the 21st century and the corresponding current and future needs of broadcasting organisations.
4. In this context, we look forward to the discussions during this session in order to be able to reach further understanding between Delegations on definitions, object of protection, rights to be granted and other issues, which have been further consolidated by the Chair in document SCCR 37/8.

5. We would like to stress once again that what is needed in our view is a broad consensus as to the extent of the protection to be granted so that the treaty can provide broadcasting organisations with adequate and effective protection.
6. Taking this into account, we reiterate our continuous commitment to progressing towards the conclusion of a worthwhile treaty, which reflects the technological realities and developments of the 21st century and we hope that this session will allow us to agree on the elements necessary for that.
7. The European Union and its Member States also remain committed to an active and constructive continuation of the discussions on Limitations and Exceptions. We support the Committee's Action Plans on Limitations and Exceptions through SCCR/39, contained in document SCCR 36/7, and stand ready to engage in the work as set out in this document.
8. We are convinced that the action plans will serve as a good basis for deepening our understanding of challenges faced by libraries, archives, museums as well as educational and research institutions and persons with other disabilities and serve as a useful tool and framework for future work.
9. The EU and its Member States would however like to recall that in our view the existing international copyright framework already empowers WIPO Member States to introduce, maintain and update Limitations and Exceptions in their national legislation that can meaningfully respond to local needs and traditions, while continuing to ensure that copyright is an incentive and a reward to creativity.
10. We therefore continue to believe that the work in this Committee should aim at a better understanding of the issues at stake while simultaneously taking into account the various existing possible solutions and flexibilities in the framework of the international treaties and as a result, we do not see the need for any new and additional legally binding instruments in this area.
11. As we have stated in the past, in our view a possible outcome for the work carried out in this Committee could be to provide guidance regarding the manner in which the international treaties are implemented in national laws.

12. Lastly, as regards "Other matters", the EU and its Member States are looking forward to hearing the envisaged updates and reports regarding the work on the topics under this agenda item. We would also like to stress once more that we give our strong support to the proposal by the delegations of Senegal and Congo from SCCR 27 to include the artists' resale right (*droit de suite*) in the Agenda.

Thank you.

Protection of broadcasting organisations

Agenda Item 6

Chairman,

1. The Treaty on the Protection of Broadcasting Organisations remains a high priority for the European Union and its Member States. We are strongly committed to advancing the work on this agenda item. We believe that progress was made at SCCR 37, which allowed us to understand better the various positions of Delegations, which are now reflected in document SCCR 37/8. We sincerely hope that further progress can be made during this session, enabling us to reach consensus on the main elements of a possible future treaty, and which could possibly lead us to the convening of a diplomatic conference in the near future.
2. We are ready for in-depth discussions on the text as consolidated by the Chair in document SCCR 37/8 and for exploring possible ways forward on that basis.
3. As we have said on several occasions, we consider that the Committee's work should result in a meaningful treaty that reflects the technological developments of the 21st century. In particular, we believe that transmissions of traditional broadcasting organisations over computer networks such as simultaneous transmissions or catch-up transmissions warrant international protection from acts of piracy. We also attach great importance to the adequate catalogue of rights, which would allow the necessary protection for broadcasting organisations against acts of piracy whether they occur simultaneously with the protected transmissions or after these transmissions have taken place.
4. As regards the "other issues" that are contained in the Chair's text, we reiterate our strong conviction that the examples set by the recent treaties in this area, such as for example the Beijing Treaty, should serve as a template, guiding our work in this regard.

5. Lastly, we would like to recall that we believe that what is needed is a broad consensus as to the extent of the protection to be granted so that a future treaty can provide broadcasting organisations evolving in an increasingly complex technological world with adequate and effective protection. We hope that the considerable efforts that have been made during previous sessions can culminate in finding a solution on the main elements of the treaty and bring us to a successful outcome.

Thank you.

Limitations and exceptions for libraries and archives

and

Limitations and exceptions for educational and research institutions and for persons with other disabilities

Agenda items 7 and 8

Thank you Chair.

1. The EU and its Member States strongly believe that libraries, archives and museums play a crucial role in the dissemination of knowledge, information and culture, along with the preservation of our history. We also attach importance to the support of educational and research institutions and for people with disabilities, both in the analogue and digital worlds within the existing international copyright framework.
2. We therefore see merit in the work currently carried out in this Committee as set out in the Action Plans on Limitations and Exceptions through SCCR 39, contained in document SCCR 36/7.
3. During this session, we are looking forward to learn more about the ongoing work on the typologies of various existing legislative and other mechanisms related to the application of the limitations and exceptions regime to educational and research institutions as well as museums and libraries. We are equally interested in the presentation of an interim report on the study on digital matters in the area of educational and research institutions and in the preliminary presentation of a background paper and typology for archives and the presentation of the updated study on persons with other disabilities.
4. On a general note, the EU and its Member States stand ready to engage constructively in the discussions under these agenda items. However, we would like to recall once more that we support an approach where the work in this Committee focuses on the way in which limitations and exceptions can function efficiently within the framework of existing international treaties, mindful of the important role that licensing plays in many WIPO Member States.

