

Standing Committee on Copyright and Related Rights

Fortieth Session
Geneva, November 16 to 20, 2020

STATEMENTS

compiled by the secretariat from statements submitted by participants

GENERAL STATEMENTS/ STATEMENTS ON MULTIPLE TOPICS

1. The International Authors Forum (IAF) represents 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 campaigns for authors in a variety of areas including fair contracts, remuneration rights and copyright issues. Article 27 of the Universal Declaration of Human Rights states 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 is vital if this participation in culture is to proliferate across the world. Article 27 further states 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 is authors' works is being considered in the matters discussed at the World Intellectual Property Organization (WIPO). There are individual authors whose rights are involved in all countries. Those rights must be given primary consideration to ensure the continued creation of the culture we value today. Authors must be rewarded for their contribution to society and maintain rights to control how their work is used. In recent years, we have seen growing pressure to devalue copyright and the mechanisms by which authors are remunerated for their work. This has been argued on the basis that the author will be somehow rewarded otherwise, having gone unpaid for their work or it is simply proposed because this is an easy cost to cut. This has 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 is more important than ever that we recognize the impact these policies can 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 play an essential role in ensuring the prosperity of their societies. This makes it imperative that they have a conducive environment in which to work, are valued for their diverse creations, retain the right to make a decent living from their work, and are supported by a robust copyright framework. Yet, numerous studies and surveys from developed countries across the world have found that the earnings of authors are in significant decline, despite international growth in the creative industries that make use of their works. There is an urgent need for a better understanding of the issues authors worldwide currently face when it comes to earning a creative living. IAF has 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 these countries, authors have seen an overall decline in their earnings in recent years. In the UK, authors on average saw a 42% decline in earnings from 2005 to 2017 (Authors' Licensing and Collecting Society, 2018. Authors' Earnings: A survey of UK writers), while similarly the average author in the US saw their earnings decline by 42% from 2009 (Authors Guild, 2020. The Profession of Author in the 21st Century). In some cases, the average reported decline of earnings was sudden; in Canada authors saw a 27% decline in earnings between 2014 and 2017 alone (The Writers' Union of Canada, 2018. Diminishing Returns: Creative culture at risk). Studies often found this decline to be a result of profits being disproportionately passed on to authors, as in the US where the growing dominance of Amazon has 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 has 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 is hoped that opportunities can 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 this include rights such as the Public Lending Right (PLR), Artist's Resale Right (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 has an ongoing effect around the world there will be even more challenges to contend with. We hope the IAF study on authors' earnings will help to illustrate the need for action to ensure authors in every country can sustainably create and contribute to diverse cultures around the world. The IAF report, *Creating a Living: challenges for authors' incomes*, is available in English, French and Spanish.

2. Intervención general de Chile. Muchas gracias Sr. presidente, En primer lugar, nuestra delegación quisiera felicitarle por su nominación y le desea una exitosa reunión, sobre todo en las circunstancias en las que nos encontramos. Asimismo, quisiéramos agradecer a la secretaria por la preparación de los documentos y lamentamos éstos hayan sido puestos a disposición en la página de la OMPI en todos los idiomas oficiales con tan poca antelación. Sr. presidente, nuestra delegación quisiera reiterar la importancia existente en avanzar de manera balanceada en los diferentes temas de la agenda de este comité. Así podemos ver que la discusión en materia de radiodifusión sigue habiendo grandes áreas de diferencias y cuestionamientos a nivel técnico y consideramos que un enfoque balanceado podría permitir el avance en esta negociación habida cuenta del mandato de las Asambleas Generales del 2018. Por su parte, consideramos que la pandemia COVID19 ha puesto especial presión en el sector de bibliotecas y archivos, así como en las instituciones docentes y de investigación a la hora de llevar a cabo sus funciones en un ambiente de confinamiento. Esta misma situación se replica también para el acceso a las obras que tienen las personas con otras discapacidades, lo que nos lleva a reiterar la importancia de avanzar en la agenda de limitaciones y excepciones. Nuestra delegación considera que el plan de trabajo en esta materia ha permitido identificar áreas en las cuales existen brechas importantes para el sector de bibliotecas y archivos y por lo mismo reafirmamos el mandato para que se trabaje en un instrumento o instrumentos legales internacionales en estas materias. Finalmente, nuestra delegación quisiera indicar su interés en continuar las discusiones e intercambios de experiencias en las diferentes materias que se tratan en otros asuntos y esperamos que esta sesión permita lograr mejores entendimientos en estas materias. Muchas gracias.

