

Standing Committee on Copyright and Related Rights

Fortieth Session
Geneva, November 16 to 20, 2020

REPORT

adopted by the Standing Committee

1. The Standing Committee on Copyright and Related Rights (hereinafter referred to as the “Committee”, or the “SCCR”) held its thirty-ninth session in hybrid format at WIPO Headquarters in Geneva and via an online platform from November 16 to 20, 2020.
2. The following Member States of the World Intellectual Property Organization (WIPO) and/or members of the Bern Union for the Protection of Literary and Artistic Works were represented in the meeting: The following Member States of the World Intellectual Property Organization (WIPO) and/or members of the Bern Union for the Protection of Literary and Artistic Works were represented in the meeting: Algeria, Angola, Argentina, Armenia, Australia, Austria, Bangladesh, Belarus, Belgium, Bhutan, Bolivia (Plurinational State of), Botswana, Brazil, Burkina Faso, Cambodia, Canada, Chile, China, Colombia, Costa Rica, Croatia, Cuba, Czech Republic, Djibouti, Dominican Republic, Ecuador, , Egypt; El Salvador, Ethiopia, Finland, France, Gabon, Georgia, Germany, Ghana, Greece, Guatemala, Hungary, India, Indonesia, Iran (Islamic Republic of), Iraq, Ireland, Israel, Italy, Jamaica, Japan, Kazakhstan, Kenya, Kuwait, Kyrgyzstan, Latvia, Lesotho, Lithuania, Madagascar, Malawi, Malaysia, Malta, Mexico, Mongolia, Morocco, Myanmar, Nepal, Nicaragua, North Macedonia, Oman, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Republic of Moldova, Romania, Russian Federation, Rwanda, Saudi Arabia, Senegal, Serbia, Sierra Leone, Singapore, Slovakia, Slovenia, South Africa, Spain, Sudan, Sweden, Switzerland, Syrian Arab Republic, Thailand, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, Ukraine, United Arab Emirates, United Kingdom, United States of America, Uruguay, Vanuatu, Venezuela (Bolivarian Republic of), Viet Nam and Zimbabwe (107).
3. The European Union (EU) participated in the meeting in a member capacity.
4. The following Intergovernmental Organizations (IGOs) took part in the meeting in an observer capacity: African Intellectual Property Organization (OAPI), African Regional Intellectual Property Organization (ARIPO), African Union (AU), and World Trade Organization (WTO) (4).
5. The following non-governmental organizations (NGOs) took part in the meeting in an observer capacity: African Library and Information Associations and Institutions (AfLIA), Alianza de Radiodifusores Iberoamericanos para la Propiedad Intelectual (ARIPI), American Intellectual Property Law Association (AIPLA), Asia-Pacific Broadcasting Union (ABU), Association of Commercial Television in Europe (ACT), Association of European Performers' Organizations (AEPO-ARTIS), Authors' Licensing and Collecting Society Ltd (ALCS), British Copyright Council (BCC), Canadian Artists' Representation (CARFAC), Canadian Copyright Institute (CCI), Canadian Federation of Library Associations (CFLA), Centre for Internet and Society (CIS), Communia, Conector Foundation, Copyright Research and Information Center (CRIC), Corporación Latinoamericana de Investigación de la Propiedad Intelectual para el Desarrollo (Corporación Innovarte), Creative Commons Corporation, DAISY Forum of India (DFI), Education International (EI), Electronic Information for Libraries (eIFL.net), European Broadcasting Union (EBU), European Publishers Council (EPC), European Visual Artists (EVA), Health and Environment Program (HEP), Ibero-Latin-American Federation of Performers (FILAIE), Instituto de Derecho de Autor (Instituto Autor), Intellectual Property Latin American School (ELAPI), Intellectual Property Owners Association (IPO), Inter-American Copyright Institute (IIDA), International Association for the Protection of Intellectual Property (AIPPI), International Association of Broadcasting (IAB), International Association of Scientific Technical and Medical Publishers (STM), International Authors Forum (IAF), International Chamber of Commerce (ICC), International Confederation of Music Publishers (ICMP), International Confederation of Societies of Authors and Composers (CISAC), International

Council of Authors of Graphic, Plastic and Photographic Arts (CIAGP), International Council of Museums (ICOM), International Council on Archives (ICA), International Federation of Film Producers Associations (FIAPF), International Federation of Journalists (IFJ), International Federation of Library Associations and Institutions (IFLA), International Federation of Musicians (FIM), International Federation of Reproduction Rights Organizations (IFRRO), International Federation of the Phonographic Industry (IFPI), International Publishers Association (IPA), International Society for the Development of Intellectual Property (ADALPI), International Video Federation (IVF), Karisma Foundation, Knowledge Ecology International, Inc. (KEI), Latin Artis, Library Copyright Alliance (LCA), Max Planck Institute for Innovation and Competition (MPI), Motion Picture Association (MPA), National Association of Broadcasters (NAB), National Library of Sweden (NLS), North American Broadcasters Association (NABA), Program on Information Justice and Intellectual Property (PIJIP), American University Washington College of Law, Societies' Council for the Collective Management of Performers' Rights (SCAPR), Society of American Archivists (SAA), Software and Information Industry Association (SIIA), The Japan Commercial Broadcasters Association (JBA) and Union Network International - Media and Entertainment (UNI-MEI) (63).

AGENDA ITEM 1: OPENING OF THE SESSION

6. The Chair welcomed all stakeholders to the fortieth session of the Standing Committee on Copyright and Related Rights, SCCR.

7. The Director General welcomed all Member States and delegates to the fortieth session of the SCCR. He reiterated the importance of the SCCR and commended the Committee for their commitment despite the prevailing circumstances. The Director General eulogized WIPO staff, Carole Croella, for her contributions to the SCCR until her demise. Playing an important and delicate role in a number of important processes, such as negotiations toward the broadcasting treaty, and her engagement in the Beijing and Marrakesh diplomatic conferences, and many other aspects of the SCCR. In honor of her death, the Chair urged the Committee to live up to the call and keep working for an excellent copyright system that truly supports artists and creators around the world. The Director General noted that many countries were engaging in forward-looking public policies to leverage the vast potential of their creative sectors. For instance, in 2015, President Joko Widodo of Indonesia set up the Indonesian Agency for the Creative Economy, a state agency that was recently upgraded to ministry level with a mandate to develop and coordinate policies to harness the huge potential of Indonesia's creative economy. In Colombia, President Ivan Duque had introduced a series of policies that come together to form the Orange Economy which targets micro, small, medium and large enterprises, with the objective of expanding cultural industries and promoting diversity and inclusion. From the economic perspective, a number of recent studies had attempted to assess the economic size of the sector. The WIPO methodology on surveying the economic contribution of the copyright industries had been applied in over 50 developing, transitional and developed economies. On average, the creative industries that operate on the basis of copyright protection account for about 5.2 per cent of GDP and around 5.3 per cent of total national employment. For instance, the total estimated contribution of copyright industries to the economy of Botswana in 2016 was 5.46per cent of GDP and 2.66per cent of the national labor force. The Observatory on Creative Industries in Buenos Aires, found that in 2011, those industries contributed 9.2per cent of the gross geographic product of the Argentine capital. At the national level, the figures of the region were lower but still significant. Methodologies varied from country to country, but it is estimated that the average contribution of creative and cultural industries to the GDP of Latin American and Caribbean countries hovers around 2.2per cent. In

Panama and Brazil, the creative industries account for 3.1 per cent and 2.64 per cent of the GDP respectively. Unfortunately, that positive trend was disrupted by the current pandemic, creating serious economic hardship to the creative sector. However, consumption of creative content is not declining, but the traditional sources of revenue had been disrupted. Nonetheless, a recent ASEAN Post article provided insights on how people were spending their time online during the pandemic. 29 per cent of Internet users reported a significant increase in time spent watching films or other kinds of shows on streaming platforms, and 35 per cent accessed more news reports. The challenge is that the increase in opportunities may not be equally shared by all within the creative ecosystem. For example, there was a decline in revenues for most artists, creators, and other stakeholders around the world. The latest annual global collections report published by CISAC indicated that worldwide royalty collections for creators of music, audio visual works, visual arts, drama, and literature were likely to decline by 35 per cent leading to a 3.5 billion euros loss. In September, the WIPO Global Digital Content Market conference provided a showcase of new strategies that various sectors were implementing to move an increasing share of their business operations online. For instance, live streaming is an interesting trend that has emerged from the pandemic. Although revenues from concerts and tours have not been replaced, many initiatives were launched. For example, working with partners like Facebook and YouTube, Universal Music reported the production of hundreds of fun and engaging events over the past several months. In a very different sector, auction houses reported that online auctions were able to attract more potential buyers than traditional ones. Art lovers were not able to travel in person to art market capitals and could not connect from their households no matter where they lived. Those examples from all over the world confirm that almost all developments in the digital marketplace have global implications and highlight the relevance of the SCCR to maintain copyright and related rights which required revision and willingness to cooperate. The Director General was pleased to note that the Beijing Treaty came into force on April 28, 2020 with the ratification by 30 Member States. Since then, five countries had joined the treaty while Costa Rica and Ecuador had already completed the internal processes to ratify the treaty. The economic rights granted by the treaty were updated for the digital environment and very relevant as most rights related to performances are being communicated and exploited online. The Director General looked forward to seeing the positive effects of the Beijing Treaty for the performers in contracting countries. Regarding the Marrakesh Treaty, the Director General revealed that membership had grown to 76 contracting parties covering 102 countries with more instruments yet to be received. Since its entry into force in 2016, the Marrakesh Treaty had already changed the lives of millions of people that are blind or print-disabled. The established treaties in the international copyright and related rights legal framework continued to steadily gain members. In 2019, the Internet Treaties, the WCT and the WPPT reached 100 contracting parties, and currently had 106 contracting parties. The Director General noted that those instruments were very different in scope and objectives yet exemplify focused, impactful, and balanced multilateral norm-setting. It also showed the broad scope of discussions, outcome and impact that could be achieved through the work of the Committee. The Director General elaborated on some of the substantive items including the issue of broadcasting. The Director General observed that technological development had enabled broadcasters to put an amazing variety of content and new services on the market. However, it also led to new forms of piracy that hinder healthy development of the business. The Director General believed that the treaty would be very meaningful to complete the update of the international copyright framework to the digital environment as well as address the emerging challenges due to signal piracy. On the agenda was the topic of limitations and exceptions. The current work continued to focus on the flexibilities for specific categories of beneficiaries, such as libraries, archives, museums, educational institutions, and persons with other disabilities. Last year, at the request of the Committee, the Secretariat organized three regional seminars and a conference for fact-finding

and information gathering across the various regions, which provided an opportunity to address on a global scale some of the most salient and urgent issues in the field of limitations and exceptions. The Director General noted that the Committee would need to take stock of those extremely rich sources of information and decide on the feasible and practical next steps for future sessions. In addition, some new topics were added for discussion in the SCCR including the analysis of copyright related to the digital environment, the study of digital music services, as well as the artist's resale right and rights of theater directors on which some work had already taken place. The Secretariat also received a proposal to consider a fourth topic on other matters. The Delegations of the Republic of Sierra Leone, Republic of Panama and Malawi submitted a proposal to undertake the study focused on the public lending right and to include the topic on the agenda and future work on that Committee. The Secretariat expressed commitment in the furtherance of discussions regarding the topics.

8. The Chair paid glowing tribute to WIPO staff, Carole Croella, and spoke extensively about her accomplishments and immense contributions towards the work of the SCCR across the globe. The Chair thanked all the members of that the Committee including the Vice-Chair for entrusting him with the mandate as the Chairperson of the SCCR. Despite the unique circumstances of the meeting, the Chair believed that the session would prepare members for the future work of the SCCR. The Chair acknowledged the efforts of all stakeholders and opened the next agenda item for consideration. Document SCCR/40/1 Prov. 2 which was done in consultation with regional coordinators and Member States. The Chair invited the Secretariat to outline the salient points.

AGENDA ITEM 2: ADOPTION OF THE AGENDA OF THE FOURTIETH SESSION

9. The Secretariat presented to the Committee the proposed annotated draft agenda for the SCCR, SCCR/40/INF/3, which was prepared in conjunction with the regional coordinators and interested Member States.

10. The Chair invited the Committee to adopt the draft agenda of the meeting as set forth in document SCCR/40/1/Prov. 2. Under Agenda Item 3, the accreditation of new non-governmental organizations, the Secretariat had received new requests for accreditation which were highlighted in document SCCR/40/4. The Chair requested that the Secretariat read the list of the organizations that wished to be accredited.

AGENDA ITEM 3: ACCREDITATION OF NEW NON-GOVERNMENTAL ORGANIZATION

11. The Secretariat listed the non-governmental organizations that requested accreditation as observer in the Committee including the Artists Rights Society, Bildupphovsrätt, Independent Alliance For Artist Rights, Indian Singers Rights Association, Multimedia Society for Authors of Visual Arts, Sightsavers, Societe des Auteurs dans les Arts Graphiques et Plastiques, Society of Audiovisual Authors, Stichting Pictoright, The Authors Guild, The European Students' Union and the Visual Entidad de Gestión de Artistas Plásticos.

AGENDA ITEM 4: ADOPTION OF THE REPORT OF THE THIRTY-NINTH SESSION OF THE SCCR

12. The Chair referred to Agenda Item 4, adoption of the report of the thirty-ninth session of the Standing Committee on Copyright and Related Rights, document SCCR/39/8. The Chair

invited the Committee to approve the draft report and to send any comments or corrections to copyright.mail@wipo.int.

13. The Secretariat announced that the list of participants would be posted on the SCCR web page and urged all participants and representatives to register accordingly.

OPENING STATEMENTS

14. The Chair explained that introductory general statements would be delivered by regional coordinators. All participants would be given the opportunity to intervene on specific agenda items. Member States would be given priority while other interventions could be sent to the secretariat using copyright.mail@wipo.int. The Chair invited the regional coordinators and group coordinators to make their introductory statements on Agenda Item 5 on the protection of broadcasting organizations.

15. The Delegation of Panama thanked the Secretariat for preparing the documents and regretted that they had been made available on the WIPO website in all official languages at such short notice. The Delegation reiterated the importance of advancing in a balanced manner on the different topics on the agenda of that Committee. The discussion on broadcasting continued to have large areas of differences and questions at a technical level and stated that a balanced approach could allow progress in that negotiation, taking into account the mandate of the 2018 General Assemblies. The COVID-19 pandemic had put special pressure on the library and archives sector, as well as on educational and research institutions when carrying out their functions in a confined environment. That same situation was also replicated for the access to works that people with other disabilities had, which led us to reiterate the importance of advancing the agenda of limitations and exceptions. The Delegation considered that the work plan in that matter had made it possible to identify areas in which there were significant gaps for the library and archives sector and therefore reaffirmed the mandate to work on an international legal instrument or instruments on those matters. The Delegation indicated its interest in continuing the discussions and exchanges of experiences in the different matters that were dealt with in other matters and hope that that session could allow the Committee to achieve better understandings on those matters.

16. The Delegation of China thanked the Chair and the Secretariat for their fruitful work in convening that Committee. It was also honored to be able to participate in that conference with all delegations online. The successful convening of that Committee in that flexible way after having been postponed for a few months reflected the good will and positive attitude of that Committee to continue to work hard in the face of the COVID-19 pandemic. The Delegation took interest in the topics before the Committee. Regarding the protection of broadcasting organizations, the Committee had made a lot of efforts since 1998. However, due to the different positions of stakeholders, consensus had not yet been reached on some major issues. The Delegation stated that on April 28 that year, the Beijing Treaty on Audiovisual Performances, an important achievement of the Committee's previous work, had officially entered into force, which greatly encouraged the Committee's confidence in advancing its work. The Delegation proposed that the Committee continue to uphold the spirit of understanding, support, tolerance, and cooperation, conducting constructive discussions so as to reach more consensus and promote the early convening of a diplomatic conference aimed at concluding a treaty. Regarding limitations and exceptions, the Chinese delegation recognized its important role in ensuring the spread of knowledge, cultural heritage, and promoting the rights of authors

and the public interest. For that reason, the Delegation called for determining the priority of related projects, formulating practical work plans, and advancing the discussion process through in-depth research. Regarding other matters, the Chinese delegation was also very willing to learn about the progress of relevant work and the new proposals of relevant countries. Finally, the Chinese delegation looked forward to new progress in that session.

17. The Representative of the International Federation of Journalists (IFJ) congratulated the Chair on his election and thanked the Secretariat for its hard work under those difficult circumstances. The Representative joined all those mourning for Carole Croella, who would be missed. The IFJ represented 600,000 media professionals in 140 countries, South and North. In common with others who represented authors, performers and those who distributed its work, the IFJ regretted efforts to convince that Committee that the current crisis somehow justified precipitate action that was intended to damage the ecosystem in which creative works were produced and distributed. On the contrary, it was now more than ever important that creative work be economically viable – and that included the creativity applied by independent professional journalists in making complex truths about public health, for example, accessible to citizens. Sadly, this was particularly necessary at present given the prevalence of misinformation and disinformation. Anything that weakened the ability of journalists to make a living as independent professionals – funded by licensing of their journalism, not by lobbyists and special interests – would set back the cause of open, accurate public information. Where there were problems, the Representative proposed that the solutions were in developing licensing and in sharing international best practices in amending legislation, as WIPO did so effectively.

AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

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18. The Delegation of United Kingdom speaking on behalf of Group B acknowledged the efforts of the Director General and looked forward to working closely with the Committee. The Delegation paid its last respect to Carole Croella and commended the Secretariat for its hard work in organizing the session, particularly considering the challenges in preparing the relevant documents and the difficulties in making arrangements in light of the COVID-19 pandemic. The Delegation noted that the continued adaptability of all involved, including Member States, was essential to ensure that the important intergovernmental work of the SCCR would continue despite the unprecedented times. The Delegation reiterated the importance of the negotiation of a treaty on the protection of broadcasting organizations though the prevailing circumstances posed several challenges in making headway. Group B reaffirmed its commitment to working towards a practical and meaningful solution, which accords with the overall broadcasting environment and takes into account a broad range of Member States and stakeholder views and reflects technological developments. On exceptions and limitations, Group B welcomed the report setting out the outcomes of the regional seminars and international conference on limitations and exceptions. The Delegation believed that the evidence-based policymaking was essential to the development of a balanced international copyright framework. The Delegation looked forward to discussing the report under the appropriate agenda Item. Though the Delegation acknowledged the potential value of the public landing right, the Delegation called for further investigation and balance in relation to the work being pursued under the SCCR agenda. Group B reaffirmed its support of the ongoing work of the Committee.

19. The Chair thanked Group B for its continued support of the ongoing work on the Committee.

20. The Delegation of Bangladesh speaking on behalf of the Asia and Pacific Group (APG) acknowledged the efforts of the Chair and the work of the Committee. APG commended the WIPO Secretariat for its efforts in the preparation of that Committee meeting. The Delegation supported the agenda and the report of that session which would reflect the expectations of the Member States and current circumstances. APG looked forward to hearing the key provisions of the revised consolidated text by the Secretariat, and hoped that would help the Member States make informed decisions and provide an introduction on development. On broadcasting treaties, APG noted that it is a delicate development issue that required skillful balancing and most members of the Group looked forward to the finalization of a balanced treaty on broadcasting organizations based on the 2007 General Assembly mandate to provide protection with a signal based approach for broadcasting organizations in traditional sense. The Group called for continued work towards convening a diplomatic conference. They hoped that Member States would be able to get consensus on fundamental issues in due course. APG noted that limitations and exceptions for libraries, archives, educational and research institutions, persons with disabilities were important to individuals and collective developments of societies. APG commended the Secretariat for preparing a very clear and comprehensive report on regional seminars and international components held in 2019. The Group also looked forward to a fruitful discussion with Member States and other participants. They also recognized the emergence of new important issues such as copyright in the digital environment and theater directors rights. APG took note of the proposal on the public lending right co-sponsored by the Delegations of Sierra Leone and Panama and looked forward to a fruitful session.

21. The Delegation of Zimbabwe speaking on behalf of the African Group acknowledged the Secretariat for the strenuous efforts in preparing documents and conference facilities in those difficult conditions. The African Group attached great importance to the mandate and role of the Committee to carry out negotiations on copyright exceptions and limitations for educational, research, and teaching institutions and persons with other disabilities; and text-based negotiations on a treaty for the protection of broadcasting organizations. The Delegation also noted the other proposals including the analysis of copyright in the digital environment, protection of resale royalty right, international protection of the rights of theater directors and the public lending right. The Group indicated that due to COVID-19 restrictions, SCCR 40 would be limited in its substantive work, which would preclude the Committee from carrying out any negotiations. The African Group looked forward to receiving a recap of the key provisions of document SCCR/39/7, revised consolidated text on definitions, object of protection, and rights to be granted and other issues, by the Secretariat, which would enable Member States to have an appreciation on the status of negotiations on the protection of broadcasting organizations. The African Group looked forward to discussions on the factual reports on regional seminars and international conferences including the regional seminar for the African Group on libraries, archives, museums and educational and research institutions on copyright which was held in June 2019 in Nairobi and was followed by the international conference on copyright limitations and exceptions for libraries, archives, museums, educational and research institutions, which was held in October 2019 in Geneva. The Delegation welcomed the update on the modalities of the study on digital music services, the task force on the artist's resale royalty right, and proposed modalities of a study on the protection of theater director's rights. The African Group commended the Delegations of Sierra Leone, Panama, and Malawi on a proposal to work on the public lending right, which they looked to be added on the agenda, and future work of the Committee. The Delegation noted that the subject of copyright limitations and exceptions had become very essential for educational and research purposes due to the COVID-19 pandemic.

Open-Source publications on health research had proven more vital to the common human endeavor, to find a solution to that global health challenge. The Delegation bemoaned the lack of access to educational research materials by children in developing countries due to copyright restrictions. The Delegation pledged active participation towards deliberations so as to reach consensus.

