



Council of the
European Union

Brussels, 28 October 2019
(OR. en)

13522/19

PI 144

NOTE

From:	Presidency
To:	Delegations
No. prev. doc.:	12843/1/19 REV 1
Subject:	39th session of the WIPO Standing Committee on Copyright and Related Rights (SCCR), (Geneva, 21-25 October 2019) - Final EU/Member States statements

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

39th Session of the WIPO Standing Committee on Copyright and Related Rights (SCCR)

(Geneva, 21-25 October 2019)

Opening Statement

Agenda Item 1

Chair,

1. The European Union and its Member States thank you for facilitating and directing discussions during the last session of this Standing Committee. We once again count on your commitment and expertise to lead this session towards constructive discussions and successful outcomes, 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-ninth session.
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, with a view to ensuring further progress during this session. In this context, we look forward to the discussions this week, 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/39/4 prior to this session.
3. 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.

4. We have taken note with great satisfaction of the General Assembly's endorsement of the recommendation originating from SCCR 38 for this Committee to continue its work towards convening a diplomatic conference, aiming for the 2020-21 biennium, and subject to certain conditions. We are hopeful that the Committee will reach the necessary consensus, and that the text will reach a level of maturity, that will allow us to meet the timeframe envisaged in the recommendation.
5. 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, contained in document SCCR 36/7, has provided 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.
6. The International Conference on Copyright Limitations and Exceptions for Libraries, Archives, Museums and Educational & Research Institutions, held prior to this session, has allowed us to further develop our knowledge of practical challenges faced by these institutions, and we would like to thank the secretariat for its smooth organisation and the panellists for their numerous and valuable practical contributions. We have taken note of the broad support that emerged for further work at the national and regional levels and the reflections on how WIPO could best provide assistance in this regard.
7. 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.
8. We therefore continue to believe, also against the background of the results of the conference prior to this session 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 and as a result we do not see the need for any new and additional legally binding instruments in this area.

9. Lastly, as regards the 'Other matters' item on the draft agenda, the EU and its Member States are looking forward to hearing the envisaged 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 from SCCR 27 to include artists' resale right (*droit de suite*) in the Agenda.

Thank you.

Limitations and exceptions for libraries and archives (Agenda item 5) and

Limitations and exceptions for educational and research institutions and for persons with other disabilities (Agenda item 6)

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.
3. We look forward to the updates and progress reports foreseen under this agenda item and to the subsequent discussions.
4. We have also listened with interest to the International Conference, concluding the fact-finding and information gathering phase foreseen in the limitations and exceptions Action Plans and informing us about the issues identified during the three regional seminars on limitations and exceptions that were held in Singapore, Nairobi and Santo Domingo. We have taken note with interest that broad support seems to have emerged - both from the debriefings as regards the regional seminars as well in the conference itself - 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.

5. On a general note, 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 where the work of this Committee focuses 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. 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 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 would like to clearly express once more 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 recently concluded conference, that a possible outcome of the discussions under this agenda item could be an exchange of best practices and guidance regarding the manner in which the international treaties are implemented in national laws.

Thank you.

Protection of broadcasting organisations

Agenda item 7

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. We believe that progress was made at SCCR 38; progress that allowed us to understand better the positions of the various Delegations, and which are now reflected in document SCCR 39/4. 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, possibly leading 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 39/4, 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 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. 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 in an increasingly complex technological world with appropriate protection. We hope that the considerable efforts that have been made during previous sessions can culminate in finding solutions on the main elements of the treaty and bring us to a successful outcome.

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 8

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 look forward to the update on ongoing work carried out by the task force of Members and experts about the practical elements of the artist's resale right.
2. The EU attaches great importance to the resale right. The resale right has formed part of the EU legal framework for more than a decade 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.
4. Lastly, the EU and its Member States would like once more to 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 8

Chair,

Concerning 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 during SCCR 38. We look forward to the presentation of the scoping study during this session, and stand ready to engage in preliminary discussions.

Thank you.

Other matters:

– Proposal for Analysis of Copyright Related to the Digital Environment

Agenda item 8

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 Brazil for the interesting proposal for a possible study on digital music services. We look forward to the update about this study during this session.

Thank you.

Closing Statement

Agenda item 9

Thank you 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. We will continue to engage constructively in these useful and relevant discussions.
2. The work towards a treaty for the protection of broadcasting organizations is of great importance for the European Union and its Member States. The discussions and clarifications at the informal sessions and at the meeting of the Friends of the Chair were of great value and helped us to further understand the aims and ideas behind the respective proposals. We would like to thank all delegations for their engagement. 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 making further progress on certain essential issues such as the object of protection and the rights to be granted when we continue these discussions at the next session.
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 Dr Crews, Professor Xalabarder and Ms Torres for their respective presentations and the informative question-and-answer sessions. We believe that the presentations and subsequent discussions were of great value and highlighted the significance of the work undertaken for the topics discussed under these agenda items.
4. We would also like to thank the Secretariat once more for organising the International Conference on Copyright Limitations and Exceptions for Libraries, Archives, Museums and Educational & Research Institutions prior to this session. We extend our thanks to the Chairs and Rapporteurs from the Regional Meetings in Singapore, Nairobi and Santo Domingo, for providing us reports from the interesting discussions held at the meetings.

5. In this context, taking account of the reports from the Conference and the Regional Meetings, we would like to reiterate our belief that a meaningful outcome of our work in the field of limitations and exceptions 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 respond to local needs and traditions. We have taken note with appreciation of the broad support that has emerged for further work at the national and regional levels and the reflections on how WIPO could best provide assistance in this regard. This is a good starting point for discussions on the way forward regarding the Committee's work on limitations and exceptions.
6. Lastly, we are grateful for updates on the work under the agenda item 'Other matters' by the Secretariat and by Professors Gendreau and Sergo. We would also like to thank Ms Butler for the interesting presentation on the global digital music market. When it comes to the artists' resale right (*droit de suite*), we are pleased to note the increasing support to include it as a self-standing agenda item in the Committee's agenda.

Thank you.