3. The Chinese Delegation. 中国代表团衷心感谢主席和秘书处为召开本届会议所做的大量富有成效的工作，也非常荣幸能以在线方式与各代表团共同参加本届会议。本届会议推迟数月后能以这种灵活的方式成功召开，体现了本委员会面对疫情危机依然努力推进工作的良好意愿和积极态度。中国代表团对于本届会议相关议题抱有浓厚的兴趣。关于保护广播组织，本委员会自 1998 年以来为之付出大量的努力，但因利益攸关方所持立场不同，一些重大问题尚未达成共识。众所周知，今年 4 月 28 日，本委员会此前的重要工作成果《视听表演北京条约》正式生效，这极大鼓舞我们推进本委员会工作的信心。我们提议本委员会继续秉持“理解、支持、包容、合作”精神，开展建设性的讨论，达成更多共识，推动旨在缔结条约的外交会议早日召开。关于限制与例外，中国代表团认可其对于保障知识传播、文化遗产和促进作者权利与公共利益之间取得平衡的重要作用。正因如此，我们呼吁确定相关项目的优先顺序，制定切实可行的工作方案，通过开展深入的研究推进讨论进程。关于其他事项，中国代表团也非常愿意了解相关工作进展和相关国家的新提案。最后，中国代表团期待本届会议取得新进展

4. The International Federation of Journalists (IFJ). The International Federation of Journalists (IFJ) congratulates the Chair on your election and thanks you and the Secretariat for your work under these difficult circumstances. We join all those mourning for Carole Corella, who we too miss very much. The IFJ represents 600,000 media professionals in 140 countries, South and North. In common with others who represent authors, performers and those who distribute our work, the IFJ regrets efforts to convince this Committee that the current crisis somehow justifies precipitate action that is intended to damage the ecosystem in which creative works are produced and distributed. On the contrary, it is now more than ever important that creative work be economically viable – and that includes the creativity applied by independent professional journalists in making complex truths about public health, for example, accessible to

citizens. Sadly, this is 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. As a working journalist, I personally know dedicated, ethical journalists who could not continue with their work without income from licensing educational uses. Where there are problems we propose that the solutions lie in developing licensing and in sharing international best practice in amending legislation, as WIPO does so effectively – and in finding funding for the essential work of libraries, archives and educational institutions.

AGENDA ITEM 5: PROTECTION OF BROADCASTING ORGANIZATIONS

5. The Delegation of Kenya. Thank you, Mr. Chairman, for giving my delegation the opportunity to make its contribution at this time and stage of the SCCR deliberations. Since this is the first time my delegation is taking the floor, we wish to make the following three preliminary comments: Firstly, we wish to infinitively congratulate you and your vice chair on the honour to preside over this session of the SCCR. Secondly, my delegation expresses its deepest regrets and sadness for the loss of our friend and colleague, Carole Croella. Indeed, Kenya and the whole of Africa was shocked by her death; for she contributed a lot to the development and growth of copyright industries on the continent. Thirdly and lastly, the Kenyan delegation wishes to thank the Secretariat for the excellent preparation of this virtual session, which comes as it were, against the backdrop of the global pandemic of the COVID 19. Our hearts go out to those across the world who are suffering from or lost their loved ones through this invisible enemy. The Kenyan delegation aligns itself with the statement made by the distinguished delegate 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. This was in recognition of the fact that the Rome Convention of 1961 upon which the rights of broadcasting organizations are anchored at the international plane has become technologically obsolete. Subsequent studies commissioned by WIPO have demonstrated that there is widespread signal piracy of the broadcast signals perpetrated across both linear and non-linear platforms. Additionally, broadcasting organizations do provide convenient, portable and cross-border access to their programme-carrying signals, notably through online services, IPTV, OTT, VOD and other platforms. This demonstrates that broadcasters offer their broadcast services across several platforms and through several means of delivery; most of which were never envisaged by the Rome Convention. The Delegation of Kenya holds that the need for a new international norm in protection of broadcasting organizations is not only justified by new technologies but also by the advent of new broadcast regulatory regimes as well as the changing consumers tastes and means of access. The more than 20 years of deliberations on this matter have created a huge stock of building blocks with which to construct a new instrument. The WIPO General Assembly resolution of 2019 provides a solid circumscription within which to operate. It gives us a renewed impetus and momentum to finish the work. Luckily, the Chairman's revised consolidated text, SCCR/39/7 provides a basis upon which this committee can accomplish this task bestowed on it by the General Assembly. My delegation believes that this SCCR should make pragmatic headways towards the full treaty language text and the subsequent SCCR meetings or technical group meetings should strive to achieve this goal. Kenya undertakes and pledges to participate in and engage with other similar-minded delegations towards accelerated processes that may bring this long-drawn matter to a definitive, successful conclusion through the convocation of a diplomatic conference. Once again, I thank you Mr. Chairman.