22. The Chair thanked the Delegation of Zimbabwe speaking on behalf of the African Group for their intervention and commitment to continue with the work of the Committee despite the constraints and limitations of the pandemic.

23. The Delegation of China thanked the Secretariat for its tremendous efforts in convening the session despite the prevailing circumstances. The Delegation expressed interest in the agenda item on the protection of broadcasting organizations and called for consensus among stakeholders. The Delegation hoped that the SCCR would continue to persist in the principle of cooperation, transparency, and commitment to work towards a diplomatic conference. On the safeguarding, balance of rights, limitations and exceptions, and promoting knowledge in the education sector, the Delegation called for a pragmatic work plan to push forward the discussion. The Delegation looked forward to evaluating new proposals and more progress on the work of the Committee.

24. The Chair thanked the Delegation of China for their commitment to continue the work of the SCCR.

25. The Delegation of the Russian Federation speaking on behalf of the Group of Central Asian, Caucasus and Eastern European Countries (CACEEC) thanked the Secretariat for the preparation of the documents for the fortieth session and expressed condolences to the Secretariat on the sudden death of their colleague, Carole Croella. The Group underscored the importance of the Committee on key issues of the agenda towards the promotion of innovation and culture. The Group welcomed the plan of action to hold seminars, international conferences and also undertake research on the key areas of work. CACEEC was certain that the information and findings from the research would enable stakeholders to work more effectively and better consider the issues of culture, innovation, and science. The Group expressed the need for continued dialogue and exchange of information to analyze published reports and use the available time for consideration of the substantive items. CACEEC pledged its support to the work and discussions of the Committee.

26. The Chair thanked the Delegation of the Russian Federation, speaking on behalf of CACEEC, for their support towards the work of the Committee and invited the Delegation of Panama to give their remarks on behalf of GRULAC.

27. The Delegation of Panama speaking on behalf of the Group of Latin American and Caribbean Countries (GRULAC) commended the Secretariat for the organization of that session and for the preparation of the documents to be considered. GRULAC emphasized the need to have the timely publication of the agenda and all the official documents for each session with enough time to allow for proper assessment of those documents, providing certainty to the Members in order to advance the work of the Committee. The Delegation was pleased to note that despite the challenges, Members had agreed on an agenda to continue the important work of the SCCR. GRULAC reaffirmed its stance in advocating for maintaining a balanced work program on protection of broadcasting organizations, limitations and exceptions for libraries and archives, for educational and research institutions, and for persons with other disabilities.

Regarding the protection of broadcasting organizations, GRULAC reiterated the importance of the decision adopted in October 2019 by the General Assembly with regard to the SCCR continuing its work on having a diplomatic conference for a treaty on the protection of broadcasting organizations to be held in the 2020/2021 biennium subject to consensus by Member States in the SCCR with regard to the specific scope of protection and the rights to be protected. Though the impact of the pandemic had not enabled Member States to have in-depth debates on the consolidated text, GRULAC explained that it would be useful to undertake a focused exercise to refresh the memory of delegates. On limitations and exceptions for libraries and archives, for teaching and research institutions, and for persons with other disabilities, GRULAC recognized the importance of implementing the activities contained in the action plans adopted by the Committee in 2018. GRULAC reiterated the mandate of the Assemblies of WIPO to work towards a legal instrument(s) in that respect. GRULAC noted that the report reflected the proposal submitted by members and other stakeholders who were part of the activities and the process. The Group acknowledged the final conclusions and recommendations on future steps, and hoped for a general consensus among members in future meetings of the Committee. With regard to the study on digital music being prepared by the WIPO Secretariat, GRULAC added it would take note of the update to be provided on the progress of the study, the significance and importance of which had been recognized by Member States. GRULAC emphasized the challenges posed by the use of protected works in the digital environment, and underscored the importance of the study as a valuable tool for understanding the structure of the digital market chain and how the value of work was distributed to the different actors involved. GRULAC also noted the work of the special working group on the resale royalty right and also on the study on theater directors rights and the right of public lending. GRULAC expressed its commitment to working collectively with other stakeholders to advance the work of the SCCR.

28. The Chair thanked delegates for their submissions with regard to the work of the Committee. The Chair referred to Agenda Item 5 on the Protection of Broadcasting Organizations. The Chair recalled document SCCR/39/7 titled Revised, Consolidated Text on Definitions, the Object of Protection and Rights to Be Granted and Other Issues. The Chair discussed two other important points: the historical context of the agenda item and the summary of progress and results achieved during the thirty-ninth session of the Committee, which was held in 2019. The Chair revealed that the topic had been on the agenda of that Committee for some time, since November 1998. During those 22 years of discussions, the Chair noted great changes in the field of media and communication technology, which led to the emergence of new actors, and which had an impact on the economic model of broadcasting organizations. The Chair added that the topic had been examined through various studies and had created room for various debates, both formally and informally, in ordinary sessions and also in intersessional periods. The Chair noted that it was vital to recall the progress made by the Committee in the light of the mandate of the WIPO General Assembly seeking to achieve consensus on the fundamental issues regarding the treaty on the protection of broadcasting organizations, including its specific scope, the object of protection, and the rights to be granted. During the previous set of discussions, the Chair had indicated the textual amendments which would be included in the initial text. Document SCCR/39/4 reflected that set of discussions, including the alternative wordings put forward and also the text in brackets, which could serve as a basis for future discussions. The updated text could be found in document SCCR/39/7. Due to the ravaging effects of the pandemic, the purpose of the virtual session was to serve as a refresher with regard to the basis of that document and to gather the relevant information. The Chair invited the Secretariat to give a recap of the main provisions of the revised consolidated text and to also provide an introduction on the topic especially for the new delegates. After which, members, starting with the coordinators of the groups, and then the

international government organizations and NGOs were invited to provide additional comments on the issues raised. The Chair hoped that the sessions would bring useful enlightenment to the issues and would allow all stakeholders to reaffirm their commitment to making headway on the topic in the future, bearing in mind the instructions that they received from the General Assembly of 2019, namely, to make progress toward the convening of a diplomatic conference by working towards consensus among Member States on the fundamental issues.

29. The Secretariat referred to the Chair's revised and consolidated text on definitions, object of protection, rights to be granted and other issues as set out in document SCCR/39/7. According to the table of contents, the text consisted of five main parts and an annex. One was a preamble; two, general provisions which covered matters related to the relationship between copyright and related rights, as well as other conventions and treaties; three, substantive provisions, which covered definition, object of protection and rights to be granted; four was other issues, which covered matters that ranged from the beneficiaries of protection to the term of protection; five was a placeholder discussing administrative and final clauses; and finally there was the annex. The general provisions consisted of the safeguard clauses, and text in brackets. During SCCR 39 informal sessions, there were some discussions as to what formulation that would take, and certain elements of those provisions were reflected in the annex of the Chair's text. Definitions, together with the next two provisions on the object of protection and rights to be granted, constituted what the Chair called substantive provisions. Those provisions grouped 10 terms that ranged from the definition of broadcasting itself to the definition of the program carrying signal. During the SCCR 39 informal sessions there was some discussion as to whether the phrase of transition over computer network should not constitute broadcasting and whether that reference was not needed in the definition. That set of definitions was complemented by three agreed statements. During informal sessions, there were some elements moved from that part on object of protection to the provisions on beneficiaries of protection because it was felt that the language matched better under the latter. The Secretariat explained that there were two alternative languages. Regarding the second paragraph, on the one hand, alternative 1, and second and third paragraph of the provision was alternative 2. Rights to be granted, that was the third element of the substantive provisions. In both alternatives, broadcasting organizations were granted with the exclusive right of authorizing the retransmission of the program carrying signal to the public by any means, but there were two alternative texts again. The most elaborated alternative, alternative 2, was proposed in order to encompass the various existing systems of protection for broadcasting organizations. It was worth noting that the variation of that alternative text had been discussed in the informal sessions and also outlined in the annex of that Chair's text. Regarding other issues, those were quite self-explanatory provisions. They related to the beneficiaries of protection, the limitations and exceptions, the technological measures of protection and the rights management information obligations. During the informal sessions of SCCR 39 it was felt that that provisions on technological measures of protection could include elements related to the data embedded in a program carrying signal by a broadcasting organization among other things to identify and monitor its broadcasts such as watermark. The Secretariat explained that the provision was in the proposed agreed statement. There were no major remarks regarding the provisions on means of implementation and relation to other rights, enforcement of rights, and term of protection. As indicated at the beginning of that presentation, there was a placeholder for the administrative and final clauses. There was no text proposed because, as it was the case for the most recent treaties, these were prepared during the preparatory work for the diplomatic conference itself. As indicated earlier, the annex consisted of discussed language regarding two provisions. One, on the relationship with other conventions and treaties, and the other, on rights to be granted. The Secretariat explained that the Chair felt there were useful discussions on both topics, but during the informal sessions in 2019, they

could not reach a consensus. Particularly on the rights to be granted, there was a need to capture that some countries wished to include within their own scope of protection those life events carried by the signal of broadcasting organization, even if those events were not protected by copyright and related rights.

30. The Chair called for general comments and submissions on the agenda item.

31. The Delegation of the United Kingdom speaking on behalf of Group B stated that they had updated the international legal framework for broadcasts organizations so that they better reflect the current realities faced by those entities. Considering the challenges of adapting to work in the new hybrid format, in particular truncated sessions to accommodate the participation of experts from capital, Group B shared its inability to continue substantive discussions on that topic at that time. Nonetheless, Group B welcomed the opportunity to take stock of the discussion. The Group thanked the Secretariat for its presentation setting out the current situation on discussions of that topic. The Group hoped that the presentation and subsequent discussions would give all Member States an opportunity to enhance and consolidate mutual understanding of the various technical elements of the next text under document SCCR/39/7 which reflected the discussions and negotiations at the thirty-ninth session of the SCCR. Mutual technical understanding of the reality faced by broadcasting organizations and the related issues, as well as the varying regimes and experiences of fellow Member States would be crucial on how to address the issues through a meaningful, relevant treaty text. Group B stressed the need to treat the current SCCR session as an opportunity to consolidate the understanding of the present issues and looked ahead to the following session, where there would be more understanding of latest developments in the field or where substantive discussions on the topic could resume, should circumstances allow it. Group B stated that it remained committed to continuing to contribute to technical discussions relating to the protection of broadcasting organizations and towards a meaningful outcome that would reflect the interest and experiences of Member States and their stakeholders.

32. The Delegation of China thanked the previous Chair for the revised consolidated text on the object of protection, rights to be granted, and other issues. The Delegation noted that it was a good foundation for further discussions, and also provided more possibilities for consensus. The Chinese Delegation noted that it fully understood the importance of the protection of broadcasting organizations and its urgency. The Delegation pledged its support to work together with the Secretariat and the Chair and invited the delegates to have a more open and flexible attitude in the discussion in order to accelerate the progress of the text and promote the holding of the diplomatic conference.

33. The Delegation of Zimbabwe speaking on behalf of the African Group noted that the initiative was important to maintain the deliberations and bring greater clarity among delegates. The Group noted that the pandemic had given all stakeholders the opportunity to reflect on various positions. The African Group hoped that it would culminate in a balance of the text acceptable to all Member States. COVID-19 and the information of technology continued to place tremendous pressure on the culmination of an instrument to respond to societal needs and objectives. The African Group affirmed its position to engage in more discussions. The Group suggested that the Secretariat should explore the possibility of convening an informal committee with stakeholders to exchange ideas on the subject.

34. The Delegation of the Russian Federation expressed its willingness to engage on the matter. The Delegation noted that in the current normative meetings there was a need to substantially reduce the volume of discussions and refrain from detailed discussions on the text

of the document, delegations could achieve consensus on their methodology for future work. The Delegation underscored that the treaty must be aimed at formulating core areas and principles for protecting the rights of broadcasting organizations given the particular significance of the languages of WIPO. The Delegation called for attention to be paid to the precision of the matches between the texts in different languages, and harmonize the versions of the text with the provisions of the Rome Convention for the protection of performers, producers of phonograms and broadcasting organizations, in particular when it comes to definitions. The Delegation explained that it was vital to establish the exclusive right of broadcasting organizations to broadcasts, since broadcasters could provide broadcasting independently, and it would also be useful to look at exclusive rights of broadcasting organizations within the framework of broadcasting of TV channels in broadcasting areas. It was also vital for broadcasting organizations to be recognized as rightsholder regarding real time broadcasting with the shift across time zones. It was also vital to look at expanding the list of objects of protection which would help to facilitate the development of technology. The Delegation showed readiness to engage in discussions on the text and looked forward to continuing the work along those lines.

35. The Delegation of the European Union indicated that the treaty on protection of broadcasting organizations remained a high priority for the European Union and its Member States. The Delegation reaffirmed its commitment to advance work on the agenda item. The Delegation added that the session would allow stakeholders to reach a consensus and make progress on the main elements of the treaty. The Committee's efforts had to result in a meaningful text that reflected the developments of the 21st century. In particular, the transmissions of traditional broadcasting organizations over computer networks, acts of piracy of transmissions whether those occurred simultaneously or after the original transmissions had taken place. The Delegation hoped to have useful discussions on the way forward despite the challenging circumstances, in order to have an outcome on that important topic in the near future.

36. The Delegation of Brazil commended the Secretariat for its informative presentation. The Delegation reiterated its support on the advancement of the discussions on a new broadcasting treaty that updated the Rome Convention. Brazil's engagement with the discussions showed the country's flexibility and constructive approach with a view to convening in the near future a diplomatic conference to finalize the treaty. The Delegation pledged support to intensify consultations among interested parties to bridge the gaps and reach consensus on remaining issues.

37. The Delegation of Mexico showed solidarity with the WIPO family on the loss of their colleague, Carole Croella. The Delegation reiterated that broadcasting organizations required and demanded protection for their signal, particularly with regard to new technologies and their use. The Delegation expressed their desire to continue contributing to the work and to supporting the Secretariat, and the Committee to achieve greater consensus on a broadcasting treaty. The document from the Chair showed progress and grouped the various different positions together in a helpful manner. The Delegation suggested that national systems directing telecommunications should not be affected by a broadcasting treaty. The Delegation called for open dialogue to foster progress on the topic. The Delegation noted the importance of broadcasting organizations particularly in bringing information to people about the pandemic itself as well as other content. With new technology, undoubtedly, the related rights should evolve so that it could cover the new technologies and related rights under them.

38. The Delegation of Hungary commended the Chair, Secretariat and all other stakeholders for their commitment to advance the work of the Committee despite the prevailing circumstances.

39. The Delegation of the United States of America referred to the revised consolidated text on definitions, object of protection, rights to be granted and other issues. The Delegation showed support in updating protection for broadcasting organizations in the digital age. Given the complexity of the issues, both legally and technologically, the Delegation noted that stakeholders needed to deliberate on those complex questions. The Delegation looked forward to exchanging views and deepening its understanding of the latest developments in the broadcasting field at the following session of the SCCR, and resuming text-based negotiations when it was safe to do so.

40. The Delegation of Japan aligned itself with the submissions made by the Delegation of the United Kingdom on behalf of Group B. Regarding the distribution of works and development of technology, especially services conducted which were becoming popular worldwide, the Delegation believed that broadcasts conducted by traditional broadcasting organizations would have an important role for the dissemination of works. Nevertheless, the international protection for broadcast had been sidelined. The Delegation hoped that the discussion should be conducted by the broadcasting organization based on the mandate for the purpose of the earliest solution of the treaty. Considering the difference of the regulation system for broadcasts, the copyright system, the Delegation believed that providing fixed-role approach was favorable for the adoption of the treaty.

41. The Delegation of Argentina noted that it was pleased to see the Chair and Vice-Chair presiding the fortieth session of the Committee.

42. The Secretariat asked members to send prepared texts of their general comments to copyright.mail@wipo.int due to technical challenges and reconvene the following day.

43. The Secretariat reiterated the importance of wearing masks in the room unless actively speaking as part of ground rules established by the City of Geneva and Federal Guidelines for reducing risk during the pandemic.

44. The Chair apologized for the technical challenges from the previous session and invited the Secretariat to make announcements.

45. The Secretariat apologized for the technical glitches from the previous day and highlighted efforts made to resolve the challenges. The Secretariat advised Members to send statements or comments in advance to copyright.mail@wipo.int, to enhance interpretation process

46. The Chair thanked the Secretariat for their input and invited Members to make their submissions.

47. The Delegation of the Islamic Republic of Iran aligned itself with the statement delivered on behalf of the Asia and Pacific Group. The Delegation also acknowledged efforts made by the Chair, and the Secretariat in preparing the fortieth session of the SCCR. The Delegation noted that it appreciated the presentation made in the form of the recap of the key provisions of the Chair's consolidated text. It was a useful initiative to review and recollect the development of that agenda item and to better understand the current state of discussion. Due to the very

technical nature of the content of the document, the Delegation advocated for more detailed presentations on technical aspects in the future meetings of the SCCR. The Delegation indicated that according to the consultations made prior to the meeting, the consideration of the agenda item would be limited to general comments by different delegations and there would be no substantive negotiations on different articles. The Delegation noted that all stakeholders needed to make an effort to reach consensus on how to respond to the needs of broadcasting organizations while preserving the rights of the public in access to information. Safeguarding the balance of rights, promoting knowledge, as well as other public interests were essential elements that should be taken into account in further consideration of the draft broadcasting treaty.

48. The Delegation of Finland thanked the previous leadership of the SCCR for the valuable work, and also congratulated the current leadership. The Delegation noted with keen interest the interventions of the European Union as well as Group B. The Delegation also expressed its condolences to WIPO staff for the loss of their colleague. The Delegation pledged support to advance the work of the Committee.

49. The Chair thanked the Delegation of Finland for their readiness to support the work of the Committee.

50. The Delegation of Canada emphasized that broadcast signal protection was important in order to combat piracy and expressed commitment to continuing to work with international partners here to find a mutually agreeable treaty solution. The Delegation revealed that Canadian law provided signal protection that combated piracy in numerous effective ways that nevertheless did not include an exclusive right for broadcasters to authorize all retransmissions of their signals. The model of protection was developed out of a need to facilitate the wide distribution of certain broadcasts across our large territory, which included many remote regions, and it thereby helped to maintain its national identity, culture and linguistic heritage and broad access to important information. The relatively limited retransmission right was complemented by many other copyright protections for broadcasters, including other exclusive rights in respect of their signals, as well as exclusive rights in respect of content embodied in their signals, such as rights in compilations of their broadcast flows and broadcast productions of live events, including live sporting events, as well as content that broadcasters own or license. Canadian law provided many other protections for broadcasters as well, including numerous antipiracy provisions against unauthorized decryption of satellite signals, prohibitions against the circumvention of technological protection measures, and the removal or alteration of rights management information that may be used by broadcasters, as well as robust regulatory scheme for retransmitters. Those various measures were implemented across multiple statutes, including but not limited to national copyright legislation. In light of those priorities and aspects of its systems and in anticipation of other Member States having similar needs and schemes, the Delegation believed that contracting parties to an eventual treaty should have the flexibility to maintain aspects of their domestic regimes that provided signal protection and combated piracy in effective but similarly diverse ways, including the flexibility to choose the appropriate domestic policy instruments and measures by which to implement those protections. The Delegation looked forward to the discussion of those and other related issues in future sessions, hoping to come to a greater mutual understanding as well as identifying compromises where necessary in order to accommodate Member States various regimes that had similarly developed in response to cultural and practical concerns. In hopes of facilitating such mutual understanding and in view of the uncertainty regarding certain technical concepts underlying the outstanding issues for discussion, the Delegation believed it would be helpful for

the Committee to consider preparing updated terms, an updated terms and concept's document building on the Committee's previous work in document SCCR/8/INF/1.

51. The Chair thanked the Delegation for the useful information shared on the specific features of Canadian law on broadcasting and support in reaching consensus on ongoing discussions.

52. The Delegation of Chile commended the Secretariat for the preparation and revision of the documents on the protection of broadcasting organizations. The Delegation suggested that a balanced approach that encompassed limitations and exceptions to the protection of the broadcasting organizations and also flexibilities in the implementation of more sensitive matters could help to achieve consensus in view of the great differences and questions regarding technical issues that still existed. The Delegation believed that the present revision of the documents would help to make progress at the following sessions of the SCCR; thus, complying with the mandate given by the General Assembly in 2019.

53. The Chair noted the Delegation's concern of having a balanced approach and demonstrating a great deal of flexibility on the part of states.

54. The Delegation of Saudi Arabia commended the leadership for the efforts made to protect broadcasting organizations and Member States desire to protect broadcasting organizations. The Delegation added that the lockdown faced by many countries and technological developments was proof of the need for protection. The Delegation urged all stakeholders to continue their efforts and to bring together opinions to convene a diplomatic conference and protect broadcasting organizations.

55. The Chair thanked the Delegation of Saudi Arabia for their willingness to pursue the work along with everyone else with a view to convening a diplomatic conference.

56. The Delegation of Argentina commended the Secretariat for producing the documents in spite of the pandemic and for clarifying the relevant points of document SCCR/39/7. Regarding the item of the protection of broadcasting organizations, and in view of updating that protection, the Delegation hoped that the session would be of use in order to sum up the positions on the consolidated text. The Delegation noted that it was prepared to fully collaborate to make progress on negotiations to achieve greater consensus at future meetings of the Committee.

57. The Chair noted submissions made by the Delegation of Argentina and their collaboration in order to advance the work of the Committee.

58. The Delegation of Botswana aligned itself with the statement made by the Delegation of Zimbabwe on behalf of the African Group. The Delegation acknowledged the need to progress the work of the SCCR towards developing a treaty for the protection of broadcasting organizations. The Delegation acknowledged the document prepared for the Agenda Item. Though the Delegation expressed concern that the Committee would not be able to deliberate extensively, it remained hopeful that the Committee would be able to progress work on the agenda item in future. The Delegation reiterated its commitment to work with the Committee to enable progress.

