



Council of the
European Union

**Brussels, 24 November 2020
(OR. en)**

13218/20

PI 79

NOTE

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	12526/19
Subject:	40th session of the WIPO Standing Committee on Copyright and Related Rights (SCCR) (16-20 November 2020) - Final EU/Member States statements

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

40th Session of the WIPO Standing Committee on Copyright and Related Rights (SCCR)**(16-20 November 2020)****Agenda item 1****General Statement***(submitted in writing)*

Chair,

1. The European Union and its Member States would like to thank you for taking up the role of Chair for this session and for directing the upcoming discussions in these challenging circumstances. We would also like to express our gratitude to the Vice-Chair and thank the WIPO Secretariat for the smooth preparation of this fortieth session in the current setting. We are grateful to the entire organisation for all the work to make this meeting possible, allowing participation online in these very special circumstances.
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 advancing these complex discussions constructively, even if the current circumstances may not allow in-depth discussions at the current session. In this context, we thank the Secretariat for the recorded recap of the Chair's text consolidated in document SCCR 39/7. We consider this as very useful, as it allows us to recollect where we stand in the discussions held so far.
3. As indicated previously, in our view, we need a broad consensus on the extent of the protection to be granted, in order for the treaty to provide broadcasting organisations with appropriate protection. We would like to stress that, in our view, it is crucial that the treaty takes into account and responds to the technological realities of the 21st century and the corresponding current and future needs of broadcasting organisations. Considering this, we reiterate our continuous commitment to progressing towards the conclusion of a worthwhile treaty and we are looking forward to exploring how the work could be continued under the current circumstances.

4. The European Union and its Member States also remain committed to an active and constructive continuation of the discussions on Limitations and Exceptions. We believe that the work carried out under the Committee's Action Plans on Limitations and Exceptions through SCCR/39 has provided a good basis for deepening our understanding of challenges faced by libraries, archives and museums, as well as by educational and research institutions and by persons with disabilities.
5. We would also like to thank the Secretariat for the factual Report from the three regional seminars and the International Conference on Copyright Limitations and Exceptions for Libraries, Archives, Museums and Educational & Research Institutions that was contained in document SCCR 40/2. From our point of view, the report faithfully reflects that there is a demand to focus further work on capacity building and improving legislation at the national and regional level, combined with guidance and support from WIPO. We look forward to the exchanges on this in the coming days.
6. That said, the EU and its Member States have expressed consistently 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 the objective of the copyright system should be to encourage and reward creativity.
7. We therefore continue to believe that the work of this Committee should aim at providing further guidance on how the different existing solutions and flexibilities in the framework of the international treaties could be implemented in national laws. As a result, we do not see the need for or merit of any new and additional legally binding instruments in this area.
8. Lastly, as regards the 'Other matters', the EU and its Member States have listened with interest to the various updates and reports regarding work on these topics. We would also like to stress once more that we give our strong support to the proposal by the delegations of Senegal and Congo to include artists' resale right (droit de suite) in the Agenda. Finally, we would also like to thank the Delegation of Sierra Leone for their proposal on a study on the public lending right as contained in document SCCR 40/3 and look forward to better understanding this proposal at this session.

Thank you.

Agenda item 5

Protection of broadcasting organisations

Chair,

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 work on this agenda item, even if the current circumstances make this challenging. We believe that this session should nonetheless allow us to take stock of where we stand in the discussion and identify how we could progress with this agenda item at the next session.
2. We thank the Secretariat for the recap made of the latest Chair's text, reflected in document SCCR 39/7. We would also like to note that considerable efforts have been made during previous sessions to find solutions for the remaining issues and we should therefore aim at making further progress in the coming sessions in order to be able to reach consensus on the main elements of a possible treaty.
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 against acts of piracy. We also attach great importance to an 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. We hope that we can have useful discussions on the way forward, despite the challenging circumstances, in order to have a successful outcome on this important topic for broadcasting organisations in the near future.

Thank you.