5. The EU and its Member States therefore believe that a meaningful way forward would be to focus on a thorough and systematic understanding of the problems faced by libraries, archives, educational and research institutions and persons with other disabilities against their needs. This would also imply giving full consideration to the solutions already available to WIPO Member States, including those provided by innovation in relevant markets and those available under the current international framework.
6. Against this background, we would like to express once more clearly that we cannot support work towards legally binding instruments at the international level or any preparations in this regard, but that we believe a possible outcome of the discussions under this agenda item could be an exchange of best practices and guidance regarding the national implementation of the international treaties.

Thank you.

Other matters

- Proposal for Analysis of Copyright Related to the Digital Environment

Agenda item 9

Thank you Chair.

1. As expressed before, the European Union and its Member States believe that the issue of copyright in the digital environment merits attention and discussion, in order to ensure that copyright can be more efficiently protected and play its role in the digital era.
2. In this regard, we would like to thank Brazil for the interesting proposal for a possible study on digital music services. We would like to also thank the secretariat for the update and look forward to the next update about this study.

Thank you.

Other matters

– Proposal from Senegal and Congo to include the Resale Right (*droit de suite*) in the Agenda of Future work by the SCCR

Agenda item 9

Thank you Chair,

1. As expressed in the last meetings of this Committee, the European Union and its Member States thank and support the delegations of Senegal and Congo for their proposal to include the resale right (*droit de suite*) in the Agenda. We would also like to warmly thank the Secretariat for the update on the initial steps taken by the task force of Members and experts about the practical elements of the artist's resale right.
2. The European Union attaches great importance to the resale right. The resale right has formed part of the European Union's legal framework for more than a decade and there are dedicated legislation applicable and ample experiences to draw from in the EU Member States. Against this background, we continue to give our strong support for a discussion on the resale right at the SCCR.
3. We would like to recall that the proposal to include the topic in the agenda of the SCCR goes back to SCCR 27 and was tabled at SCCR 31. For this reason, the EU and its Member States believe that priority should be given to the resale right over any other topic, should the SCCR Agenda be expanded to cover additional items in the future.
4. Lastly, the EU and its Member States would like to once more urge all delegations to support the proposal of Senegal and Congo and to accept the inclusion of the resale right as a self-standing item in the agenda of the SCCR.

Thank you.

Other matters

– Proposal on the Part of the Russian Federation with Regard to Strengthening the Protection of Theatre Directors’ Rights at the International Level

Agenda item 9

Thank you, Chair.

As regards the proposal from Russia with regard to strengthening the protection of theatre directors’ rights at the international level, the EU and its Member States have taken note of this proposal and the subsequent presentations. We have listened with interest to the presentations of the interim report on this complex topic and would like to thank the professors very much for it. We look forward to hearing more about the scoping study, which will be presented at SCCR/39 and stand ready to engage in preliminary discussions.

Thank you.

Closing Statement

Agenda item 10

Thank you, Mr Chair.

1. The EU and its Member States would like to thank the Chair, the Vice-Chairs, the Secretariat and the interpreters for their efforts in successfully conducting the discussions carried out in this Committee, which we consider to be of great relevance. We remain committed to engaging constructively in them.
2. The discussions on the treaty for the protection of broadcasting organizations are of great importance for the European Union and its Member States. The discussions and explanations resulting from the informal sessions were of great value and helped us to further understand the aims and ideas behind the respective proposals. This is a good starting point for the continuation of these discussions at the next session. We remain fully committed to finalising a treaty provided that reflects the realities and developments of the twenty-first century. In this context, we look forward to making further progress on certain essential issues such as the object of protection and the rights to be granted.
3. We would like to express our thanks and appreciation for the comprehensive work that has been carried out under the two agenda items on limitations and exceptions. In particular, we would like to thank to Professors Ncube and Reid, Professor Xalabarder, Dr. Sutton, Dr Crews, Professor Seng and Dr Benhamou for their respective presentations and the interesting and informative question-and-answer sessions. We believe that the presentations and subsequent discussions were of great value and highlighted the significance of the work currently undertaken for the topics discussed under these agenda items.
4. In this context, we would like to reiterate once more that we believe that a meaningful outcome of our work in the field of exceptions and limitations could be guidance to Member States regarding best practices, taking advantage of the flexibility of the international copyright legal framework to adopt, maintain or update national exceptions that adequately respond to local needs and traditions.

5. Lastly, we are grateful for updates on work initiated under “other matters” agenda item given to us by the Secretariat. We would like to express our thanks as well for an interesting presentation on theatre director’s right. When it comes to the artists’ resale right (*droit de suite*), we are pleased to note that there seems to be increasing support to include it as a self-standing agenda item in the agenda.

Thank you.