59. The Delegation of Colombia noted that broadcasting was a matter of national interest and one of the sectors that was part of the policy supported by the highest levels of government aimed at promoting creative industries, such as the Orange Economy launched by the President

of Colombia. The Delegation recognized that broadcasting organizations have a role to play in the works and services protected by related rights; and access to information and preservation of cultural diversity, which was why a discussion on protection was something that should be continued in the Committee. The Delegation highlighted the progress made in the discussions from the technical point of view, which was reflected in the revised consolidated text on definitions of data protection, rights to be granted, and other issues, which have made it possible to clarify aspects and enrich our discussions. The Delegation reaffirmed its support to consolidating a binding legal instrument for broadcasting organizations and stated that the Committee should continue to work to achieve a text, which would enable them to support the convening of a diplomatic conference for the adoption of a treaty for the protection of broadcasting organizations. Various studies supported the idea that the negotiation of a possible binding international instrument should ensure that that instrument represented true progress as compared with the existing international conventions, notably the Rome Convention and the TRIPS Agreement and should be aimed at the digital age bearing in mind the new business models that were being developed. The Delegation noted that it would continue to support the work on broadcasting and the initiatives of other Member States to promote to those discussions.

60. The Representative of the Health and Environment Program (HEP) stated that it had analyzed the document on the objections and rights to be granted in great detail. HEP noted that there were a number of points on which consensus between states had not been achieved, and in particular with regard to the interest between rightsholders and users of those rights. The COVID-19 crisis meant that we have to be more patient in terms of achieving imminent consensus. HEP called for a diplomatic conference with the future adoption of a treaty over the next few months. HEP believed that the negotiations on the broadcasting organizations should lead to something tangible after 22 years of negotiations that would mean a WIPO treaty on the protection of broadcasting organizations in a concrete form.

61. The Delegation of Hungary expressed confidence in the leadership of the SCCR and acknowledged the efforts of the Secretariat including Regional Coordinators and Member States. After having heard the important recap by the Secretariat, and all the interventions that took place afterwards related to the agenda item on broadcasting organizations, one might sense that while there were some differing views reflected in the text, there was also a common will of advancing the work towards a consensus. The Delegation hoped to reach those gaps between the collective views of members and find a common ground to see the way forward.

62. The Representative of Program on Information Justice and Intellectual Property (PIJIP) aligned itself with the submissions of the African Group on the subject of copyright limitations and exceptions, notably for education and research purposes. As commented extensively in previous rounds, the current broadcast text on limitations and exceptions, after removing the proposal of Chile and Brazil, was more restrictive in both the permissive and mandatory exceptions than either the Rome Convention or the copyright treaties that WIPO managed. There were, for example, no mandatory right of quotation or to use news of the day or clauses to facilitate access for people with disabilities. None of the express Rome Conventions were clearly mentioned. The Representative urged members to put the language in brackets and include it in future rounds of active discussion on modalities modern limitations and exceptions given the agenda. A modern exception would include that broadcast rights not have stronger rights than copyright, that there be mandatory exceptions for preservation, education and research rights that extended into the digital environment, and that there be protections for cross-border lawful uses; for example, through extension of the Marrakesh principle. The

Representative looked forward to a better and more inclusive limitations and exceptions provision.

63. The Representative of the Ibero-American Broadcasters for Copyright Alliance (ARIP) recalled the General Assembly resolution of 2019 which states that the SCCR should continue its work with a view to convening a diplomatic conference for the adoption of a treaty on the protection of broadcasting organizations for the biennium 2020/2021, completely valid for the meeting and for the first half of 2021. ARIP noted that the treaty was the subject that was the most advanced on the agenda and called for continued informal meetings of friends of the Chair between SCCR sessions, so that SCCR 41 could adopt the text in the plenary and recommend it to the General Assembly for the convening of a diplomatic conference at the end of 2021.

64. The Representative of the Electronic Information for Libraries (eIFL.net) speaking also on behalf of the International Federation of Library Associations and Institutions (IFLA), International Council of Archives and Society of American Archivists stated that for libraries and archives, the COVID-19 pandemic had highlighted the critical need for modern laws for copyright and related rights that support the shift to online education and critical research. As stated by the Delegation of Zimbabwe on behalf of the African Group, limitations and exceptions for education and research purposes had become more important than ever. Thus, the pandemic highlighted a fundamental problem with the current text. The Representative explained that the article on limitations and exceptions was optional and not mandatory, and did not provide for exceptions that were mandatory in other treaties, like the quotation in the Berne Convention and making of accessible format copies in the Marrakesh Treaty. The Representative added that it did not provide for exceptions that were deemed important enough to be made mandatory in other laws, such as preservation of culture and heritage in the European Union's Digital Single Market Directive. The Representative revealed that broadcast services had played a vital public information role during the pandemic. Educational TV supported remote learning during lockdown, a lifeline in countries with limited access to digital technologies. To ensure fair access to broadcast content for social, educational, and public interest purposes, including preservation, the exceptions in document SCCR/39/7 should be made mandatory and countries should be allowed to introduce other exceptions as permitted by the Berne Convention according to national needs.

65. The Representative of the Copyright Research and Information Center (CRIC) revealed that CRIC had been working on the protection of broadcasting organizations for the past 20 years. During the previous year, the momentum for convening the diplomatic conference was gained but due to the pandemic, the SCCR session was not held. Despite the circumstances, CRIC urged stakeholders to make compromise beyond various differences among each Member States social and legal system. An international treaty was a minimum standard of the world, and its implementation had to be done by each country's national law, which did not have to be limited only to the copyright act. That was based on its own interpretation of the treaty and the Vienna Convention on the law of treaties. The Representative called on each Member State to seek mutually acceptable points on objectives of scope and objects of protection and reach consensus to establish the broadcast treaty.

66. The Delegation of Qatar expressed keen interest in the discussions on the protection of broadcasting organizations. The Delegation expressed support for Member States in their efforts to achieve protection for broadcasting organizations. The Delegation noted piracy issues as a major challenge. As emphasized, the costs of piracy did not only affect the broadcasting organizations but everyone. Those piracy attacks led to a loss in value of the contents, while the broadcasting organizations pay more to get quality content, and that harmed the creators of

content. All that affected and harmed consumers, and creators of content no longer want to pay money towards creating quality content. The Delegation called for more efforts to combat piracy. The Delegation called for the Committee to convene an international conference and work together to achieve an international consensus on the matter. The Delegation urged Member States to be flexible and positive during the negotiations, and to achieve a convention that guaranteed protection for broadcasting organizations. The Delegation reaffirmed its support for Member States' efforts and the work on all kinds of limitations and exceptions in the Committee. The Delegation indicated its interest in supporting libraries and archives, and examining author's rights and artist's rights. The Delegation called for collective effort in making progress.

67. The Representative of Communia stated that the draft of the broadcasting treaty gave broadcasters perpetual rights over public domain and freely licensed content, was extremely problematic for users. Without that extra layer, rights could be used without restriction and that freedom had to be maintained. In addition, the Representative was concerned that the current proposal for exceptions only gave countries the option to extend already existing exceptions to broadcasting signals. Obviously, countries could choose not to adopt these exceptions and, if they opt not to, the treaty would be creating new obstacles to access the culture and information. Exceptions were essential to achieve a balance between the interests of the broadcasting organization and the public interests. The vision that national instruments should only be mandated to introduce new rights without proposing adequate exceptions was outdated and turned a blind eye to the fact that copyright could prevent exercise of fundamental freedoms. The Representative urged the Committee to align itself with the knowledge produced by academics and members which had over and over again referred to the need for a balanced view of copyright. To include a broad provision like the recent regional comprehensive economic partnership agreement which made it mandatory for each party to provide an appropriate balance in its copyright system, including by means of exceptions for specific purposes. In addition, it should have a minimum set of mandatory exceptions, namely for those users already recognized by the other copyright treaties.

68. The Representative of the Asia Pacific Broadcasters Union (ABU), the world's largest broadcasting union representing 257 broadcasters in 70 countries in the Asia Pacific region, noted that the General Assembly had instructed the SCCR to continue work toward convening a diplomatic conference for the adoption of the treaty on the protection of broadcasting organizations aiming for 2020/2021 biennium; subject to Member States reaching consensus in the SCCR on the fundamental issues. ABU requested that the SCCR proceed with the discussion in keeping the momentum for the treaty work and pursue the best way forward for improving and prioritizing the draft text. ABU revealed that broadcaster's piracy was a major challenge in the Asia Pacific region and pledged commitment in advancing the work of the SCCR in that regard.

69. The Delegation of Italy hoped for the conclusion of the work of the SCCR with the adoption of a treaty on broadcasting organizations after several years of negotiations which was vital given the evolution of technology, in particular in that year. The Delegation showed its readiness to support ongoing deliberations.

70. The Representative of Knowledge Economy International (KEI) called for new measures to address signal theft, however, durable post-fixation rights up to 50 years in some proposals, the entities that just retransmit works by authors, performers, and producers was a bad idea. Post-fixation rights were controversial because they created thickets of related rights that made it more costly and difficult to clear, and they could lead to perpetual protection if assigned at the

time of each broadcast. They would also create a massive expansion of rights to noncreative entities if extended to webcasting. The biggest beneficiaries would be Pandora, Netflix, Amazon, Spotify and other giant technology firms. The proposed treaty would also extend to services like Tik Tok, YouTube, and Facebook. None of those rapidly growing technology platforms were asking for or needs the proposed related right.

71. The Representative of North American Broadcasters Association (NABA), remained convinced that updating the protection of broadcasters at the international level was an important and necessary step to complete the transition of the copyright framework to the digital context. There was broad support for a new treaty as evidenced by the General Assembly direction taken at its 2019 annual meeting already quoted several times before, directing the SCCR to work toward a diplomatic conference in the 2020/2021 biennium. It was therefore incumbent of the Committee to devise a plan to continue working in the manner appropriate for the circumstances. The previous Chair established the work through an informal group, the Friends of the Chair Group and with a subset of that group which demonstrated that informal work on a text could make progress. NABA urged the Committee to follow the model and continue work through an informal working group with a mandate to produce an updated text for the next Committee meeting.

72. The Delegation of Kenya aligned itself with the statement made by the distinguished Delegation of Zimbabwe on behalf of the African Group. Working within the framework of the African Group, Kenya was among the first countries which submitted to the WIPO Secretariat treaty language proposals on the rights of broadcasting organizations. That was in recognition of the fact that the Rome Convention of 1961, upon which the rights of broadcasting organizations were anchored, had become technologically obsolete. Subsequent studies commissioned by WIPO demonstrated widespread signal piracy affecting linear and nonlinear platforms. Additionally, podcast organizations did provide convenient, portable, and cross-border access to their program-carrying signals, not only through online services, IPTV, OTT, VOD and other platforms, but also over the air broadcast services and through several means of delivery, most of which were not envisioned by the Rome Convention. The Delegation noted that the need for a new international norm for the protection of broadcasting organizations was need not only because of the new technologies, but also to preserve the objective of broadcast regulatory regimes, in consideration of the changing consumer tests and means of access. The WIPO General Assembly Resolution of 2019 provided solid guidelines within which to operate and renewed impetus and momentum to finish the work. The Chairman's revised consolidated text, document SCCR/39/7, provided a basis upon which the Committee could accomplish that task bestowed on it by the General Assembly. The Delegation believed that the SCCR would make pragmatic headway toward the full treaty text language and the subsequent SCCR meetings and technical meetings should strive to achieve that goal. The Delegation expressed interest to participate in and engage with other similar-minded delegations toward an accelerated process that would lead to a definitive successful conclusion through the convocation of a diplomatic conference.

73. The Chair thanked the Delegation for their pragmatism and commitment to taking part in all of the initiatives to advance the work of the Committee.

74. The Delegation of Botswana aligned itself with the statement made by the distinguished Delegation of Zimbabwe on behalf of the African Group. The Delegation acknowledged the need to progress the work of the SCCR towards adoption of a treaty for the protection of broadcasting organizations. Being mindful of the limitations of the current format of the meeting, the Delegation appreciated the document prepared for that agenda item, and consented that the

Committee would not be able to engage on normative work. The Delegation remained hopeful that the Committee will, in the near future, be able to progress its work on that agenda item.

75. The Representative of the European Broadcasting Union (EBU) thanked all stakeholders for their support in the ongoing work on the broadcasting treaty and emphasized how important broadcasters were for society, including the technology that they invested in. The Representative explained that the treaty was a clear recognition of that importance and that, therefore, from an IP perspective, that treaty had to be of the highest priority. The Representative emphasized the need to improve the draft text in document SCCR/39/7 through a small group of drafting experts and bilateral discussions on the way forward.

76. The Representative of Education International (EI) spoke on behalf of the education and international the global federation of education unions, with more than 32 million members and about 384 organizations including teachers, researchers, and education support personnel who rely on works for teaching and research. EI understood how challenging it was to move from face-to-face meetings to distance and online environments including broadcasting school lectures using TV, radio, mobile phones, and Internet platforms. Teachers and researchers made regular use of broadcasted works for teaching and research, and relied on exceptions and limitations to fulfill public and human rights-based missions in education and research institutions around the world. It would be very important for teachers that exceptions and limitations were considered in the broadcasting treaty as they make regular use of broadcasted works for teaching and research. While exclusive rights of broadcasters were in the process of being created, exceptions and limitations remained inadequately addressed. The new treaty would have fewer mandatory and permissive exceptions than the Rome Convention and WIPO copyright treaties. EI noted it would be essential to make the list of exceptions in document SCCR/36/6 mandatory including for preservation, education, and research rights in the digital environment and for cross-border uses. The Representative hoped that the voice of teachers and researchers would be taken into consideration by delegates in the negotiations ahead.

77. The Representative of the Japan Commercial Broadcasters Association (JBA) noted the importance of moving the discussion forward and called for the convening of a diplomatic conference for the adoption of a treaty on the protection of broadcasting organizations by 2020-21 biennium. Member States should reach consensus in the SCCR on the fundamental issues, including specific scope, object of protection and rights to be granted. JBA urged stakeholders to find a way to hold extra sessions and to restart the discussion on the treaty for reaching consensus on the fundamental issues. The Representative added that the establishment of the broadcasting treaty was an urgent issue for WIPO and broadcasters around the world.

78. The Representative of Innovarte noted that if the new instrument on broadcasting organizations was adopted, it should provide clarity and security on exceptions and limitations, which should and could be adopted by Member States. The Representative believed it was essential in order to avoid the deterioration resulting from the lack of exceptions that affected the various efforts of public interest and undermined the legitimate interests featured in the IP system. The treaty should not affect the human technological and economic development of its Member States. The Rome Convention, the instrument on which the new treaty on broadcasting would be based, permitted exceptions, and provided a mandatory list that was not exhaustive. The Rome Convention and TRIPS submitted broadcasting organizations to the rules of the three-step test, which was what the present negotiations was trying to do. The three-step test approach was necessary due to the challenges of interpreting and approving those that imposed too many limitations but not the countries that did not adopt the necessary

exceptions in a timely manner. It should be adapted to the needs of countries, which meant it should not be the standard for the new instrument. Innovarte advised that it was essential to follow the model of the Rome Convention as regards to exceptions. Innovarte observed the need for the Committee to broaden its list to accommodate the needs of the 21st century, including mapped mandatory public interest, inter alia, public health needs, libraries, and technological development.

79. The Chair noted the proposal by Innovarte on the use of the Rome Convention. The Chair proposed to the coordinators to share a draft summary based on submissions received on the topic of broadcasting.

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

80. The Chair outlined discussions on Limitations and Exceptions for Libraries and Archives, Item 6 on the Agenda, and also Item 7, Limitations and Exceptions for Educational and Research Institutions, and for Persons with Other Disabilities.

81. The Chair invited the Secretariat to present the report, document SCCR/40/2, on the regional seminars and international conference organized by the Secretariat, which had been organized in 2019

The Secretariat presented a summary of the factual report in document SCCR/40/2, and noted that it was extremely difficult to summarize the results of three regional seminars and an international conference into a short and easily digestible presentation without taking the risk of oversimplifying or being misrepresentative. It referred to the Regional Seminar for Asia and Pacific Group which was held in April 2019 in Singapore; the seminar for the African Group which was held in June in Nairobi, Kenya; and the seminar for the Latin American and Caribbean Group which took place in Santo Domingo in July in Dominican Republic. The Secretariat pointed out relevant data of those meetings. Dedicated web pages, related documents as well as the detailed presentations of each of those meetings were available on the WIPO website. The Secretariat highlighted the common methodology following those three regional seminars. The work carried out in working groups were divided by sub regions or by language; a report in plenaries where Member States reported on its findings, observations, and proposals; the participation of four to six experts in the areas of libraries, archives, museums and educational research and the use of certain tools and questionnaire and matrix to combine the findings in four main areas, libraries, archives, museum, and educational and research combined with areas of use such as preservation, access, reproduction or prepared use, and cross border. Through the matrix, one of the tools used in the analysis, the Secretariat obtained valuable information which was compiled into 16 clusters within the 4 categories of beneficiaries of limitations and exceptions displayed horizontally and the four areas of consideration; preservation, reproduction, access, and cross-border, displayed vertically. In addition, the information gathered about each of those clusters were outlined in the summary of discussions of the regional seminars from Paragraph 9 to 119 of the report, complemented with some remarks from Chairs and reporters conference that attended later the international conference and those were covered in paragraphs 126 and 127. The Secretariat highlighted

some of the clusters or categories of beneficiaries of limitations and exceptions and areas of use. First, the example of discussions on libraries and cross-border matters. In paragraph 38 of the report during the discussions, reference was made to the current regime of exchange of books in accessible format through the Marrakesh Treaty, and there was no consensus among Member States whether exceptions were necessary for general exchange of works in digital format. Some Member States suggested that further guidance that could be useful on the scope and application of exceptions in that context for education purposes. The second example the Secretariat made reference to was on archives and access. In paragraph 54 of the report, Member States highlighted that the provisions regarding archives mostly existed for access to physical or analogue copies but not digital copies. Some Member States thought it could be addressed through revision of copyright laws or other laws different from copyright law but in the field of intellectual property. The third example was on museums and preservation. In paragraph 68 of the Report, most Member States emphasized that the justification for preservation of museum collections was mainly to mitigate the risk of irretrievable losing works in a collection due to climate change hazards, robbery, fires, and other catastrophes. Finally, an illustration of another combination on education and reproduction, found in paragraph 104. Some Member States mentioned that there was a growing move from analogue to digital content for classroom teaching purposes, and some Member States also noted the need to facilitate materials beyond the physical classroom, for example, in e-learning platforms. They wondered if that specific exception existing in the analog world would apply to those new uses. In paragraph 105, the Secretariat suggested that perhaps there might be different conditions and even remuneration that those uses could imply and were different regarding or vis-a-vis of offline teaching uses. The international conference was organized at the conclusion of the fact-finding and information gathering phase foreseen in the limitations and exceptions action plans. The international conference provided an opportunity to address on a global scale some of the issues identified during the three regional seminars. It covered the four thematic areas, the four categories of beneficiaries and exceptions and was attended by more than 230 participants. There were 18 chairs and reporters from regional seminars who attended the conference together with 44 panelists and 5 experts. Web page and documents as well as detailed presentations and even interviews of some of the participants were published on the WIPO website. The ideas on archives, from paragraphs 174 to paragraph 181, outlined more specific exceptions and limitations in the law, tariff setting, hybrid mechanism, a combination of license-based approach and limitations and exceptions approach that could solve specific issues such as commerce works or issues related to out of commerce works and published and orphan works. Also, the reliability and the role of the instrument in the area and the importance of providing working tools for archives; specifically, that provided knowledge and awareness on issues related to copyright, and the issue of cross-border, particularly regarding archival material in collections. The Secretariat also pointed out some ideas on museums emerging from the conference, outlined from paragraphs 252 to 258, to address legal uncertainties and existing disparities in legislations across countries, including the lack of collective management organizations in certain countries, the need of high-level guidance on an instrument or declaration prepared by WIPO for digital preservation of cultural heritage, updating national legislations, and the addition of a specific exceptions in national law focused on the museum activities, building capacity for collective management organizations, and the inclusion of a definition of museums when specific exceptions or provisions are added in the national law, and even succession planning of works of artists with the help of technical bodies. Some ideas on libraries emerging from the conference were also outlined from paragraphs 294 to 303, which referred to the minimum international standards for preservation, the need to benchmark and have a healthy monitoring of modeling that could be adopted globally. The Secretariat pointed out the necessity to look at the national legislation, particularly regarding good examples to be followed, and the need for a legal framework which could be evolving regarding technical

requisites, and the need for capacity building and good infrastructure, and even the role of regional entities for cross-border access that was not limited only to libraries but also could be effective for education, research, and other archiving activities. Also, some ideas on education and research were outlined from paragraphs 355 to 359, more specifically on the substantive review of national copyright legislations, declaration of international principal framework by WIPO, the question of liability of teachers in the case of archivists, and availability or available of exceptions and provisions by contractual provisions. At the end of the conference, the next steps were identified by the WIPO Secretariat and they were encompassed in three groups, namely, the general principles and ideas, the Member State's role, and the WIPO role. Details of the next steps are shown at the end of document SCCR/40/2.

82. The Chair thanked the Secretariat for the report and outlined a few ground rules for submissions and statements.

83. The Delegation of China thanked the Secretariat for the report on regional seminars at international conference on limitations and exceptions which informed the basis of the discussions. The Delegation opined that libraries, archives, and educational institutions by their nature provided public information, and the exceptions and limitations were pivotal pillars of those activities due to public interest and could balance the public interest and the interest of rightsholders. The report highlighted the views of the exceptions and limitations and offered suggestions for the work and for the roles Member States. The Delegation stated that it would like to engage on future work with a view to reach consensus on the work.