Agenda item 6

Limitations and exceptions for libraries and archives

Agenda item 7

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

Chair,

1. The European Union 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 have therefore seen merit in the work 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. Following the International Conference on this topic held in October 2019, we took note with interest that broad support seems to have emerged to focus further work at capacity building and improving legislation at the national and regional level. We believe that there would be value in reflecting further on how WIPO can best provide assistance in this regard.
3. The Report presented by WIPO from the regional seminars and the international conference, contained in document SCCR 40/2, confirms our understanding in this regard on the basis of the various possibilities to exchange on this topic in national or regional settings.

4. The EU and its Member States stand ready to engage constructively in discussions under these agenda items. However, we would like to recall once more that we support an approach that focuses the work of this Committee on the way in which limitations and exceptions can function efficiently within the framework of existing international treaties, while being mindful of the important role that licensing plays in many WIPO Member States. From our point of view, the work carried out over the course of the last two years, as reflected in the Report contained in document SCCR 40/2, confirms that there is a great need for further capacity building at the national level as well as for guidance from WIPO.
5. The EU and its Member States therefore believe that a meaningful way forward would be to continue to focus on a thorough and systematic understanding of the problems faced by libraries, archives, educational and research institutions and persons with disabilities with regard to 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 reiterate that we cannot support work towards legally binding instruments at the international level or any preparations in this regard, but that we believe, in particular against the background of the Report from the seminars and the international conference, on national capacity building, combined with an exchange of best practice and guidance regarding the manner in which the international treaties are implemented in national laws, where appropriate in a regional format, in order to best address regional specificities and local legal and cultural traditions.

Thank you.

Agenda item 8 (1st indent)

Other matters:

– Proposal for analysis of copyright related to the digital environment

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 able to play its role in the digital era.
2. In this regard, we would like to thank the Secretariat for the update on this topic. We look forward to the full scoping study in 2021.

Thank you.

Agenda item 8 (2nd indent)

Other matters:

– Proposal from Senegal and Congo to include the resale right (*droit de suite*) in the agenda of future work by the SCCR

Chair,

1. As expressed at 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 also thank the representatives of the task force for the updates on the work carried out so far.
2. The EU attaches great importance to the resale right. The resale right has formed part of the EU legal framework for close to two decades and there is dedicated legislation applicable, and ample experiences to draw from, in 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, should the SCCR Agenda be expanded to cover additional items in the future, priority should be given to the resale right over any other topic.

Thank you.

Agenda item 8 (3rd indent)

Other matters:

- Proposal on the part of the Russian Federation with regard to strengthening the protection of theatre directors' rights at the international level**

(submitted in writing)

Chair,

Concerning the proposal from the Russian Federation with regard to strengthening the protection of theatre directors' rights at international level, the EU and its Member States have listened with interest to the presentations of the interim report on this complex topic during SCCR 38 and 39. We thank the study authors for the updates on their work so far and look forward to hear the results of the study in 2021.

Thank you.

Agenda item 8 (4th indent)

Other matters:

– Proposal for study on the public lending right in the agenda and future work of the SCCR

Chair,

The EU and its Member States have listened with interest to the presentation of the proposal by the Delegations of Sierra Leone, Panama and Malawi on a scoping study on the public lending right. Since this is a new proposal, we will need some time to consider it in detail and understand better its scope.

Thank you.

Agenda item 9

Closing statement

(submitted in writing)

Chair,

The EU and its Member States would like to thank the Chair, the Vice-Chair, the Secretariat and the interpreters for their efforts in successfully conducting the session despite the unique circumstances and logistical challenges. We will continue to engage constructively in these useful and relevant discussions.

The work towards a treaty for the protection of broadcasting organisations is of great importance for the European Union and its Member States and we would like to thank all delegations for their contributions. We remain fully committed to finalising a treaty which reflects the realities and developments of the twenty-first century. In this context, we look forward to resuming substantive discussions as soon as the circumstances allow it.

Regarding exceptions and limitations, we would like to express our appreciation for the work of the Secretariat for preparing and presenting the report on the regional seminars and the International Conference held prior to the last session. We would also like to thank all the delegations for their comments on this important topic. We are looking forward to continuing the discussion.

Lastly, we are grateful for all the updates, presentations and comments under the agenda item 'Other matters'. In particular, we are pleased to note the increasing support to include the artists' resale right (*droit de suite*) as a self-standing item in the Committee's agenda.

Thank you.