84. The Delegation of United Kingdom, speaking on behalf of Group B, commended the Secretariat and other stakeholders for successfully organizing the regional seminars in October 2019. Group B said it was committed to the general principles as set out in the report, and limitations and exceptions were an essential part of the balanced copyright framework and underpinned cultural heritage and education as a common good. However, the Group advised stakeholders to be mindful that the ability of creators to be fairly remunerated and rewarded should not be unduly inhibited; and therefore, recognized the important role that licensing plays in that context. Group B took note of the need for action at the national level that was a recurrent theme in the report. The Group also took note of the discussions and findings set out in the report. Group B added that the information would no doubt be invaluable for the work on limitations and exceptions in those particular areas. A focus on digital aspects seemed timely, considering the ongoing COVID-19 pandemic and the challenges, in particular, concerning access to education and cultural works. Group B emphasized that considering digital aspects in that Committee only through the lens of exceptions and limitations would be too narrow and one sided. The Delegation took note of the way forward set out in Paragraphs 390 to 406. Group B remained committed to continue on constructive engagement on the topic.

85. The Delegation of the Russian Federation, speaking on behalf of CACEEC, thanked the Secretariat for preparing the report on the regional seminars and international conference on limitations and exceptions. In analytical conclusions and proposals of Member States and experts in those areas, the Delegation called for a collective approach to formulate general principles on which to harmonize our approaches, create an international instrument that would be used as guidance for proposing solutions to those common problems. According to the output of the conference, which was held as part of the implementation of the plan of action, proposals were made in each of those limitations and exceptions. The Group stressed the importance of resolving cross-border issues, the examination of legal ambiguity, and difference in the legislations of various countries and pay special attention to the preservation of the cultural heritage in digital form, and also focused on international principles and systems which

would be applicable to museums, libraries, archives, libraries, and educational and research institutions. The COVID-19 pandemic had shown a very important need for digital technology, including remote access and cross-border use. The Group noted the existence of digital materials should become generalized. The drawbacks and backwardness of existing international instruments had become particularly glaring when the whole international system of copyright and relate the rights had unprecedented challenges, and the work of millions of museums, library, and archives in traditional sense of the word was under threat. CACEEC observed that the lack of recognized international guidance made it difficult to have cross-border access and exchange of culture hindering progress. The Group emphasized the vital role of libraries, archives, and museums in preserving the cultural wellbeing of people and presence of research for providing access and quality education and research. Exceptions and limitations satisfied the needs of education and research online to an adequate degree and national exceptions and limitations were the best way for respecting the interests of society and satisfying and should meet the needs of each country. The Delegation noted that licensing played an important role in the development of online and cross-border education satisfying the needs and demand for educational materials, engaging in educational research work online, and while maintaining primary markets for license productions. The Group called for new, improved legislative norms, as well as open dialogue between rightsholders and educational institutions which would bring together the interest of both sides and lay the foundations for cooperation in the search for more offers and greater access to material online.

86. The Delegation of Zimbabwe, speaking on behalf of the African Group, expressed gratitude to the leadership and Secretariat on the presentation of the factual report on regional seminars and international conference, document SCCR/40/2. The African Group reiterated and reaffirmed support for the 2012 General Assembly mandate, namely to continue discussion to work toward an appropriate international legal instrument or instruments whether a model law, joint recommendation, treaty and/or other forms on limitations and exceptions. The African Group recalled that the seminars were convened in accordance with the action plans on limitations and exceptions agreed in document SCCR/36/7. The African Group underscored the importance of the report to the work of the Committee on exceptions and limitations, and highlighted various insightful and informative proposals contained in the report. The Delegation called for a balanced copyright system which rewards creators and provides suitable access, assures progress and sustainable development of societies by incentivizing, creating, and promoting public welfare through dissemination of knowledge, culture, and science. The African Group noted that the seminars focused on the various thematic areas, and noted that Member States had disparate national laws on those areas which pose an obstacle to inter-state cooperation and domestic implementation. The Delegation observed the report and various studies presented in previous SCCR sessions could help to reach a successful conclusion to a long-standing matter. The Delegation looked forward to further discussion on the agenda item at the SCCR/41 session. The advent of the COVID-19 pandemic presented a unique challenge to the global community. Children have been denied access to online educational material due to restrictive copyright regulations, an acute challenge which required the Committee's urgent attention. Similarly, open-source information sharing of research material was an essential enabler for global cooperation in solving common health challenges. Members were reminded on the success of the SCCR on the conclusion of the Marrakesh Treaty which illustrated the collaborative efforts of Member States and political will to address an area of great public interest. The Delegation called on the SCCR to respond to the current challenges.

87. The Delegation of the United States of America was pleased to participate as an observer in all three WIPO regional seminars and in the international conference. The Delegation thanked the Secretariat for the presentation of its excellent report and noted that it

would be a useful resource for SCCR Members to continue discussions at the next session of the SCCR and beyond. The Delegation looked forward to continuing the conversations.

88. The Delegation of Brazil welcomed the factual report with the results of the three regional seminars at the international conference on copyright limitations and exceptions. The Delegation added great value to those discussions and favored continued work on those issues by the Committee. The Delegation observed that limitations and exceptions to copyright should strike a balance between the legitimate interests of authors and creators and that of third parties. In the case of librarians and archivists acting within the scope of their professional activities, limitations and exceptions were a means to avoid exposing those categories to legal challenges. The Delegation also called attention to the issue of limitations and exceptions regarding people with other disabilities not covered by the Marrakesh Treaty. Notwithstanding its undeniable importance for the Brazilian Government, the topic had received little attention from the SCCR in recent years. The Delegation looked forward to more in-depth exchange on that matter and would propose that future regional or sub-regional seminars addressed the issue of limitations and exceptions regarding people with other disabilities, with a focus on new technologies and accessibility. The Delegation welcomed discussions with Members on the proposal and to reflect it on the future work of the Committee.

89. The Delegation of Indonesia commended the Secretariat for its comprehensive report as included in the document SCCR/40/2 and its extensive presentation. The Delegation reiterated the statement made by the Delegation of Bangladesh on behalf of APG emphasizing that flexibilities for libraries, museums, archives, educational institutions as well as for people with other disabilities were important to individuals and development of societies. The Delegation observed that the topic of limitations and exceptions to copyright was an issue shared by all countries as they were a natural part of any balanced copyright system. The Delegation added that the current COVID-19 pandemic had shown that educational institutions as well as libraries, archives, and museums worldwide needed a supportive environment with limitations to form functions without necessary risk. The Delegation was pleased by the results of the implementation of the action plans on limitations and exceptions. The Delegation welcomed the outcome of the three regional seminars, held in Singapore, Nairobi, and Santo Domingo as well as the international conference, held in Geneva. As stated by the Director General in the opening statement, the events provided opportunities to address the most significant and urgent issues related to limitations and exceptions. The Delegation hoped the outcomes would not only remain as report documents but the Committee would transfer them into a concrete work program for the SCCR on the issue of limitations and exceptions. The Delegation called for capacity building action for Member States to develop national legal framework on the subject. The Delegation looked forward to future work program on limitations and exceptions, including one that would also resolve the cross-border issues.

90. The Delegation of Trinidad and Tobago acknowledged the work of the Committee which continued to inform the domestic legislative agenda. In supporting the opening statement made by the Delegation of Panama, on behalf of GRULAC, the Delegation commended the SCCR and committed to continue working collaboratively toward consensus on text-based negotiations for a broadcasting treaty in future sessions of the SCCR. For Trinidad and Tobago, the work of the SCCR was of particular importance given their recent accession to the Beijing Treaty, Marrakesh Treaty and Rome Convention. The Delegation also applauded the focus of the SCCR as it related to limitations and exceptions for libraries and archives, as well as limitations and exceptions for educational teaching and research institutions, and for persons with other disabilities. Trinidad and Tobago participated actively in the regional seminar for the Latin American and Caribbean Group, held in Santo Domingo, and the international conference, held

in Geneva. The Delegation thanked the Secretariat for the preparation of its report as contained in document SCCR/40/2, and for the insightful presentation. The Delegation expressed full support for the ongoing work on limitations and exceptions, including contractual agreements and licensing-based solutions and looked forward to the continuation of the work in that Committee.

91. The Delegation of Ecuador thanked WIPO for organizing the meeting and thanked the Secretariat for the preparatory work conducted. Regarding the item on the agenda, the Delegation aligned itself with submissions made by GRULAC. The Delegation observed that the SCCR had worked consistently for opening a proper area of the discussion on exceptions and limitations and provided a lot of resources that could be useful to construct the consolidated text for a possible international instrument. The Delegation suggested for proper rules on exceptions and limitations that would not contradict the three-step test and would be limited to particular situations. The Delegation added that the pandemic had helped people to rethink the need for recognizing exceptions and limitations that made possible the access to information for education and research purposes. The Delegation noted the vital role creators had played during that period and pledged support to continue working in a constructive way in the Committee.

92. The Delegation of Chile aligned itself with the submissions made by the Delegation of Panama, on behalf of GRULAC, on the subject of limitations and exceptions. The Delegation observed that the report concluded correctly that limitations and exceptions was a subject of interest to all Members. The Delegation observed that limitations and exceptions were inherent to any balanced copyright system, and that balance had become more vital during the pandemic. However, the Delegation suggested that the report should have been more detailed about the different themes dealt with by the seminars and the international conference. The report should have identified where exceptions and limitations might be applied in all of those areas and present international texts, bearing in mind the mandate given by the General Assembly. The work done on visually impaired persons could be repeated in all of those areas covered by the seminars and the international conference, so as to replicate the successful outcome of the Marrakesh Treaty. The Delegation pointed out that all stakeholders should explore the flexibilities that copyright could offer to deal with the health crisis, especially with regards to online education and access to libraries and archives, which were at present shut to the public and which were necessary for access to culture. The Delegation noted that it was important that the conclusions of the report did not focus on areas the subject matter of which were distinct from exceptions and limitations. For example, licensing and contractual issues were not relevant to the discussion and did not hold up to achieving or complying with the mandate.

93. The Chair noted the concern of the Delegation to have more details on the topics being examined, the inherent gaps at the international level as well as the need to demonstrate certain flexibilities offered by copyright.

94. The Delegation of Kenya stated that, as one of the host nations, it would restrict its interventions to the spirit of the outcome of that regional meeting and the subsequent follow-up SCCR meetings and took place. The Delegation stated that exceptions and limitations were designed to mitigate the rigors of exclusive rights granted by copyright or any other forms of intellectual property law. In mitigating the effects of exclusive rights, exceptions and limitations served, among others, social policy goals of balancing the interests of combating stakeholders while ensuring that there was no potential market failure. Since exceptions and limitations routinely resulted in free use of protected works, in most jurisdictions, they must be well thought

out to avoid market disruption. In many countries, they created laws designed to fulfill certain cultural and social goals and so were exceptions and limitations. The Delegation noted that in Kenya, and other countries, exceptions and limitations were designed majorly to bridge the knowledge and information gap that may have not been the driving force in other jurisdictions. Therefore, there was no single model to serve all jurisdictions. Arising from the Nairobi regional meeting, it observed that most of the African culture and institutions, notably archives, libraries, museums, and education and research institutions were copyright intensive. However, the Delegation revealed that most copyright laws did not adequately address such phenomena as digital access, cross-border use, private copy, reproduction, and preservation. It was observed that they met impediments to that included not copyrighting legislation, lack of technical capacity and resources, lack or inadequate infrastructure to facilitate success, and cross-border cooperation, and weak licensing frameworks, and institutions including CMOs as well as lack of tools and guidelines to support the activities. The Delegation observed that Kenya rather needed a revamp of those deficiencies than an international instrument on exceptions and limitations. The Delegation was of the view that the exceptions and limitations standing alone without corresponding to exclusive rights would cause more confusion in the industry than assist the industry.

95. The Chair noted the call for striking a balance and avoiding the use of a one-size-fits all model.

The Delegation of Pakistan welcomed the report on regional seminars and international conference on limitations and exceptions. The Delegation pointed out that licensing and exceptions were not mutually exclusive but rather a part of the same enabling environment as stated by a number of participants during the regional seminars and international instrument was important to inform local law making with high-level principles and minimum baselines that could be implemented flexibly at the local levels. The Delegation pushed copyright and exceptions for libraries, archives, museums and education and research institutions, as it would be a great legislative assistance and umbrella guideline for the Member States to revise and read off their statutes in line with the international instrument. The Delegation advised that international instruments should be well thought out with special consideration to the development perspective while according to online and digital cross-border uses of education.

96. The Delegation of Botswana thanked the Secretariat for the detailed report on regional seminars and the international conference, as provided in the document SCCR/40/2 and the interesting presentation. The Delegation aligned itself with the statement made by the Delegation of Zimbabwe, on behalf of the African Group. The Report by the Secretariat captured the evidence that delegation gathered from those events. The Delegation took note of the next steps as submitted in the document and categorized the general principles and ideas and roles of Member States and of WIPO. The Delegation observed that the topic of limitations and exceptions remained an important matter for the SCCR to work on with a view to ensure a balanced copyright system. In view of the impact of the global pandemic on the work of the Committee, the Delegation urged WIPO to continue providing support to Member States to address limitations and exceptions at national level. The wealth of information gathered through the Committee and the Secretariat on the subject could enable countries to address some of the challenges highlighted in the reports. The Delegation reaffirmed its commitment to cooperate with other Member States in the future work of the SCCR on that important topic.

97. The Delegation of Malaysia acknowledged the efforts of the Secretariat and the Committee to prioritize work on an instrument that would support and promote the use of an international system to respond to public needs during the COVID pandemic. With schools and

libraries forcing to closure, a shift in education research and the learning activities online was necessary. The Delegation noted that time had to be given to analyze the impact of COVID-19 and the possible tools available, including the possibility for that topic to be a negotiation item at the SCCR. The Delegation called for future work and concerted efforts toward organizing the limitations and exceptions discussions an in-depth level. The Delegation acknowledged the various challenges at the national and transnational level for libraries, archives, museums and educational institutions within a goal of achieving an effective and balanced outcome for the changing societal needs. The Delegation hoped that a range of possibilities could be considered on the way forward from the action plans adopted by the Committee with the priority on adopting an instrument in whatever form for preservation, and digital and cross-border use for the aforementioned institutions.

98. The Delegation of the European Union opined that libraries, archives, and museums played a crucial role in the dissemination of knowledge, information and culture, along with the preservation of our history. The Delegation attached importance to the support of educational and research institutions and for people with other disabilities, both in the analog and digital world and within the existing international copyright framework. The Delegation valued the work carried out in the Committee as per the action plans on limitations and exceptions. Following the international conference on that topic, held in October of 2019, the Delegation noted with interest that the broad support seemed to have emerged to focus further work at capacity-building and improving legislation within the national and regional level. The Delegation believed that there would be value in reflecting further on how WIPO could best provide assistance in that regard. The report from the regional seminars and international conference confirmed understanding on the basis of the various possibilities to exchange on that topic in national or regional settings. The Delegation exhibited readiness to engage constructively on the items of the agenda. However, the Delegation noted that it supported an approach that focused the work of the Committee on the way in which limitations and exceptions could function efficiently within the framework of existing international treaties, while being mindful of the important role that licensing also plays in many Member States. The Delegation believed that the work carried out over the course of the last two years confirmed a great need for further capacity building at the national level as well as for guidance from WIPO. The Delegation believed that the meaningful way forward would be to continue to focus on understanding the problems faced by cultural institutions and the persons with disabilities. Those implied giving full consideration to the solutions already available to WIPO Member States. The Delegation reiterated that it could not support work toward legally binding instruments at the international level, but believed in particular in focusing on national capacity building combined with an exchange of best practices and guidance in order to best address regional specificities and local, legal, and cultural traditions.

99. The Delegation of Japan aligned itself with the statement made by the Delegation of the United Kingdom, on behalf of Group B. Regarding that topic, the Delegation noted that it was important to determine the appropriate balance between the interest of rightsholders and the public interest. The three-step test had worked well as a properly balanced international standard. The Member States established the balance and suitable exceptions and limitations based on the three-step test taking into account the respective social and cultural backgrounds in each country. In that context, sharing national experiences and practices was essential and the regional seminars and the international conference were beneficial to that aim.

The Representative of the European Visual Artists (EVA) noted that members believed collective licensing extended to non-members had a huge role to play for the benefit of artists, cultural heritage institutions, educational institutions, and all the users. EVA observed that the

pandemic had shown how quickly licenses could be developed and solve the increased demands. To meet the needs and demands expressed by cultural heritage institutions and educational institutions in a balanced way, new exceptions and limitations had to be prevented because copyright was important and was essential for those authors to make their daily lives. EVA collective management organizations for visual works issued thousands of licenses nearly daily in order to facilitate both access to content and legal certainty. Licenses were concluded not only with cultural heritage institutions and educational institutions, but also with museums where they were covering all usages, including cross-border uses. The Representative welcomed the EU-DSM which included extended collective licensing for out-of-commerce works in public collections. EVA believed it was a great way to solve many difficulties in the way that was good for all sides. The Representative noted that sufficient options were already available on national and regional level, and no binding instrument on the international level was needed. EVA reaffirmed its support for the Committee and WIPO and stated that it would share ideas to enhance collective effort towards capacity building.

100. The Representative of the International Federation of Film Producers Associations (FIAPF) welcomed the comprehensive report on the results of the preceding action plans and referred to the complexities involved in particular with regard to not undermine the sustainability of creative works. FIAPF indicated that the existing international copyright framework, including the Berne Convention, the WCT and TRIPS Agreement already provided the required flexibilities to allow Member States to introduce exceptions and limitations that address specific issues relevant to their national laws and cultural priorities and in compliance with the three-step test. The Representative emphasized that such exceptions and limitations should only be introduced after thorough impact assessments in order to ensure local creative industries were not damaged as a result. FIAPF reiterated the need for WIPO to continuously support Member States in their current efforts to ratify and implement the WIPO copyright treaties. Those treaties enshrined substantive rights that were essential to the functioning of film, television, and other creative sectors and constitute a pivotal incentive for creativity and investment in production and distribution across the world for all cultural products. Libraries and archives had historically played an important part in promoting and discovering availability and access to film and other cultural heritage. FIAPF had a long tradition of working collaboratively with those institutions. FIAPF believed the answers to preservation and accessibility activities did not lie in international norm setting on exceptions and limitations.

101. The Representative of Intellectual Property Latin American School (ELAPI) emphasized that limitations and exceptions should be acts of sovereignty of each State. They respond to exceptional legal situations, and countries should regulate those exceptions in a specific way, not through a treaty. ELAPI bemoaned that such situations being dealt with by an international treaty would generate great legal insecurity and lead to a great deterioration of conditions that would ultimately affect authors and their works. The Representative noted that that copyright industries affected the GDP of countries and the knowledge economy which generated jobs and helped the growth of economies, so there should not be exceptions and limitations in all situations. ELAPI urged GRULAC not to make exceptions a norm as it was not necessary to focus on a treaty on exceptions and limitations. ELAPI added that it was prepared to collaborate with GRULAC and the region to bridge the gap.

102. The Representative of the International Federation of Reproduction Rights Organizations (IFRRO) was pleased to see the central role played by CMOs to facilitate access to work, including across borders, was reflected in the report from the Secretariat. CMOs enabled cross-border licensing, making it possible for students to access learning materials regardless of where they were located. Indeed, during the COVID-19 pandemic, CMOs had adapted the

licensing skills so that teaching activities could continue. The regional seminars and international conference organized by the Secretariat the previous year had enabled a thorough discussion of exceptions and limitations. IFFRO's view, based on the discussions reflected in the report of those meetings, was that the answer to the access challenges was a combination of more effective implementation of already-existing international copyright instruments and capacity building. Consequently, IFFRO favored an outcome from the SCCR discussions on exceptions and limitations which focused on the exchange of information in practice, the offering of a demand driven WIPO technical assistance program and government cooperation which IFFRO was ready to support.

103. The Representative of the Canadian Copyright Institute (CCI) emphasized that the authors, creators, publishers, and distributors that participated in the work of CCI, respectfully noted that any discretion of copyright that was based on human rights in the public sector should support robust copyright protection. Copyright was a human right, and strong copyright protection functioned in the public interest. Individual cultural professionals and independent cultural industries, particularly small and medium-sized enterprises were essential to the practice and preservation of the rich and diverse cultures that thrive locally, nationally, and regionally around the world. They were essential to education, scholarship, and local economies. Freedom of expression suffered when they suffered. As conveyed by the report on exceptions and limitations, particularly in the section on general principles and ideas, exceptions and limitations should not be the only lens through which SCCR viewed copyright. To quote the report, copyright should not be seen as an obstacle but as a facilitator. CCI recommended that all Member States ensured their national copyright laws protected the exclusive rights necessary to sustain their creative sectors rather than approaching the matter as a question of which rights should be extinguished. CCI cautioned that due to the COVID-19 crisis, exceptions and limitations must be viewed with great caution. In the early days of the pandemic, creative industries and professionals sprang voluntarily to the assistance of educators and others that relied on copyright-protected works. They had the capacity to do so because their copyrights were protected. CCI indicated that the COVID-19 crisis had reaffirmed the importance of a strong creative sector supported by copyright protections.

104. The Representative of Program on Information Justice and Intellectual Property (PIJIP) aligned itself with submissions made by delegations that point out that the way forward on the agenda item must take into account the current pandemic. Many exceptions for education, research, and access to the collections of cultural heritage institutions contain narrow criteria that could impede online and distance activities that were necessary during the COVID-19m pandemic. For instance, laws commonly permitted only reproduction for those interests but failed to authorize communication needed for the sharing and control in networks. Uses were often restricted to face-to-face classroom, or on-premises uses. PIJIP revealed that it had found laws that specifically restricted uses to paper. Strict interpretations of such laws during the COVID-19 crisis violated fundamental rights, including the right to seek, receive, and impart information through any media and regardless of frontiers, as set out in Article 19 of the Universal Declaration of Human Rights. PIJIP suggested that the Committee could use the Doha Declaration on TRIPS and Public Health as a model and draft a resolution that explained and promoted the current flexibilities in the international system that could be used to respond to the COVID-19 crisis. PIJIP acknowledged the Secretariat for the very thorough report on the action plans, and paragraph 400 of the report recorded the agreement to work on solutions, including instruments at appropriate levels. PIJIP noted the priorities that the work should aim at instruments in whatever form on preservation, digital, and cross-border uses for education, research, libraries, archives, and museums, and the creation of model laws and other issues such as safeguards for reliability, measures and contractual override. The Committee could

carry out new studies in areas that had not been covered yet, for instance, on research exceptions. PIJIP reaffirmed its commitment to provide assistance and research on any of those issues of interest to the Committee.

105. The Representative of the International Council on Archives (ICA) commended the Secretariat for the report of the regional meetings and international conference. The report continued the work which had begun about a decade ago, such as the reports by Professor Crews and, more recently, the report by Mr. David Sutton, on archival information. While no normative work occurred, session SCCR/40 provided an opportunity to advance the agenda by considering concrete next steps. ICA reiterated WIPO's mandate to develop a balanced and effective international IP system that set out minimum flexibilities for libraries, archives, and museums. ICA explained that there was no need for more studies or sharing of national experiences and indicated that exceptions and national copyright laws varied widely. ICA cautioned WIPO to act quickly in order to forestall more divergent national practices. The Representative added that though licensing and contracts were a legitimate part of the broader copyright system, they were not relevant to a discussion of limitations and exceptions. The report gave clear direction for action in the areas of preservation and cross-border digital access. The pandemic reiterated that global and digital were indisputably watch words for the long term. ICA urged the SCCR to identify concrete next steps to prioritize normative work on exceptions in those areas. Only through text-based work the points of disagreement would emerge, followed by discussion and negotiations that would ultimately lead to a constructive consensus. ICA suggested that the Secretariat should prepare a draft model law that addressed preservation and digital cross-border uses by libraries, archives and museums, for discussion at the next SCCR/41.

106. The Representative of the International Authors Forum (IAF) explained that authors wanted the widest possible access to their works but there must be a balance of access and reward to ensure they continue to create the works that were enjoyed. Research found that many authors, particularly of educational works, could stop creating works due to the declining remuneration without measures to fairly reward them for their efforts. In no country were authors able to work and create effectively when they were denied remuneration or were inadequately paid. IAF was pleased to see a presentation and statements from many Member States and group coordinators that the importance of encouraging creativity was acknowledged as a major consideration in that area. Authors believed that existing provisions contained enough flexibility for countries represented at WIPO to continue to work towards a national solution such as licensing frameworks which could be developed according to local needs.

107. The Representative of the Electronic Information for Libraries (eIFL.net) welcomed the recognition of cultural heritage as an invaluable and vulnerable common good. At all the events, a high degree of consensus was expressed for work on preservation of cultural heritage. Experts, delegates, and observers alike recognized the threat posed by natural disasters, fire, and floods to the cultural heritage of many Member States, particularly island nations affected by climate change. Further, they agreed that the copyright laws in many countries, especially in the developing world, did not have adequate exceptions for digital preservation or cross-border uses. The COVID-19 pandemic illustrated the preservation problem. Librarians were working to identify and preserve information on COVID-19 such as research data, scientific articles, public health videos, social media, and news reports. Those curated COVID-19 collections were vital for future scholarship and science in order to study and draw lessons from the public health, economic, and cultural impact of the biggest global health crisis of those times. However, if the works were not professionally preserved, they would be non-existent or difficult to access. In countries without clear preservation rights, they would be left behind with gaps in

the national record or works preserved and held in institutions and other countries with better laws. The Representative added that licensing was not the solution for preservation and cautioned that the best legal skills in the world would not be able to fix a bad copyright law. EIFL suggested that the SCCR should adopt a work plan including text-based work on a preservation instrument in line with the 2012 mandate. Though the work of the Committee had been curtailed due to the pandemic, EIFL called for a practical interim approach that the Secretariat should retain its expert, Professor Kenneth Crews to prepare an intervention, and that could easily be ready by the next SCCR at which point it would provide countries with helpful guidance on that important topic. EIFL also suggested that the Committee examine the impact on access to copyright protected content as a result of the pandemic.

108. The Representative of Knowledge Ecology International, Inc. (KEI) emphasized that limitations and exceptions were important for individuals and society, particularly with regards to education and research, which were key to development and economic growth as well as social issues, for example, exchanging information and views. None of the groups acknowledged an important fact that they depended upon limitations and exceptions to create works. As mentioned by some delegates and some NGOs, the pandemic disrupted education and, in some cases, closed schools and libraries. The global norms for patent laws included provisions for extra flexibility with regards to inventions in cases of emergencies. KEI urged WIPO to share information that it considered soft or hard norms to make it clear that controlled digital uses by libraries and schools during a pandemic were appropriate. KEI called on SCCR to address two areas for global norms for limitations and exceptions in the current work program. First, there was an opportunity for an instrument on preservation and archiving. Preservation was an urgent global public good and many national laws were inadequate. Second, with regard to other disabilities, KEI proposed that the SCCR use the language that extended the benefits of the Marrakesh Treaty to persons with other disabilities who due to their disabilities needed an accessible format of a type that could be made which would allow them access to the same degree as a person without a disability and would be consistent with the UN Convention on the rights of persons with disabilities.

109. The Representative of the International Council of Museums (ICOM) stressed that museums as non-profit institutions were key actors at the service of society through the safeguarding and protection of heritage, the promotion of cultural diversity, and lifelong learning and transmission of knowledge. However, the achievement of that objective had been threatened by climate change, lack of resources, conflict, theft, and other risks which could lead to the loss of invaluable and vulnerable collections. ICOM thanked WIPO Member States and the Secretariat for making available the valuable studies, reports, and meetings to underline that, while there was a broad recognition about the importance of preserving museum collections, there were a number of factors which prevented museums to do so. Those included the lack of specifically adapted legislative provisions, including exceptions for preservation and often works of cross-border issues. ICOM noted that museums needed an adapted and harmonized copyright system allowing for limitations and exceptions for preservation purposes to be put in place to ensure the survival of common memory, history and heritage. The proposals identified in the report, particularly with regard to licensing did not provide a concrete solution to allow a museum to exist in a digital environment, especially in light of the serious repercussions of the COVID-19 crisis. Indeed, 30% of all museums around the world run the risk of never reopening doors. ICOM noted the need for concerted international action was more pressing and urged the SCCR, as a global facilitator and accelerator, to make meaningful and effective steps. A first response could be the establishment by the Secretariat, along with the relevant stakeholders, of model law provisions on preservation and access before moving on to text-based normative work on limitations and exceptions that provided an institution that

preserved a common heritage around the world with harmonized adaptive and effective legal framework essential to the fulfillment of the mission.

110. The Representative of Canadian Federation of Library Associations (CFLA) explained that libraries, archives, and museums continued to experience barriers to access and preservation that were not addressed by approaches that focus on licensing, with the COVID-19 pandemic posing many challenges. After decades of effort by libraries, licensing had failed to create a digital environment that provided the same level of access that the print solutions offered. CFLA reaffirmed support for continued work related to preservation and recommended a report on a possible instrument or model law for preservation exceptions for libraries, archives, and museums. CFLA observed that there was a broad agreement among the Member States for continued work on limitations and exceptions for libraries, archives, and museums and that preservation was an important issue to address so that cultural and historical records were preserved. CFLA also expressed support for work on an international instrument or model law on preservation that could be a catalyst to advance international considerations. CFLA encouraged the SCCR to make progress on limitations and exceptions and to move forward on productive outcomes from the numerous studies, including Professor Crews' typology and learnings from discussions and meetings held in the previous year. CFLA called on the SCCR to prioritize an instrument or model law on preservation and cross-border uses for libraries, archives, and museums.

111. The Representative of Centre for Internet and Society (CIS) mentioned that India, South Africa and Kenya shared a proposal at the World Trade Organization to remove IP barriers in order to improve access in development of medical products to address the COVID-19 emergency. In the same spirit, it was brought to note the state of copyright barriers embedded in the draft treaties and issues before the forum. To proportionately respond in a time of emergency, the impact of virtual persisted for a while, especially on education and research, and it was necessary to expand limitations and exceptions in that regard. CIS urged the Committee to re-examine the scope of proposed work and expand it in order to build instruments of digital preservation and cross-border uses, create model laws and provisions on other issues, and simultaneously commission studies to identify and highlight measures and practices to build access to works during the COVID-19 pandemic.

112. The Representative of International Federation of Library Associations and Institutions (IFLA) acknowledged the Secretariat for its work on the report which provided evidence of consensus among delegates, and in particular around the need for heritage preservation and access. IFLA called for action because of the lack of clarity in existing international law, leading to not only inadequate copyright laws but also to uncertainty for institutions when trying to work with digital tools or across borders to ensure the survival and availability of heritage. In light of the pandemic, IFLA noted the cost of leaving things up to chance. IFLA noted that rightsholder goodwill was welcome but it should not be the case that the possibility to use the required material depended on it. Libraries, archives, museums, educators, and researchers need to function in a digital environment. IFLA bemoaned that COVID-19 was not the only crisis, also others such as climate change, had to be clearly addressed in the medium term. IFLA believed that text-based work was essential. In the short term, known experts, such as Professor Crews, could help to prepare provisions on preservation and access for discussion by the SCCR Members. IFLA added that the Committee could offer valuable guidance about the interpretation of current international law at the time of COVID-19. IFLA was confident that WIPO could continue to show its relevance to ensure that, as far as possible, the health crisis and the climate crisis do not become an education and research heredities crisis. IFLA reaffirmed its support for the agenda.

113. The Representative of Communia noted that the Committee had been discussing the issue of copyright exceptions for almost 15 years. During that time, a number of studies were conducted. The Representative observed that many countries felt they were not allowed to use protected content for education research and other legitimate purposes. Still reaching a common ground for exceptions was not a priority for all. Progress was limited, even though there was a clear trend towards cross-border uses taking place online. State of affairs could be acceptable before the massive disruption to society caused by the COVID-19 pandemic, but over the previous six months, those cross-border and online uses had become the new normal. All over the world, institutions were opting for remote formats or hybrid models of in-person and online access and use of content. Communia noted that things would not entirely go back to normal, especially for education where there were then teachers and students working from home often located in different Member States and having to deal with the fragmented treatment of exceptions across those locations. Communia observed that not all the countries preferred to negotiate bilaterally with developing countries. Communia noted that that perpetuated an imbalanced power relationship between the Global North and South. The Representative believed the forum could provide more transparency and legitimacy to those discussions and urged all stakeholders not to leave the mandate unfulfilled. Communia urged the Committee to set priorities for its work and to respond to the pandemic with a declaration or resolution to assert the flexibilities that existed, and then work on model laws and on a binding solution for cross-border uses, and eventually discuss a minimum set of mandatory exceptions.

114. The International Federation of Journalists (IFJ) lamented the efforts of some Members to convince the Committee that the current crisis somehow justified precipitous action that was intended to damage the ecosystem in which creative works were produced and distributed. IFJ indicated that it was increasingly important for creative works to be economically viable and that included the creative measures applied by independent, professional journalists in making complex truths about public health, for example, accessible to citizens. Sadly, that was particularly necessary given the presence of misinformation and disinformation. The ability of journalists to make a living as independent professionals funded by licensing of their journalism and not by lobbyists and special interests would set back the cause of open and accurate, public information. IFJ explained that there were dedicated, ethical journalists who could not continue with their work without income from licensing educational uses. IFJ proposed that the solutions laid in developing licensing and in sharing international best practices in amending legislation as WIPO did so effectively already and in finding funding for the essential work of library, archives and educational institutions.

115. The Representative of International Publishers Association (IPA) thanked the Secretariat for the report on regional seminars and international conference on limitations and exceptions. IPA had participated in all three regional seminars along with publishers from each region as well as in the international conference. During each event, IPA found the process transparent and conducive to intensive discussions. The exchanges between participants were rich and constructive. Local voices were heard loud and clear, especially in the seminars held in Nairobi and Santo Domingo. The critical importance of local contexts, cultures, and curricula was acknowledged when considering the delivery of educational resources. IPA was pleased to hear that Member States also acknowledged the importance of copyright protection for their own publishing industries. IPA underlined that, as stated in the report, it was important to recall the essential role of copyright to support and reward creativity. IPA noted that creators had an indispensable role in providing what would become cultural heritage, as well as what was at the core of education and research. Therefore, strong copyright protection was an enabler of local, creative industries and must be the starting point for any debate on limitations and exceptions.

During the seminars and conference, numerous Member States had stated that they had yet to assess their national needs in order to establish strategies that while accounting for limitations and exceptions, also promoted the development of their creative industries. IPA indicated that establishing a strong copyright protection framework was essential to such strategies. As the report pointed out, Member States agreed that copyright should not be seen as an obstacle but as a facilitator. One should not mix freedom of access with access for free. The report also pointed to the Berne Convention by stating that limitations and exceptions were guided by the three-step test. The existing international legal framework already enabled Member States to legislate and address their individual challenges. IPA called for national legislators to conduct fair impact assessments that were grounded in a deep understanding to the ecosystem which enabled production and consumption of cultural products and that recognized the vast array of licensing solutions made available by publishers across the world. IPA highlighted the time-tested importance of a global copyright framework. In those unprecedented times, that framework had proven to be inherently innovative and enabling publishers to support governments, teachers, parents, and the public as people adapted to home schooling and as governments sought reliable scientific data upon which to base policies to protect their citizens. Despite those challenging circumstances, the publishing community had stepped up to support governments, teachers, parents, and the public. In education, the efforts of a publishing industry to develop innovative business models over the past few years had proven timely, and publishers continued to work with both public and private sector partners to create digital educational content and platforms for both the short and long terms. IPA added that the COVID-19 pandemic had not made copyright protection less viable. IPA called for more collective effort among authors, publishers in order to build a strong legal framework.

116. The Representative of Conector Foundation called for coordination work in an international area in the work of the Committee. The Representative called for progress in the implementation of the international instrument. The Conector Foundation indicated that libraries are part of markets, and did not have to be seen as a threat in any case. The Representative called for more flexibilities as with regards to access and preservation in particular, which would help to meet global challenges such as the pandemic or global warming.

117. The Representative of Education International (EI) highlighted its work as the global federation of education trade unions with about 384 organizations in 178 countries and territories, representing teachers, researchers, and education support personal worldwide. The Representative reiterated the challenging circumstances due to the global health crisis caused by COVID-19. EI explained that the pandemic had led to a historic disruption of educational research, from face-to-face to distance teaching and research, including through radio, mobile phones, and various Internet platforms. Teachers around the world had been going above and beyond to ensure continuity of education and research activities, and as they did ever more so from being denied access to essential digital materials, being forced to work in legal gray zones using essential works at the risk of being prosecuted while fulfilling their public and human rights missions. More teachers than ever were experiencing that what was lawful in classrooms such as reading stories to children, playing songs in music classes or working with art was unlawful in an online environment. Additionally, an increasing number of teachers and researchers had been experiencing what the lack of clarity of cross-border uses of copyright works meant as they taught courses for students located in different countries. EI emphasized what should be uncontroversial, namely that fair access to essential materials for teaching and learning were a key part of the right to education and knowledge and should never depend on the goodwill of private actors and market trends, neither during the pandemic nor in any normal times. EI observed how e-book prices had reduced at the onset of the pandemic which showed the importance of having a balance government-led copyright law that protected education as a

public good and human right. The pandemic shed further light on the injustice and once more highlighted that the challenges discussed in the SCCR were real and needed to be addressed. EI thanked the Secretariat for the thorough report and hoped for the promised result-oriented approach including the consideration of an international legal instrument that was mentioned again by Member States who understood the importance of an international commitment to address international challenges, as well as to promote national-level reforms. EI proposed that the SCCR and WIPO, as a UN agency, provide guidance to Member States to navigate through the challenges. WIPO would be able to provide needed guidance in the form of a declaration or resolution in relation to the exceptions and limitations in times of COVID-19 as well as commission studies that investigated copyright emergency measures to address the needs for education, research, and persons with other disabilities.

118. The Representative of the Society of American Archivists (SAA) looked forward to the continued attention of the Committee in balancing copyright through exceptions and limitations, and called for a way to help identify the next steps for the SCCR's work on archives, libraries, and museums. SAA emphasized the need for exceptions to carry out archivists' essential missions. Archives existed in all kinds of institutions and contained all information formats. Holdings were predominantly unpublished, never in commerce works and because they were unique in the world, they were global heritage resources that were needed across borders. Archivists must identify, acquire and ensure the preservation and protection of such materials. Most importantly, SAA worked to assist researchers using such materials. SAA added that that required SAA to make copies mostly in digital form. The very idea of preservation and accessibility of materials was central to the UNESCO Universal Declaration on Archives and confirmed archives as an essential role in safeguarding and contributing to the individual and community memory and stated that archives were essential to promoting democracy and protecting citizen rights. Current copyright laws made those tasks difficult, if not impossible. Archivists worldwide needed a functional framework within copyright to pursue their mission, which was making work accessible to people anywhere regardless of their ability to travel. SAA reiterated the distinct role of WIPO to establish standards for exceptions that recognized the non-commercial mission of archives. SAA explained that the next essential step for the SCCR was to begin text-based work on limitations and exceptions, especially for preservation, and to consider the problem of orphan works and the need to provide cross-border access to unique collections.

The Representative of the Library and Copyright Alliance (LCA) stressed that the preservation of cultural heritage was a universal problem. All works were vulnerable to fire, flood, and deterioration with time. LCA observed that there were no national or regional variations with respect to the need for preservation, resulting in further loss of cultural heritage. LCA emphasized a critical need for immediate action. LCA proposed for a model provision on preservation to provide an impetus for countries with inadequate preservation laws to approve them.

119. The Representative of International Confederation of Societies of Authors and Composers (CISAC) commended the Secretariat on the preparation of the action plans on limitations and exceptions. CISAC had spoken on exceptions and limitations and on the rights of creators and others who had the right to be remunerated for their works, and had called for a balance between those flexibilities, on the one hand, and the right for authors to be able to make a living from their works, on the other hand. CISAC added that the CMO should find solutions for the needs of libraries, museums, archives, and education and research institutions, both contractual and non-contractual, responding to the needs of users. CISAC reiterated that the international legal framework applicable to exceptions limitations already existed, it was the

three-step test. Enshrined in Article 9.2 of the Berne Convention, the test provided sufficient flexibility for each Member State to apply limitations and exceptions to copyright as best suited to their environment. CISAC called for the Committee to adopt the best decision on how to make future progress on that. CISAC showed support for the proposal made at the previous sessions to continue facilitating exchange of information and develop technical assistance that could be used for Member States to find the best solutions to international challenges.

120. The Delegation of El Salvador aligned itself with the statement made by the Delegation of Panama, on behalf of GRULAC, in its initial statement. The Delegation indicated that the information submitted was of great value as a foundation for debates on future work with regards to matters under limitations and exceptions to copyright, to which the Delegation fully supported. The Delegation emphasized the theme of digitization and the digital format of works, observing that there was a need to tackle the impact of new technologies on exceptions for libraries, archives, museums, and teaching and research institutions. The Delegation called for a formal start to a structured dialogue on the application of present exceptions and limitations in the digital area. The Delegation called for a unilateral decision to ascertain whether the same exceptions and limitations at present in the international arena were sufficient or fit to be applied to works in digital format. While it was true that a number of national actions or measures had been identified, stakeholders could not underestimate the importance of having a proper international legal framework to adapt both the protection of copyright and related rights and exceptions and limitations to those. The Delegation observed that though the COVID-19 crisis had posed many challenges, it had significantly boosted the use of information technologies. The Delegation hoped that members could find the proper way to comply with the mandate of the Committee and live up to the mandate of the organization and the global society in the information age.

121. The Representative of Innovarte observed that while there was a longstanding agenda on the exceptions, the COVID-19 pandemic had affected thousands of people and changed economic and social life, which could not be ignored by the Committee. The COVID-19 crisis had affected many areas related to copyright, but the case of education, libraries, museums, and archives, had suffered major consequences for their critical work. Only countries with robust exceptions to copyright such as the United States, allowed the digitalization of works for remote education or controlled digital lending, in order to mitigate the effects of the pandemic in those areas. On the contrary, in countries such as Chile and other countries whose legislations do not have the sufficient flexibilities, for example, for controlled digital lending, their public libraries were shut. In the case of Chile, the government did buy books for them, but due to the pandemic, the libraries could not be used, which had reduced incentives to continue the purchases. In the absence of an exception for controlled digital lending, that generated a vicious circle depriving society of access and the market for those books. In addition, the need to engage in data mining for research into the trends or results in areas linked to the pandemic was only possible where there were exceptions to those effects, thus reducing the capacity of the world to put an end to the pandemic. Innovarte urged the Committee to focus on emergency agenda for identification and analysis of copyrighted flexibilities. Innovarte believed that adoption was urgent because of the pandemic and future health emergencies, especially as regards to online education and access to the collections of libraries, archives, and museums in order to allow the development of educational activities at all levels, as well as public and private research.

122. The Representative of the Authors Licensing and Collecting Society (ALCS) urged caution in any approach to expanding exceptions and limitations on copyright. It had been evidenced in Canada that overreaching amendments to copyright without due consideration of

authors remuneration had led to significant declines in authors incomes. Studies in the UK and other countries had shown that authors incomes were in decline, as detailed in an ALCS study and a Parliamentary inquiry on authors earnings in the UK. Any discussion or decision on further limitations and exceptions on copyright must properly consider the impact on authors and the potential for alternatives such as licensing models that guarantee fair remuneration for creators.

123. The Chair was pleased to listen to submissions made by all delegations and thanked the technicians and the interpreters, who helped to make the session a success. The Chair commended the Secretariat for the remarkable work.

AGENDA ITEM 8: OTHER MATTERS

124. The Chair opened Agenda Item 8 entitled Other Matters. The Agenda covered three items under that and a new proposal. There were two video presentations, and after a brief introduction on each of those subjects. The Chair called on the Secretariat to share any announcements.

Digital Environment

125. The Chair introduced the first sub item entitled Proposal for Analysis of Copyright Related to the Digital Environment. At present, work was concentrating on a study of digital rights on copyright in the digital environment. The Chair gave the floor to the Secretariat and stated that comments would follow.

126. The Secretariat reiterated that the work on digital and music services fell within the issue of the analysis of copyright related to the digital environment currently discussed under Agenda Item 8, Other Matters. The Secretariat provided some background on the process and the work conducted on the issue in recent years. The topic was introduced through a proposal contained in SCCR/31/4 put forward by GRULAC in December 2015, with the objective to open a discussion on copyright in the digital environment and that first proposal included a wide range of different issues, such as the role of digital services and internet service providers, fair remuneration for artists, transparency matters, and rights of users. Those issues were largely relevant to the old spectrum of the creative industries. As first steps, the Secretariat arranged for the preparation of a scoping study on the impact of the digital environment on copyright legislation adopted between 2006 and 2016, contained in document SCCR/35/4. The Secretariat also organized a brainstorming exercise in April 2017 with 11 academics representing all regions and legal traditions, whose results were also presented to that Committee. As a follow-up, the Delegation of Brazil proposed and the Committee agreed to proceed with a focused analysis of the music market in the digital age. In identifying the music sector as the first area to be covered, the Committee also left open the possibility to request further studies covering other areas, such as audio visual and publishing sectors. The Secretariat prepared a document, Modalities for the Preparation on Study of Digital Music Services, which was discussed, amended and approved by the Committee and reflected in document SCCR/37/4 Rev., which was currently guiding the Secretariat's work in that process. In accordance with those modalities, the scoping study started by attempting to provide a description of the online music market and main business models that are emerging around the world. That introduction to Global Digital Music Market, contained in document SCCR/39/3 was prepared by Ms. Susan Butler and presented to the Committee at the previous session of the SCCR in October 2019. The Secretariat explained that the next steps of the analysis would focus on more specific areas; namely, chain of rights or flow of rights, value chain or flow of

money, and mechanisms for gathering data on the usage of music and for reporting distribution of royalties or flow of information. In order to address the request of the Committee, the Secretariat noted that it was arranging for the preparation of several analyses of the identified topics with the objective of expanding the geographical scope and including perspectives and views of all relevant stakeholders. Since its inception, the Secretariat had sought the active participation of organizations and NGOs representing key players in the music sector to offer inputs for data collection, as well as to provide their technical description of legal and economic challenges faced by the sector. In that context, the Secretariat had convened a brainstorming meeting with the stakeholder's representatives and moderated by Susan Butler in February 2020. The deliberation of those two days provided insight for elements that would be taken into account in the final study. The areas of analysis of the scoping study were extremely complex, and the process of preparation had taken more time than expected. The Secretariat hoped to be able to publish all the remaining components of the scoping study during the course of the following year.

127. The Chair called for delegations to present their general comments. The Chair proposed three minutes for Member States and two minutes for observers and encouraged written statements to the Secretariat.

128. The Delegation of Panama speaking on behalf of GRULAC commended the Secretariat on the Report on the Introduction of Digital Services. The Delegation noted that at the thirty-seventh session of the Committee which took place in 2018, the Members approved the carrying out of that study. It was agreed that at the session, the next stage of the study would be presented. However, the Delegation noted that the Secretariat's report did not show any progress and neither was sufficient information provided that would allow to analyze the dynamics of the Digital Music Market Chain and the distribution of value in that same chain, and the economic impact of new technologies. The Delegation proposed that the Secretariat should draw up a clear work schedule that established with certainty the preparation of a document that would address the shoots listed under document SCCR/37/4 proposed modalities for a study on digital music services. GRULAC stressed the importance that the group attached to the work to be done in the framework of the item on copyright in the digital environment where progress in the above-mentioned study would make it possible to extend the exploration of the subject in other areas and other geographical areas.

129. The Delegation of Brazil observed that the world was moving towards greater digitalization with the COVID-19 pandemic accelerating the trend. With the move to the digital environment, new ways of marketing and distributing copyrighted contents were emerging with new platforms being launched every day, most of which increasingly rely on artificial intelligence for their functioning. The Delegation noted that that had implications for artists and consumers with results that were unevenly distributed along the value chain. As an upcoming issue and economic trend, the Delegation believed that the topic of copyright in the digital environment was broad and mature enough to become a permanent agenda item in the Committee. The Delegation welcomed the Member's views on that point. The Delegation aligned itself with the statement delivered by Panama on behalf of GRULAC which summarized their main concerns with respect to the study on digital music services. The Delegation acknowledged the efforts of the Secretariat in producing the study. However, during SCCR 39, the Delegation was not fully satisfied with the answers provided to some of the questions regarding its elaboration. Recognizing the challenges imposed by the COVID-19 pandemic, the Delegation believed that even considering such challenges, there was still a gap in what could have been achieved. At the SCCR 39, the Committee was told that document SCCR/39/3, an Introduction to the Global Digital Music Market would be a first phase of the study even though the modalities of a study

on digital music services did not mention such phases. The Delegation recalled all concerns that were raised and suggestions that were made in their statement at SCCR 39 regarding that topic of the agenda. Paragraph 24 of the Summary by the Chair of SCCR 39 affirmed that a next phase was to be expected at SCCR 40. The Delegation noticed that since SCCR 39, much progress had not been made in that regard. The Delegation called on the Secretariat to provide a clear schedule for the delivery of the study comprising all the elements requested in document SCCR 37/4/Rev. which was adopted by the Committee.

130. The Delegation of Zimbabwe speaking on behalf of the African Group underscored the importance of the scoping study of modalities on study of digital music services to be presented in 2021. The African Group reiterated the support for the proposal for analysis of copyright related to the digital environment by GRULAC. The African Group noted that the COVID-19 pandemic had resulted in an unprecedented astronomical increase for demand of copyrighted works through digital platforms. Digital platforms were borderless and therefore had potential of exposing artists to a wider audience. Unfortunately, due to a lack of adequate legal frameworks, such increased demand could not translate to increased remuneration for creators. According to the international confederation of societies of authors and composers, 2020 Global Collection Report, COVID-19 had significantly impacted global collection of royalties, especially in live and background music. The report indicated that collections for live and background music were almost down to zero, and in contrast, there was a surge in online streaming as consumption habits shifted due to restrictions put in place by governments to curb the coronavirus pandemic. It was noted that the increases in online streaming had mostly benefitted online service providers while rewards to CMOs and creators, especially in Africa, were very limited. The Group recommended that the study should also include the effects of COVID-19 on the demand for digital music. Noting that that was a sector that could greatly benefit from the expanded digital worldwide market and employ and empower thousands of artists in the music industries of developing countries.

131. The Delegation of El Salvador expressed support for the statement made by the Delegation of Panama on behalf of GRULAC. The Delegation thanked the Secretariat for updates of the information in the Study on Digital Music Services. The Delegation reiterated that there was an important need to start structured discussions in the SCCR on copyright in the digital environment. Noting that it was important to conclude rapidly the Scoping Study on Digital Music Services, not only to analyze its results, but also to have space to tackle other types of work that had become the subject of digital services. The Internet and the fourth industrial revolution had already transformed things making it necessary to begin discussions, more than ever because of the increasing use of the Internet in various activities within family, professional, academic, and so on. The Delegation stressed the need to put that item on the agenda of the SCCR as soon as possible, and become a standing item, especially because of increased interaction with various works protected by copyright and related rights. The Delegation noted that that decision could not be adopted at the previous session, and hoped that discussions could resume once the circumstances were favorable in order to achieve progress.

132. The Delegation of the United States of America believed that the SCCR should be a forum to discuss timely, significant, substantive copyright issues without preparing for norm setting. Consistent with that view, the United States thanked the Secretariat for its update on progress of research on the digital music services, and looked forward to continuing discussion of that topic at the next session of the SCCR.

133. The Delegation of the Dominican Republic briefed the Committee about the work of the National Copyright Office of the Dominican Republic in terms of copyright and related rights in the country, automation of registrations during the pandemic, and its role in preventing piracy. The Delegation explained that piracy was one of the major challenges in copyright particularly within the context of digital media and social media.

134. The Delegation of the European Union stressed that the issue of copyright in the digital environment merits attention and discussion in order to ensure that copyright could be more efficiently protected and able to play its role in the digital era. In that regard, the Delegation thanked the Secretariat for the updates on the topic, and looked forward to the full scoping study in 2021.

135. The Delegation of Gabon endorsed the statement made by the Delegation of Zimbabwe on behalf of the African Group. The Delegation noted the points on digital music service in connection with the relevant document. The Delegation also noted the prospects regarding the follow-up to the study, especially on value chains and financial flows and collection modalities. The Delegation expressed that it would be delighted to see the conclusions of the exploratory study, which would be presented the following year.

136. The Representative of the Knowledge Ecology International (KEI) explained that on the analysis of copyright related to the digital environment, the SCCR should include a work stream on transparency, a topic mentioned in the original GRULAC proposal and which there are opportunities to identify gaps as well as measures that would enhance transparency. That could include, for example, greater transparency of the distribution of income between authors, performers, and publishers, broadcasters or other rightsholders, as well as the revenue flow between countries. KEI called for more transparency of the finances of the platforms that distributed and streamed works. Transparency could include improving the metadata regarding the identity of photographers, authors, performers, dates of works, and owners of rights. Transparency could also include creating repositories of contracts between authors and performers and their publishers, as well as between publishers and libraries and research institutions to better understand if contracts were fair and achieved social objectives regarding access and the support of authors and artists. KEI provided some good examples of metadata to stream music and some up hauling examples, for example on the same platforms. Knowing why that was and identifying best practices and possible issues about standards and interoperability for databases, such as data, would be a good use of the SCCR's time instead of fights between publishers and user groups, then the SCCR could focus on making the copyright system work better for authors, performers, and listeners, the three most important stakeholders. KEI believed that transparency was becoming a core issue in protecting society from the growing use of propaganda and false narratives to manipulate policy outcomes. KEI added that it would support efforts to have more evidence and more facts before policies were shaped. Post-truth policies was a political culture in which debate was framed largely by appeals to emotion disconnected from the facts or details of policy. WIPO could pivot to more facts, more truth by adapting an agenda item on transparency, and by doing so, make the copyright system work better for society.

137. The Representative of Intellectual Property Latin American School (ELAPI) observed that there was a need to continue with a detailed analysis of the problem which was becoming worse; that is the protection of the rights of artists and performers in the digital environment. ELAPI called for a balance between receiving economic income and the use of protected works whether those were protected or not, noting that it was one of the main obstacles to obtaining true economic compensation for the rightsholders for protected works and protection of cultural

activity. ELAPI expressed readiness to collaborate with the work being done so as to determine the behavior of the various groups that make up the groups in that digital environment so that people kept in mind the adverse impact of the pandemic on performers and artists.

138. The Delegation of Kenya aligned itself to the earlier statement made by the Delegation of Zimbabwe on behalf of the African Group. The Delegation recognized the increasing dematerialization of copyrighted works and migration from analogue to digital environments consequently a comprehensive study of the impact of digitalization on copyrighted work as a welcome sign. However, the Delegation was cognizant of the constraints posed by COVID-19, and hoped that in the future, the Secretariat would be in a position to advance the matter further in order for a comprehensive report covering perhaps a much wider copyrighted area. Kenya added that it could get involved in further discussions in that particular area in order to unravel other matters around copyright in a digital environment.

Resale Right

139. The Chair introduced the next topic on that agenda item, the resale right. The Chair referred to the proposal submitted by the Delegations of Senegal and Congo to include the resale right in the agenda of the future work of the Standing Committee. That was presented at the thirty-first session of the Committee, document SCCR/31/5. . During the thirty-sixth session, the Committee decided to set up a task force made up of members and stakeholders. Three working groups were set up and were headed by Marie-Anne Ferry-Fall, Professor Sam Ricketson, and Aziz Dieng. The Chair referred to documents SCCR/40/6, SCCR/40/7 as well as SCCR/40/8 found on the website for the Committee.

140. The Director General of the Society of Authors of Graphic and Plastic Arts (ADAGP) and Chair of the Working Group on Galleries presented a panoramic overview of the application of the resale right to art galleries in different countries. The presentation focused on specific issues with regard to the application of the resale right to galleries. The working group was born of the observation that it seemed clear enough that the resale right applied to auction houses, but more issues arose with regard to the need to apply that right to art galleries in Member States. Undoubtedly, art galleries were sometimes in a precarious situation, playing a key role in disseminating artists' work and that is why they were sometimes reluctant to apply what they perceive as an economic and administrative burden. In order to move beyond the stage of merely actual reflections and to move beyond simple negative feelings not underpinned with any concrete evidence, the Working Group sought to take an objective view of the matter by gathering verified information and statistics from the ground with regard to the application of the resale right to the gallery sector to ensure that the discussions took place on that as soon as possible. The data in the report came from public reports developed by various entities, in particular by economists, but also by art pricing companies. She noted that the Working Group had included responses to the questionnaire which were sent out May 2020 which a number of CMOs responded. The report consisted of three parts. The first part was to establish the number of galleries within national art markets, and in particular the number of galleries operating on the second market; indeed, it was key to recall that the resale right does not apply to galleries on the first primary market. The second part of the report sought to identify the admin charge for art galleries when applying the resale right. Finally, the third part of the report looked at the difficulties in applying the resale right to galleries due to professional frequency and due to the non-transparency of sales. The report indicated that only 5 per cent of galleries in Germany were affected, and 10 to 12 per cent of galleries in Belgium and Netherlands, and 25 per cent of the galleries in Austria and in France. For the admin charge, depending on the

size of the gallery, it varied between one hour and one day per year for galleries. For the application of the resale right to galleries, the foundation of professional seekers was a pivotal point, which many respondents flagged. She noted that the topic was also relevant to galleries and auction houses, because by definition auction houses were public and their results were not kept secret, so it was easy to apply the resale right. Business frequency was a major point for the activity of gallery; therefore, it was a matter of knowing what bounds in order to strike between professional frequency and transparency in order to apply the right of resale. National realities of markets differ, nevertheless, many respondents said that there was a need to have a more transparent market with rules respected by all, showing a sign of a healthy and strong market. That would help in turn stem the scourge as everyone pointed out of fake artist goods on the art market. She added that the group received responses to the questionnaire and three guidelines emerged from their work. The first was to expand the questionnaire to respondents outside of Europe, but also to complement the report on certain points, such as the disparity, for example, in the burden of the resale right depending on legislations, which could be a source of double payment or an absence of payment. Nevertheless, that disparity needed to be studied in greater detail to assess its real impact. Another avenue to explore was the effective application of the right, in particular with regard to transparency, traceability, and the momentum of the art market involving rights management professionals and artists. Finally, the establishment of documentation on the resale right applied to galleries with regular updating of studies would be a useful tool for the interested Member States.

141. The Leader of Sub working Group 2, of the Artist Resale Right Task Force, Professor Sam Ricketon, looked at management of art resale rights in different jurisdictions to identify what one might call the concrete modalities of those schemes, the principal features, and to provide a report that sets them out and contrasts and compares them. He noted it had considered responses from selected jurisdictions, namely the UK, France, Hungary, Australia, Czech Republic, Slovakia, Poland, Sweden, Russia, Brazil, and Uruguay. Not covered in the work were issues arising with respect to the implementation and management of art resale rights and royalty schemes in developing countries, and although it should be noted that there were such schemes legislated for in a number of African countries, notably Senegal and Mali. Work began early in the year with the circulation of a questionnaire to representatives of selected jurisdictions with the exception of Poland which did not have a relevant collecting society for artistic works. He gave an overview of the responses. Firstly, the group asked when the art resale royalty right was established in the country and how it was done. Was it done by inclusion within national copyright law or done under some free-standing regulation or indeed in some other way? The group sought to find out what works were subject to the scheme? For example, were there limitations on the kinds of artistic works covered? Did it extend beyond artistic works to original manuscripts of musical and literature books as is possible under Article 14.2 of the Berne Convention. And then what resales were covered, affected, and what exclusions were there to the resales subject to the royalty in your jurisdiction? Then, most importantly, what was the royalty charge? How much was it? How was that done? Were there minimum amounts before it could be charged? Were there maximum ceilings or ceilings beyond which the royalty was not applied? Who's liable to pay- the buyer, the seller, or perhaps an intermediary? How was the scheme managed? For example, was it left simply, as a matter to individual artists to pursue and enforce themselves, or was it subject to some form of collective management in how it's done? What were the levels of returns to artists? Were there any particular groups that benefit more than others? Do all the artists benefit, perhaps, more than younger artists, and what about deceased estates? What administrative issues could arise in managing the royalty right in the jurisdiction? In particular, what were the costs involved, and to what extent has it been possible, particularly where collective management applies to deploy digital technologies in tracking down and dealing with those rights? The group also looked at

reciprocal arrangements between different countries which have those rights, particularly as between collecting societies. And if there were such arrangements, how had they been put into effect? And what were the other issues that arose with respect to the implementation and operation of art resale royalty right schemes in respective countries? Were there strong constituencies of support for those rights, or were there areas of opposition and what they were? Finally, if any, what changes had been proposed to the scheme? The results showed a variety of practices that had been adopted by the countries which had been considered in implementing art resale royalty right schemes. There are variations, as one might expect, with respect to the kinds of work covered. Some jurisdictions excluded particular categories of artist works and others were more expansive. The kinds of resales that were covered and the exclusions to those resales, those were important issues in which there were differences between a number of jurisdictions. There were differences as to the rights charged and whether there were maximum levels that were imposed. Broadly speaking, royalty right of somewhere between 3 per cent to 5 per cent, but there were particularly in European countries that were subject to the EC Directive, maximum levels beyond which the royalty is not charged. There were differences as to the persons responsible for payment, and mode of administration of the right, there were differences as to the mode of collective administration that's adopted in most countries, whether it's compulsory or voluntary, or whether the jurisdiction in question is simply as a matter to individual enforcement.

142. Aziz Dieng, the leader of Subworking Group 3, indicated that his Working Group worked on two questions, first of all, the resale right as a factor in market structure. Secondly, the resale right as a factor in the economic rebalancing between the North and the South. The method used was very simple, indeed. It took the form of interviews with famous artists whose works were certainly successful, particularly African artists. The various views expressed reflected their use, and those views in no way reflect the opinions of WIPO nor the opinions of the author of the study. He elaborated on the challenges with respect to the African market and explained that there was a feeling among the artists he interviewed that the resale rights was theoretical. He noted that some artists thought that even if there was no market, so to speak, there was a need to take into account the fact that works travelled a lot and that the sales prices of works continued to rise as all statistics demonstrated that. He indicated that the money received in Africa helped tremendously with work and projects. On the other hand, some other artists say there was no market, which was not right. There was an emerging market which needed to be looked at to ascertain what was being developed. He observed increase in talent, distribution of work, prices of works as well as galleries. Successful artists were setting up their own foundations to support new talent. That helped bring about the emergence of the market. The word "justice" crops up time and again. One famous artist actually talked about the journey of one of his recent works. It was sold for \$16,000 Euros initially and it was then resold for \$26,000 Euros in Europe, which allowed the artist to receive money from the resale right. The same work of art was sold yet again in the United States of America for \$70,000 Euros, but in that instance, he didn't receive a penny, causing him a great source of frustration. The Chair added that that frustration was something that many African artists feel. He noted that the resale right would enable some kind of justice and help the artist to be associated with the commercial success of his work, but also to have some kind of traceability on the journey his work takes. He concluded that African artists were very much in favor of the resale right. The Chair also noted that for the continuation of the work, it would be interesting to create some kind of mapping of the art market, and by the same token, it would be also interesting to look at the emerging trends in Africa.

143. The Delegation of Zimbabwe speaking on behalf of the African Group thanked the Director of the Society of Graphic and Plastic Arts (ADAGP), for the preparation and

presentation of task force report on artist resale right in document SCCR/40/6. The Group also extended its gratitude to Professor Sam Ricketson for the preparation of document SCCR/40/7. The African Group reaffirmed the support from the Delegations of Senegal and Congo on for inclusion of artist royalty right as standing item on the general agenda of the SCCR. The Group noted that there were more than 80 countries across the world that had incorporated the artist resale royalty right of their legislation. The Group believed that that right is a moral and economic imperative for visual creators and provides equity. The first sale doctrine unnecessarily deprived visual artists and their heirs from a share of the resale value of their work. As such, the need for that subject as a permanent agenda item was long overdue. The African Group urged members to give serious consideration to the matter. It was established that Article 14.2 is a bilateral reciprocal arrangement that leave a significant number of visual artists vulnerable. Visual artists, unlike other copyright holders, such as authors and performing artists, were only able to produce singular original objects. The Group looked forward to future discussions on the topic and implored members to reach consensus on the inclusion of the subject as a standing agenda item of the SCCR.

144. The Delegation of the European Union reaffirmed support to the Delegations of Senegal and Congo for the proposal to include the resale right in the agenda. The Delegation thanked the representatives of the task force for the updates of the work carried out so far. The EU attached great importance to the resale right, which formed part of the EU Legal Framework for close to two decades and there was a dedicated legislation applicable and ample experiences to draw from in EU Member States. Against that background, the EU continued to give strong support for a discussion on the resale right at the SCCR. The Delegation recalled that the proposal to include the topic on the agenda of the SCCR was as far back as SCCR 27 and was tabled at SCCR 31. For that reason, the European Union and its Member States believed 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.

145. The Delegation of Japan noted that the artist resale right was stipulated in the Berne Convention as a non-mandatory provision. The Delegation noted that Japan was one of the countries which did not have artist resale right in national legislation. The Delegation was of the opinion that the fact-finding study conducted by the task force was useful for better understanding of the artist resale right. . The Delegation proposed to study the following points. First, the kind of transaction to be subject to the artist resale right, and how to attract the transaction if the transaction is not conducted at auction. Second, regarding the distribution, how to secure the transparency of the distribution and how to distribute the artist resale right fee if the rightsholder could not be identified. It called on the task force to research other aspects as well. The Delegation believed that the best cause should be not only on practical issues but also the necessity and accessibility of the artist resale right, such as reason for justification of returning a part of the resale right, resale benefit to the artist and why only visual art works are given a special right compared with other types of works. Moreover, from the point of the protection of artists, artists resale right was not only measure to protect artist under the copyright system. It would be preferable to discuss the protection system or measures for artists besides artist resale right at the SCCR. The Delegation noted that the broader study for the effective way to protect artists' rights under the copyright system was also important.

146. The Delegation of the United States of America thanked members of the task force on the artist resale royalty right for a comprehensive update on their work. The Delegation looked forward to continuing the discussion of the topic at the next session of the SCCR. The Delegation thanked the Chair for his excellent leadership in managing discussion at the meeting of the SCCR, but also for his substantive contribution to that agenda item.

147. The Delegation of Malawi thanked members of the task force for their comprehensive report on the resale right. The Delegation aligned itself with the statement made by the Delegation of Zimbabwe on behalf of the African Group. The Delegation reaffirmed support of the proposal submitted by the Delegations of Senegal and Congo to include the artist resale right as a standing agenda item of the SCCR. The Delegation recognized the role of visual artists and, therefore, gave great importance to the protection of visual art works as well as the welfare of the visual artists, and for that reason, the act of 2016 amid provisions on the resale right to ensure that the rights of visual artists were aligned with other categories of authors who continue to receive the royalties as long as their works were available in the market. It urged the Committee to consider prioritizing the artist resale right as a substantive item of the SCCR agenda. The Delegation thanked WIPO for having maintained the meeting in spite of the ongoing challenges and was thankful to the Secretariat for all its efforts. For the Delegation, the question of rights in the digital environment was very important especially with the pandemic. There had never been such mass exploitation of works online and disputes regarding the use of those works online. The Delegation called for a specific program of action and efforts to be continued to protect authors' rights in the digital environment and there should be flexibility with regard to exceptions to online education.

148. The Delegation of Gabon associated itself with the statement made by the Delegation of Zimbabwe on behalf of the African Group. The Delegation thanked members of the task force for the presentation of the reports. It expressed that it was following with keen interest the discussion on the resale right as Gabon had an artist resale royalty right in its legislation, but there were challenges in implementing it. The Delegation expressed that those interim studies highlighted the key problems that should be examined to provide guidance for future SCCR work on that particular item. The Delegation noted in particular that there was a certain demand from collective management organizations with regards to what was presented by the task force which was the setting up of an organized management framework following rules which would actually implement the artists resale royalty right.

149. The Delegation of Kenya aligned itself with the statement made by the Delegation of Zimbabwe on behalf of the African Group. The Delegation re-emphasized that the proposals of Senegal and Congo were representative of an innovative problem that bedevils the entire African continent and it was on the basis of that that the Delegation holistically supported those the proposal in mandating from the continent of Africa, and in recognition of the problems that compounded African visual artists. It noted that Kenya had recently modified its copyright law to include resale rights. However, of the interconnectedness of the entire world and the model exploitation of visual artistic works, the African visual artists had not been equitably rewarded in that regard. The Delegation added that most African visual artists had been given a raw deal, especially in developed world, as far as royalties of their visual artistic works were concerned. The Delegation proposed that that item of visual artistic works and royalties be elevated as soon as the circumstances permit to the substantive agenda items of the SCCR so that they could be substantively discussed with a view to moving forward in whichever direction that members would adopt in order to get an expanded form of protection in that area.

150. The Representative of the International Federation of Reproduction Rights Organizations (IFRRO) showed appreciation to Member States who supported the resale right, and expressed support for the proposal from the Delegations of Congo and Senegal to include the resale right in the Agenda of Future Work by the SCCR. IFRRO believed that the SCCR was the right forum to hear, learn, and discuss how creators could be better protected and remunerated through mechanisms such as the resale rights. Resale rights ensured artists received fair remuneration

when their art works are sold on the secondary art market, and was an issue of fairness to artists whose works were traded in the globalized art market. IFRRO had approved the resale right on the SCCR agenda since it was first raised. IFRRO strongly believed that the benefits of the resale right to visual artists deserved action at WIPO.

151. The Delegation of Botswana aligned itself with the statement made by the distinguished Delegation of Zimbabwe on behalf of the African Group. It thanked the Secretariat and the task force for the work carried out on the artist resale right. The Delegation thanked the Chair for the three presentations. The reports in the presentations indicated the importance of discussing the topic at an international level. The Delegation showed support for the proposal by the Delegations of Senegal and Congo for the Committee to prioritize adoption of the artist resale royalty right as a standing agenda item of the SCCR to allow engagement on the right at an international level, and hoped that the fortieth session of the Committee would make such a decision.

152. The Delegation of Colombia acknowledged the work of the task force on the artist resale royalty right. The Delegation supported the work contained in the document SCCR/40/6 submitted by the task force. It proposed that the situation outside of Europe be considered as well, especially Columbia, as there was an existing law with regards to resale right though it had not been implemented yet. The Delegation called for more areas of the world to be covered in the next study to enable practical application. It supported that the proposal should be more transparency in those markets. According to a report on exports in Colombia, Columbian artist's work had been exported to other markets such as the U.S. and Europe, but the artists and other stakeholders had not received the royalties due them.

153. The Representative of International Confederation of Societies of Authors and Composers (CISAC) thanked the distinguished delegates and experts for the comprehensive reports on the activity of the task force. Previously, CISAC created a report to develop a forum of experts to discuss and distinguish the practical elements of the artist resale right. CISAC was pleased to see that the work of the task force was progressing swiftly, addressing a number of topics that raise concern among some delegates at the later sessions of the Committee. CISAC was confident that the outcomes of that exercise would bring added value to the discussions in the Committee and would shed more light on the different aspects of that issue. CISAC indicated that 2020 was the commemoration of 100 years since the resale right was implemented for the first time, in France in 1920, and the need for the right became clear when a collector made a significant amount of money from the sale of painting, while the family of the artist was living in extreme poverty. Since then, much progress had been made. The resale right had proven to be an important tool to foster creativity in visual arts and its implementation was advancing across the world. CISAC observed that more than 80 countries, including all EU Member States had resale rights legislation in place. In many other countries, possible implementation of the resale right was under discussion, but there was still a long way to go to ensure that all artists without discrimination received a fair share in the economic success of their works, and indeed the absence of the right in countries representing major art markets, prevents visual artists worldwide from fully benefiting from the work, since recognition was required under international law. CISAC noted if the country where the art work is sold or the artist's own country do not recognize the right, the artist would not benefit from the right. And for that reason, it was important to ensure the effective harmonization of the right and secure its availability around the world without discrimination and that would guarantee artists all around the world, including native artists, have a way of sharing in the wealth created by their art, without having to rely on trust or charity of art market middlemen. CISAC was confident that the findings of the task force would dispel the doubts raised by some of the delegates and would

encourage Member States to start as soon as possible substantive discussions on the proposal of Senegal and Congo towards a meaningful outcome.

154. The Representative of the Knowledge Ecology International (KEI) echoed the Delegation of the United States of America's comment. KEI supported the proposal tabled by the Delegations of Senegal and Congo to include the artists resale right so long as the right was for physical works of art. The study by the task force was particularly useful. KEI believed the artist resale right for physical works of art was an appropriate area for norm setting in the SCCR. The proposal would benefit artists and provide a modest redistribution of income from the collectors and dealers, to artists, particularly those artists who are at a point in their lives with a weak bargaining position as with regard to the prices they charged. KEI observed that there was a strong cross-border trade in physical works of art and work created in Africa, Asia, or Latin America may be sold in London, Paris, Hong Kong, or New York for example. KEI noted that it did not support a global norm on resale right in reproduction or copies, and that if WIPO wanted to achieve progress, it would be ideal to focus on physical works. The Representative stated that WIPO seemed to be more concerned about the corporate right owners than the artists themselves, but resale right was an example where WIPO could do something for artists and address a socially awkward outcome where artists do not benefit fairly from the commercialization of an article of art as its value becomes better understood. A UN Treaty on the topic, if limited to physical works of art, would be ideal.

155. The Representative of the International Authors Forum (IAF) was of the view that in the digital environment, creators' works were used more than ever. The Representative hoped that analysis of Copyright Related to the Digital Environment proposed by GRULAC could holistically consider the impact of the digital environment on authors and, in particular, the impact of business models in streaming on creators. The Representative thanked GRULAC for its proposal on that important area of work and hope that issue will remain on the agenda. While the works of authors across the world were now being accessed online more than ever before, creators were not always fairly remunerated for such access. Screenwriters, for example, often remained unpaid for the use of their work online despite audio-visual works generating significant revenues for on-demand services. It was often difficult to resolve that lack of remuneration, given the huge inequality in the negotiating relationship between producer and screenwriter. Authors' organizations such as the Federation of Screenwriters in Europe (FSE) and the Federation of European Film Directors (FERA) had called for the need for an additional right as well as better creator contracts to resolve that. Therefore, authors urgently needed remuneration rights that reflected the myriad uses of their works in the digital age. A non-negotiable Right to Remuneration (URR) for online uses would ensure that authors were properly rewarded for their contribution to the vast libraries of work now being made available by on-demand streaming services.

156. The Representative of the International Authors Forum (IAF) was of the view that the Artist's Resale Right (ARR), through its global application, not only helped authors receive fair payment for works that would be sold before its value was known to them but could also be a means of fairness to artists when their works were resold into an international market. ARR provided a fair contribution to artists from the proceeds of ongoing sales in the global art market, as well as an incentive to continue creating. The Representative expressed its thanks and support to the proposal from the Delegations of Senegal and Congo to include ARR as a standing item on the future agenda of the SCCR. It was important that artists in all countries could benefit from the resale of their creations. That was a matter of equity with how creators of other works are respected and rewarded for the continued enjoyment of their creation. ARR could comprise a significant part of an artist's income. A survey of artists in the UK found that

81 per cent spent payments from ARR on their living expenses (DACs, 2016. *Ten Years of the Artist's Resale Right: Giving artists their fair share*). IAF strongly supported the inclusion of ARR on the SCCR agenda and the progress of the Resale Right task force at WIPO.

157. The Representative of the International Federation of Journalists (IFJ) stated that it strongly supported the proposal to place the resale right on the agenda of that Committee. The nature of the art market and the significant number of member states that made no provision for artists to share in the increasing value of their work as it is sold on and on made that a case in which a binding international instrument was merited. Including that item would go some way to fulfilling WIPO's mission to facilitate a "system that enables innovation and creativity for the benefit of all."

158. The Chair asked the remaining speakers, NGOs and organizations to send their contributions in writing due to lack of time and other technical challenges. He thanked participants for their indulgence and understanding with regard to the matter. The Chair introduced the third issue of the agenda under other matters, addressing the strengthening of the protection afforded to stage directors at the international level. The proposal was put forward by the Delegation of the Russian Federation at the thirty-fifth session of the Committee and was reflected in document SCCR/35/8. During the thirty-sixth session, the Committee asked the Secretariat to initiate a study on the matter. The modalities for the study were set forth in document SCCR/37/3. The Chair stated that document SCCR/40/5, a Progress report on the study by the researchers, was available on the website.

Rights of Theater Directors

159. Professor Ysolde Gendreau indicated that drafting had begun despite the fact that it had become a little bit more complicated because access to libraries had turned out to be impossible for many months. One of the major challenges with drafting was the inclusion of the interviews in the materials because some of them, obviously, reflected a very structured approach to the issue, while some others fell into the category of authors or creators looking for payment just like any other category of authors and performers. Professor Gendreau gave examples on two theaters that had experienced different impacts on their seating plans as a result of the COVID-19 pandemic. For one of them, with a regular capacity of 468, it had reduced to 120. The another one with a seating capacity of 840, had gone down to 180. Surveys conducted by the Quebec Council of Theaters after the lockdown begun reveal catastrophic results. 98 per cent of the members actually lost fees; 87 per cent of performances were canceled, that was the majority of them. Contracts were violated, persons were dismissed, the international tours of the circus company called *The 7 Fingers* that represented 90 per cent of its income were canceled, unfortunately. New offerings of shorter performances without any intermissions or bar service or cloakroom service ensued. Like other establishments the theater collaborated with others on new types of projects, looking at other types of collaboration within Montreal. The state been turned into a film set and found ways to monetize instead of offering performances for free in order to do justice to all of the creators, all of those artists and actors and all the people that worked behind the scenes and who did a great deal of work. When activities resume on a more regular basis, there would be conflicting agendas and it was feared that people would prefer to work for film and television productions rather than the theater sector because they paid more than stage productions, so that was one thing to bear in mind. Tours would also become a bit more complicated to plan because countries would not open their borders at the same time and in the same way, and would the public interest for theater still hold? Some audiences were quite mature, and vulnerable when it came to COVID-19. What

about school groups? They were very important for theaters. Would schools stay with classroom activities as opposed to outings to theaters? Public subsidies were also an objective concern because state finances were being majorly impacted. It was not clear as to whether the cultural sector would obtain subsidies or not. Artists would prefer to give to the health or community sector rather than the artistic sector. Theaters have acquired skills with technology and it remains to be seen to what extent they would want to continue using technology when it's not compulsory as it was.

160. Victoria Savina, Associate Professor of Russian State Academy of Intellectual Property thanked the Committee for the possibility to speak and give an update on the study of protecting the rights of stage directors. As of the November 1, 2020, Russian researchers analyzed legislations protecting the rights of stage directors in 11 countries, namely Algeria, Armenia, Germany, Jordan, Italy, Kazakhstan, Kyrgyzstan Republic of Belarus, Russian Federation, Senegal, and also France. The list of countries and also the parameters used to analyze the legislation was determined in keeping with what was agreed on the April 5, 2019 at a session of the Committee in the interim report on the implementation of the study. As part of the validation of the study with the consent of WIPO, the Russian State Academy looked at examples of practical cases to manage rights for theaters performances in Russia and conducted interviews with theater directors in Italy, Russia, Belarus, and Kyrgyzstan. The analysis of national laws, practical examples, and materials from the interview were based on a previous analysis conducted during the first stage of the study. The study analyzed the international legal regulation of the rights of stage directors and pointed out that the international treaties on copyright and related rights did not contain any clear references to protecting rights of stage directors. Sometimes the references to the rights of stage directors could be found in national legislation or in case law. The absence of professional translations of the current versions of some national legislations sometimes made it difficult to ascertain the significance or scope of laws. Despite that, it could be concluded that the rights of stage directors in many countries of the world did not have a special legal regulation and were classified as object of copyright or related law on the basis of existing legal tradition. That would require certain harmonization at the international level.

161. Anton Gurko, expert of the Russian State Academy of Intellectual Property, noted that the COVID-19 pandemic had a major impact on the creative industries on the whole, and the activities of theaters in particular in Russia and in many other countries of the world, a national lockdown was introduced, mass events were banned, and theaters were not able to work for a long time. Currently, their activities had resumed but with limited seating capacities to observe social distancing and security measures causing the major impact on the income of the theater industry. However, the pandemic had increased the interest in theater performances, films, music, literature and other copyright and related rights objects. There was a major increase in the access opportunities for those through online streaming and there was a major increase in the use of objects of copyright and related rights online. There had been an increase in the number of recordings of theater performances in the digital sphere. There was also the convergence of theater performances with audio visual works. However, as established during the course of the evaluation, in a number of countries the rights of stage and cinema directors were protected in different ways as related rights and copyrights accordingly. Due to the emergence of theatrical performances and audiovisual works in the context of digitalization, with respect due to the pandemic, the expert noted that this situation was not fully justifiable. Since the classification of the theatrical performances as object of copyright and related rights was largely determined by established legal traditions in different jurisdictions, addressing that issue could be done by concluding a separate international treaty or by introducing special standards on the rights of stage directors to the Berne Convention or WIPO Copyright Treaty. .

162. The Delegation of the Russian Federation speaking on behalf of CACEEC appreciated the work done under the study on staging directors. The Delegation thanked Professor Ysolde and Anton Sergo for presenting the interim results and an overview of the study. The Group hoped that in the near future that they would overcome the challenges linked with the restrictions due to COVID-19 and would be able to complete the study by the following session of the Committee. CACEEC was delighted to note that the study was done comprehensively, and it touched upon a large volume of information, more than was initially proposed. It also looked at the legal system and realities of law enforcement and the experience of players, includes interviews with directors, lawyers, CMOs and professional associations. The Group underscored the importance of the study for the topic already at the stage of the game, it was clear that national approaches differ when it comes to the definition of the rights of stage directors. CACEEC looked forward to constructive work along those lines to develop an international instrument which would allow the Committee to harmonize such approaches and to raise the international protection to a new level.

Public Lending Rights

163. The Delegation of Sierra Leone congratulated the Chair on his election to the SCCR and expressed condolences of the Secretariat on passing of WIPO senior counselor Carole Croella. The Delegation together with the Delegations of Panama and Malawi was pleased to present a proposal for a study on Public Lending Rights (PLR) to be undertaken by WIPO. The Delegation noted that the people who worked in the creative industries in Africa, in Asia, in Latin America, and all around the world to produce books of literature and related works of rights were often deprived of a financial reward for the work. That was clearly a disincentive. Our societies and economies needed to incentivize and develop our cultures by supporting and promoting literature that promoted the use of our local languages, our traditions, and our cultures. Properly rewarding those engaged in that exercise of humanity was important. The Delegation explained that PLR was part of the ecosystem that sustained the creative industries. The Delegation hoped that the study would create awareness and show how it could be implemented as well as how it could benefit local creators. There was a great interest in PLR among African Member States such as the Delegations of Burkina Faso, Malawi, Tanzania, and Zimbabwe who were making steps to have PLR in legislation. The African Intellectual Property Association (ARIPO) included the public lending right as part of the authors exclusive rights the previous year. The SCCR had a number of items under consideration on the agenda. A proposal called for a study to be carried out to identify how countries could benefit from introducing PLR. The Delegation indicated that it did not intend for PLR to be added as a substantive item for discussion as well as a legal instrument or a treaty under the topic. The Delegation indicated that its co-objective is for countries, particularly developing countries, to learn about PLR so that the authors would be remunerated for the free lending of their books, and stated that the study was a standalone project that would be carried out by WIPO and presented to Member States when it was ready. There was therefore no risk of burdening the agenda of the SCCR. The study would provide only an opportunity to learn more about an important element of the ecosystem that supported the creative industries across the world. The Committee was established over 20 years ago with a mandate, to consider emerging countries in the field of copyright and related rights. The study on public landing right would contribute to fulfilling the mandate. The Delegation looked forward to developing the proposal and to continued conversations with Member States and other stakeholders.

164. The Delegation of Panama expressed support for the proposal for a study on different experiences at the global level on the PLR. The PLR was a mechanism through which

governments aimed to support authors, visual artists, and other creators in a balance with the value provided by libraries and other interested parties to society by spreading knowledge and cultural linguistic and innovative expressions. During that time of a pandemic, but also day to day, where individual direct access to text and other materials was difficult, if not impossible, the creators and their public throughout the world were in a critical situation as the traditional way of offering expressions had changed. As such, there was less income to sustain the activities of all the actors that were necessary for creation and the spread of that creation. It was no different in Panama. Creators and authors and those who wanted to spread ideas saw the economic livelihoods threatened and found themselves in a very difficult situation. A PLR regime that was properly structured could be an important encouragement for that activity to find a balance that would ensure a descent income for creators and authors who were not always large publishing houses or multinationals, and the objective of promoting the transmission of knowledge, thought, and culture was a goal that could benefit in an important way with a study on the PLR, and experiences in how it was applied, pros and cons. Presently, 35 countries had PLR systems. They had different levels of development, different traditions, and different cultures. With 35 different legal systems, there were a great range of experiences from which to learn and could also learn from the experiences of jurisdictions that had opted for different systems from the PLR. The Delegation proposed that a basic study on different ways of implementing the PLR would be a good idea. From that, we could draw on experiences and lessons learned from the different approaches to PLR and to find options suited to the particular features of each country. Panama hoped that the discussion would mean that at the following session, there could be consensus on setting underway the proposed study.

165. The Delegation of Malawi supported a proposal for a study focused on the PLR systems around the world and how they could benefit creators as well as having an effective system. The Delegation recognized the importance of PLR systems for the benefit of the authors and to that end, Malawi had the implementation of the PLR. The Delegation noted that creators are an entry point for the economic value chain of the creative sector which included print and other media in the country. According to a study conducted by Malawi in 2013, with the support of the WIPO, the creative sector contributed 3.46 per cent to the national GDP which supported areas such as construction and manufacturing. That testified the need for creativity to be nurtured and PLR was a significant element that could force creativity. The Delegation considered PLR as a source of vital financial support for the authors, more especially in that age when income from publishing was falling largely due to the digital technology. The Delegation noted in Malawi, authors who were not among best sellers, the PLR would be the biggest source of income because their published books which were not sold on the market but were still being lent out by libraries would be entitled to remuneration. Such a study would therefore be necessary to identify the benefits that authors and other rightsholders gained from participating in PLR schemes. It would also facilitate into a production of the PLR in the world particularly in Africa and need to further identify issues to be first in setting up PLR in developing countries and identifying the best practices in working with other cultural agencies such as libraries operating in PLR.

166. The Delegation of the Russian Federation speaking on behalf of CACEEC thanked the Delegation of Sierra Leone for carrying out the initiative on focusing on the PLR. The Delegation thanked the co-sponsors and the delegations who had supported the proposal. The Group noticed a high degree of interest in it and believed that the study would help to acquaint the committee with new trends in the area. CACEEC did not object to the carrying out of the study and to getting to know the practice of Member States with regards to the PLR and receiving money from the public and other libraries. The Delegation stressed the importance of the subject.

167. The Delegation of the United Kingdom speaking on behalf of Group B thanked the Delegations of Sierra Leone, Malawi and Panama for their proposal on a scoping study contained in document SCCR/40/3. Gathering information on the implementation of author's rights was an important step in ensuring that policymaking was supported by evidence. Group B supported in principle the commissioning of a scoping which could be beneficial for all Member States. The Delegation looked forward to better understanding the extent of such potential study in that area. The Delegation noted however that the proposal had been brought on to the agenda as part of other matters, an agenda item which already included several topics for discussion, and as a result, Group B recommended giving priority at that point of the discussion on those more mature subjects under that agenda item.

168. The Delegation of the European Union stated that it had listened with interest to the presentation that was made on the proposal by the Delegations of Sierra Leone, Panama and Malawi on the scoping study on PLR. The Delegation called for more time for consideration to better understand its scope ahead of the following session.

169. The Delegation of Zimbabwe speaking on behalf of the African Group thanked the Delegations of Malawi, Sierra Leone and Panama for the proposal contained in SCCR 40/3/Rev. 2. The Group noted that PLR is the right of authors to receive payments for books lent free of charge by public and other libraries, and in light of the COVID-19 pandemic, shortened timeframe and truncated agenda the group had insufficient time to consider the proposal and was still carrying out internal consultations and looked forward to further discussion on that proposal at SCCR 41.

170. The Delegation of Botswana aligned itself with the statement made by the Delegation of Zimbabwe on behalf of the African Group. The Delegation thanked the Delegations of Sierra Leone, Panama and Malawi for the proposal for a study focused on public lending right in the agenda and future work of the standing committee on copyright and related rights of the WIPO contained in document SCCR/40/3/Rev. 2. Public lending rights was an important topic for countries to understand as they dealt with copyright issues. The Delegation stated that it would appreciate gaining more knowledge on that topic, how it was provided for in the laws of various countries, its administration and the cumulative benefit for both the rightsholders and the users. For that reason, and at a high level, the Delegation would appreciate a study that would give that Committee and its members a global view of the application of the PLR. Notwithstanding, the Delegation was still considering the proposal, bearing in mind the already existing work before the Committee particularly issues under the other matters agenda item.

171. The Delegation of Serbia expressed support for the proposal submitted by the Delegations of Sierra Leone, Panama and Malawi. The Delegation was of the opinion that the system of public lending rights presented a good mechanism that enabled the writers, translators, visual artists, photographers, and other rightsholders to get adequate remuneration for the use of their works by its lending in the libraries. PLR had the principle of no use without payment by which the authors were entitled to receive income from any of their work. PLR provided support to the authors which was important to sustain their creative work and was the basis for their creative industries. The Delegation believed that the proposal for the PLR study was important, that way all the countries interested in the introduction of that system could get the same information about practical questions, such as the collection of remuneration, distribution to the authors, and the role of libraries and the government in the implementation of PLR system. The Delegation proposed that WIPO should provide technical support to countries in setting up such systems.

172. The Delegation of Japan believed that the sharing of information regarding public lending right would be important and useful for in order to analyze the issue. The Delegation commended the Delegations of Sierra Leone, Panama, and Malawi for appropriating the study. The Delegation suggested that it should be policy neutral and focused only on fact-finding research like the background or the reason for the implementation of PLR in each Member State. Furthermore, as an objective fact-finding study, it would be desirable to research the possibility of negative impact or the reason for not implementing the PLR in some Member States. The Delegation reiterated that the priority should be given to more mature subjects as the Delegation of the United Kingdom had stated on behalf of Group B.

173. The Representative of the International Authors Forum (IAF) stated that it represented authors from the text, screenwriting and visual arts sectors and their interests in copyright. Its members are over 70 organizations representing well over 700,000 authors worldwide. IAF campaigned for authors in a variety of areas including fair contracts, remuneration rights and copyright issues. Article 27 of the Universal Declaration of Human Rights stated that 'everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits'. Therefore, the ability of professional authors everywhere to make a living was vital if that participation in culture was to proliferate across the world. Article 27 further stated that everyone 'has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he [or she] is the author. Ultimately, it was authors' works that were being considered in the matters discussed at the WIPO. There were individual authors whose rights were involved in all countries. Those rights had to be given primary consideration to ensure the continued creation of the culture we value today. Authors had to be rewarded for their contribution to society and maintain rights to control how their work is used. In recent years, there had been growing pressure to devalue copyright and the mechanisms by which authors are remunerated for their work. That had been argued on the basis that the author would be somehow rewarded otherwise, having gone unpaid for their work or it is simply proposed because this is an easy cost to cut. That had gone without consideration for the long-term consequences of not compensating the author and comes at a time when multiple studies and surveys from around the world have found that the earnings of authors are in significant decline. It was more important than ever that there was recognition of the impact those policies could have on authors and a nation's culture and find ways to ensure that the work of WIPO helps authors share in the global growth of creative industries in the digital age. Authors around the world played an essential role in ensuring the prosperity of their societies. That made it imperative that they had a conducive environment in which to work, are valued for their diverse creations, retained the right to make a decent living from their work, and were supported by a robust copyright framework. Yet, numerous studies and surveys from developed countries across the world had found that the earnings of authors were in significant decline, despite international growth in the creative industries that make use of their works. There was an urgent need for a better understanding of the issues authors worldwide currently face when it comes to earning a creative living. IAF had drawn together a report incorporating research into the current working conditions for authors and needs the support of WIPO to tackle the challenges identified. In many of those countries, authors had seen an overall decline in their earnings in recent years. In the UK, authors on average saw a 42 per cent decline in earnings from 2005 to 2017 while similarly the average author in the US saw their earnings decline by 42 per cent from 2009. In some cases, the average reported decline of earnings was sudden; in Canada authors saw a 27 per cent decline in earnings between 2014 and 2017 alone. Studies often found that decline to be a result of profits being disproportionately passed on to authors, as in the US where the growing dominance of Amazon had put pressure on publishers. The impact of digitization was

varied; for some it squeezed the market and increased the demand to work for free, while for others it was a source of opportunity to reach new audiences. In some countries, globalization had had an impact on the ability of authors to create in their own language where their country takes in culture from around the world but has few opportunities for authors to establish and share their work in return. It was hoped that opportunities could be taken to reverse the decline in authors' incomes and better remuneration rights can be established that ensure authors' earnings reflect the way their work is enjoyed. Potential measures for that included rights such as the PLR), ARR, also known as *droit de suite*, and a remuneration rights for online uses of work. Understanding the issue of authors' earnings will be an ongoing challenge, in many countries there are no in-depth studies on authors' earnings, and far more can be done to understand the international situation of the author. As the COVID-19 pandemic had an ongoing effect around the world there will be even more challenges to contend with. The Representative hoped that the IAF study on authors' earnings would help to illustrate the need for action to ensure authors in every country could sustainably create and contribute to diverse cultures around the world. The IAF report, *Creating a Living: Challenges for Authors' Incomes*, was available in English, French and Spanish.

174. The Representative of the Authors' Licensing and Collecting Society (ALCS) stated that it supported the proposal by the Delegations of Sierra Leone, Panama and Malawi for a 'Proposal for a Study Focused on Public Lending Right in the Agenda and Future Work of the Standing Committee on Copyright and Related Rights of the World Intellectual Property Organization (WIPO) put forward at SCCR 40. ALCS was a not-for-profit organization, set up in 1977 and owned by its writer members. It collected money due for licensed secondary uses of authors' work and currently has over 100,000 members. Under its umbrella, ALCS represented a range of creators including audio-visual, journalists and authors, all of whom can benefit from Public Lending Right (PLR) and as a result ALCS strongly supports the call for a study into PLR. PLR was a way to provide authors and creators with fair monetary remuneration for their work through the public library system. It had been an issue that ALCS had campaigned for and continued to advocate, as the scheme ensures that funds reach a wide range of authors beyond top-sellers, which was vitally important in encouraging diversity in writing. The proposal contained in document SCCR/40/3 identified PLR as a simple, low-cost legal right wherein governments support authors, upholding principles of "no use without payment". The experience of authors within the UK system was strongly positive: when PLR funds were distributed to authors it was welcomed with an outpouring of support. In the UK, PLR supported the author at no cost to either readers or libraries through government compensation. That was because the UK copyright regime struck an effective balance in law with its application of licensing and limited exceptions for use of original content, ensuring access for users as well as appropriate remuneration for authors. That enabled, among other things, exceptions for libraries and educational establishments which allowed lower-cost access to works used for education while ensuring that educational writers still made a living writing the books used in our schools and exported abroad. PLR in the UK had been widely supported from its establishment in 1979 to the most recent amendments of the scheme through the Digital Economy Act 2017, where a coalition of authors, booksellers, libraries and publishers worked together to ensure more authors' works were included in the scheme. In 2019, authors celebrated the 40th anniversary of the 1979 PLR Act, paying tribute to those who campaigned for the establishment of PLR at an event at the British Library. ALCS had recently made several submissions to various Government departments in the UK on the issue of PLR, including the HM Treasury and Department for Digital, Culture, Media and Sport, to encourage the Government to ensure adequate funding is available for this scheme. The system of PLR had worked best in the UK with centralized support from the Government. The current circumstances of COVID-19 had made it a particularly difficult time for the creative industry, with authors' incomes feeling the

impact. The outbreak had exacerbated an ongoing problem, with ALCS research finding there had been a 42 per cent fall in authors' income since 2005 despite the creative industries being a sector that has seen consistent growth. The All Party Parliamentary Writers Group (a cross-party group of Members of Parliament and Peers) released a report into authors' earnings in 2018, analyzing in more depth the steep decline in earnings experienced by those working in the creative sector in the UK. The study of how PLR could function in countries, if implemented, would be a simple and adaptable way in which to offer immediate support to those creators struggling during this unprecedented time. On the outline of the study set out in document SCCR/40/3, the Representative supported the rationale and principles put forward, including but not limited to the suggestion that the study should cover areas of operation and benefits for authors. It was good to see that the proposal also suggested a study that covered the issues faced in setting up PLR in a developing country for authors of written works and benefits for a nation's cultural and linguistic support, as it was our view that PLR had significant potential for supporting authors in continuing their contribution to culture.

175. The Representative of the African Regional Intellectual Property Organization (ARIPO) stated that it looked forward to having constructive and fruitful engagements on all issues to be discussed in this fortieth session of the SCCR. ARIPO supported the proposal made by the Delegations of Sierra Leone, Malawi and Panama to have a study focused on Public Lending Rights (PLR) and include PLR in the future agenda items and work of the Committee. Though there were 35 countries across the world with PLR systems, the study could look into the reasons behind the slow uptake of the public lending rights scheme or systems and proffer sustainable and suitable approach for ARIPO Member States, Africa and the rest of the continent to consider establishing PLR schemes or systems. It was worth noting that among the ARIPO Member States, Tanzania Zanzibar had introduced the PLR through the Copyright (Procedures for Rent or Reproduction of Copyright Works) Regulations 2018 published in the Legal Supplement Part 11 to the Zanzibar Government Gazette Vol CXXVII, No. 6775C of September 23, 2019, under Part III of the Regulations s.12 to s.15. The Regulations provide on PLR scheme currently given to works written in the national language "Kiswahili." Malawi had also a provision on PLR in their Copyright Law, and they are waiting for the Regulations for implementation. The study could also probe on which basis or approach the PLR should be introduced or improved for the countries who already have such a scheme. The study should take into consideration the different environments in the domestic and international frameworks and whether or not it has a significant benefit for socio-cultural support, equitable remunerations for rightsholders, promoting creativity, supporting linguistic, local culture and local writers, dissemination of information, and technological development. Worth considering was the slump in global collection of royalties as reported by due to the COVID-19 pandemic which had severely affected creative industries and the globe at large. The report highlighted that based on current information provided by societies, in 2020 an overall global decline is estimated between 20 per cent to 35 per cent, thus, Euro, 2.0 to 3.5 billion will be lost due to the pandemic. Furthermore, IFRRO undertook a survey with its members that showed how COVID-19 had affected the licensing activities and how responsive they were. It was worth noting also that during the pandemic many people were utilizing the eBooks, e-library services and this calls for the Governments to support the libraries, the authors, visual artist and rights holders who enabled the public to receive the knowledge from the books. ARIPO assures its Member States, and partners of its continued support for the development of the copyright and creative sector and will continue to support initiatives that are geared towards improving the livelihood of creators and rightsholders with the view to promoting balanced IP system that takes into account the interest of developing and least developed countries. ARIPO encouraged the ARIPO Member States to support and contribute constructively to the proposal made by the Delegations of Sierra Leone, Malawi, and Panama.

176. The Representative of the Knowledge Ecology International (KEI) stated that public lending rights, which were essentially a tax on libraries, may be appropriate in some countries, but are controversial and not an area for harmonization. That said, if countries wanted to adopt laws on the public lending rights, they should ensure that revenues were solely distributed to the original and still living authors, regardless of contracts or who now owns the copyrights for works, to ensure the money collected benefits those who actually created the works, as opposed to the corporate owners of rights.

177. The Representative of the International Federation of Journalists (IFJ) stressed the importance of PLR to book authors. It should obviously be available to authors in every country for book lending in every country. The system in my own country, the UK, functioned well and was an important source of income to journalists who write or illustrate books: it offered an example that other countries could follow.

178. The Representative of Communia expressed its discontentment at the unequal treatment of “Other Matters” and “Limitations and Exceptions” at that SCCR. The issues discussed under Other Matters (Agenda Item 8) were treated separately and participants were given the possibility to make a statement for each of those issues. By contrast, limitations and exceptions for libraries and archives (Agenda item 6) and limitations and exceptions for educational and research institutions and for persons with other disabilities (agenda item 7) were bundled together, with participants only able to make one statement on both agenda items and the report of the Secretariat. In the past, the Committee had given the floor to participants to pose questions and make comments related to reports prepared by the Secretariat. That arrangement meant that although two days were allocated for limitations and exceptions, only one day was used for that important item. At a time when other United Nations agencies had shown their readiness to act to address the education, research and heritage crisis, there was a risk of appearing irrelevant by limiting discussion on those topics, rather than seizing the opportunities already available on the agenda. While recognizing the complexity of planning meetings in those extraordinary times, the Representative trusted the Committee could learn from that in future.

179. The Representative of the Federazione Unitaria Italiana Scrittori (FUIS) stated that it was a member of the IAF (International Authors Forum), which also participated in that Committee, shared its aims and supports its initiatives. FUIS congratulated the chair on his appointment and shared its sincere condolences for the passing of Carole Croella, who has been of great assistance in the representation of authors at WIPO. FUIS supported the ‘Proposal for a Study Focused on Public Lending Right’ put forward by the Delegations of Sierra Leone, Panama and Malawi. FUIS supported the introduction of PLR in the world as a vital source of income for authors and an incentive for authors to keep creating books to supply libraries. The Representative stated that those in Europe already enjoyed that right and of course would be delighted if that benefit was able to be enjoyed by as many authors in the world as possible, as a fair recognition of authors’ input into the vital service that libraries provide, giving access to those who would otherwise be unable to access literature or communities in which books and other materials of which libraries are the custodians, are held, valued and made available. PLR enabled local authors to thrive and encouraged the development of their work at a local, inclusive level, vitally, in their own languages. Therefore, the adoption of PLR in as many countries as possible, and its continuous improvement where it already existed, which was facilitated by discussion and exchange of challenges and experiences through international efforts such as PLR International, is something that FUIS strongly endorsed. A study such as the one proposed by the Delegations of Sierra Leone, Panama and Malawi would therefore be a

crucial and positive initiative.

180. The Chair called on other delegations to send in their contributions in writing due to time constraints. The Chair pointed out that it would postpone any decision until following next session in order to respect the commitment to the regional coordinators not to take any decision whether of form or substance at the session of the Committee.

181. The Secretariat read out the summary of the Chair (document SCCR/40/summary by the chair), of which the text had already been sent to the Coordinators of the Regional Group.

182. The Chair invited Regional Coordinators to make closing statements.

AGENDA ITEM 9: CLOSING OF THE SESSION

183. The Delegation of Zimbabwe speaking on behalf of the African Group thanked the Chair for guiding the deliberations in an efficient and equitable manner. The Group expressed gratitude to the Secretariat for providing a conducive atmosphere to conduct deliberations. In spite of the COVID-19 pandemic restrictions, which had disrupted our normal way of life, the Committee had been able to continue the work of the organization and more importantly, the SCCR. Regrettably, the African Group bemoaned that due to the COVID-19 pandemic, no substantive negotiations could take place, despite the challenges, the Group was pleased with the recap and discussions in document SCCR/39/7 on the protection of broadcasting organizations. The African Group looked forward to further discussions at SCCR 41. The Group took note of the report on regional seminars and international conference, and the presentation given by the Secretariat. The African Group engaged actively on the topic and looked forward to further discussions at the following session of the SCCR. The Group also thanked the Secretariat for the updates on the agenda items on resale right, copyright in the digital environment, and rights of theater directors. The Group also noted a proposal for the study on the public lending right. The African Group expressed readiness to carry the work of the organization forward and constructively engage in future SCCR sessions.

184. The Delegation of the United Kingdom speaking on behalf of Group B acknowledged the efforts of the Chair and Vice-Chair for their able leadership and the Secretariat for the hard work, as well as interpreters, conference services, and IT technicians for continued professionalism and expertise working in a new hybrid format. Group B indicated that it remained committed to restarting substantive discussions as soon as it was practically possible. The session did not only carry out useful discussions on copyright and related rights, but also provided useful insight into the new ways of working after the current circumstances. The Group welcomed the opportunity to stake stock of the work within the Committee and looked forward to the following session in 2021. Group B reaffirmed its full support and constructive spirit to continue fruitful discussions taking place in the framework of that Committee.

185. The Delegation of Panama speaking on behalf of GRULAC recognized the efforts of the Chair, Vice-Chair and Secretariat in organizing the session. Despite the meeting being held under special circumstances due to the impact of the COVID-19 pandemic, GRULAC participated enthusiastically on the briefing of the protection of broadcasting organizations. GRULAC believed that the exchange of views would allow members to reflect on the various issues contained in the Chair's text, and thus to reach a consensus that would lead to the convening of a diplomatic conference to be able to adopt the treaty on the protection of broadcasting organizations and thus comply with the decision of the fifty-ninth General

Assembly. With respect to exceptions and limitations to copyright and related rights, GRULAC hoped that by the following session, there would be more detailed information on the different thematic areas covered by the regional seminars and the international conference. On people with disabilities, GRULAC believed there was still room for more detailed discussion on the subject which would allow for the successful results of the Marrakesh Treaty to be replicated. GRULAC maintained the interest in the study of digital music services, particularly in the proposed study on digital music services. In conclusion, GRULAC thanked delegations that had presented proposals. There was no doubt that they would enrich discussions. GRULAC also thanked the interpreters for doing an exceptional job facing and overcoming the technological challenges. GRULAC thanked the conference services and the technology team.

186. The Delegation of Bangladesh speaking on behalf of the Asia and Pacific Group (APG) commended the Chair for the able leadership in enabling the meeting to be successful in extreme circumstances. The Delegation also thanked the Vice-Chair and regional groups for their contributions during the session. APG took note of the recap given by the Secretariat of SCCR/39/7 and related text on definitions, object of production and rights to be granted and other issues, and of the general comments made by the delegations. The Group looked forward to continued discussions for a common understanding on fundamental issues for progress towards the diplomatic conference on a broadcasting treaty. APG believed limitations for archives and libraries as well as persons with other disabilities were particularly important to individuals and correct development of societies. Taking note of the important regional seminars and international components, (SCCR 40/2) the presentation given by the Secretariat and the statements made by the delegations, APG reiterated its commitment to continuing discussions on those important issues: the emerging areas of artist resale rights, copyright in digital environments, and theater directors' rights. The APG looked forward to continuing discussion on those new areas. APG thanked the Secretariat, conference services management, interpreters, and technical team for their excellent preparation and cooperation in conducting the meeting.

187. The Delegation of China thanked the Chair for his effective leadership. The Delegation also commended the Director General, Secretariat, technicians and interpreters for their hard work. It also recognized the unremitting efforts made on the part of Member States and the regional coordinators to promote positive progress on various agenda items. The Delegation continued to adopt a constructive attitude and engage proactively in future discussions.

188. The Deputy Director General recognized the remarkable way in which meetings had been conducted within the unparalleled session of the Committee. The Deputy Director General expressed delight at Daren Tang being at the helm of the organization. The Deputy Director General bemoaned the brutal death of Hugo Contreras and the untimely death of Carole Croella. Both remarkable colleagues were a great loss to the WIPO family as they both played an integral role in the advancement of the work of WIPO. The Deputy Director General expressed gratitude to the Chair, the Member States, and NGOs who took part in the work of that session despite the challenges. The Deputy Director General also thanked the WIPO team, colleagues from the conference services, interpreters and other stakeholders who worked tirelessly to prepare the work of the fortieth session of the Committee.

189. The Chair thanked all the colleagues at WIPO who made the session possible, despite the current global health circumstances. He acknowledged excellent interpreters as well as the conference services as they perfectly adapted to the technical challenges of the hybrid format. The Chair also acknowledged other colleagues who help behind the scenes, he thanked participants for their patience despite the technical hitches and commended them for their show

of solidarity and their resilience in such times. The Chair also commended all stakeholders for their active participation in taking stock of progress of work in order to prepare for future sessions. The Chair called for suggestions that would be useful to the work of the Committee.

ANNEXE/ANNEX

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