6. The Delegation of Botswana. Mr. President, my delegation congratulates you for your appointment to chair the Standing Committee on Copyright and Related Rights. We have confidence that under your leadership the Committee will make progress despite meeting under difficult circumstances of the global pandemic caused by the Corona Virus. Botswana remains

dedicated to extend its support. We thank the Secretariat for all the hard work in putting this meeting together. Botswana joins other member states paying tribute to our dear colleague and friend Ms. Carole Croella. Mr. Chairman, at the outset, my delegation aligns itself with the statement made by the distinguished delegation of Zimbabwe on behalf of the Africa Group. My delegation acknowledges 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, we appreciate the document prepared for this agenda item, and consent that we will not be able to engage on normative work and remain hopeful that the Committee will, in the near future be able to progress its work on this agenda item.

7. The Delegation of Japan. As this is our first time to take the floor, first of all, this delegation would like to thank the Chair and the vice-Chairs for holding this meeting. Also, this delegation would like to thank the Secretariat for the preparation of this committee and the recap of the consolidated text. The delegation of Japan aligns itself with the statement made by the distinguished delegation of the United Kingdom on behalf of Group B. Regarding the distribution of works, the means for distributing works have been diversified with the development of the network technology. Especially, web streaming services are conducted by not only broadcasting organizations but also webcasters and these services are becoming popular worldwide. However, we believe that the broadcast conducted by traditional broadcasting organizations has had and will have an important role for the dissemination of works. In addition, broadcast is regulated in several ways because of its public aspects. Therefore, we think that broadcast organizations also have a very important public role. Nevertheless, the international protection for broadcast has been left behind for a long time. In light of these important roles of broadcast, we strongly believe the international protection of broadcast should be achieved immediately. This delegation hopes that the discussion should be done as for the protection of broadcast conducted by the traditional broadcasting organization based on the 2007 mandate for the purpose of the earliest adoption of the treaty. Considering the difference of the regulation system for broadcast, the copyright system, and attitude toward them among member states, this delegation believes that providing flexible approach is favorable for early adoption of this treaty. Last but not least, this delegation would like to commend the Chair and the Secretariat for your effort toward the success of the committee under the difficult situation of COVID-19 pandemic. This delegation is also ready to engage in further discussions in a constructive manner.

8. The Delegation of Colombia. Muchas gracias Sr. Presidente, Retomo mi declaración del día de ayer. Sea esta la oportunidad para saludar nuevamente al director General, Sr. Dareng Tang quien presidió este comité hasta la sesión 39 a finales del año pasado, lográndose avances en los temas técnicos bajo su liderazgo. De igual manera reiteramos nuestros agradecimientos a la Sra. Geidy Lung por la presentación realizada y a la Sra. Michele Woods por la labor de la secretaria preparando esta reunión. Lo felicitamos a usted Sr. presidente por su designación y le deseamos éxitos en su gestión. Queremos expresar nuestra Solidaridad a la OMPI por el sensible fallecimiento de la Sra. Carole Croella quién dedico grandes esfuerzos a este comité y en especial a lo concerniente a la radiodifusión y saludar también a nuestros colegas de México por el fallecimiento del Director General del INDAUTOR, el Licenciado Hugo Contreras Lamadrid. Para Colombia la Radiodifusión es un tema de interés nacional, este es uno de los sectores que hace parte de la política impulsada desde el más alto gobierno, encaminada a la promoción de las industrias creativas, que como lo mencionó el día de ayer, el Director General en su intervención de apertura de este comité, el presidente de la República, Ivan Duque Márquez, la ha llamado "economía naranja". Reconocemos que los organismos de radiodifusión tienen un rol en la difusión de las obras y prestaciones protegidas por los derechos conexos, en el acceso a la información y la preservación de la diversidad cultural, razón por la cual, la discusión sobre su Protección es un tema que amerita tener continuidad en este comité. Resaltamos los avances en las discusiones desde el punto de vista técnico reflejadas en el "Texto consolidado y revisado sobre las definiciones, el objeto de protección,

los derechos que han de concederse y otras cuestiones” las cuales han permitido esclarecer algunos aspectos y enriquecer las discusiones. Colombia quiere manifestar que continúa apoyando la consolidación de un instrumento jurídico de carácter vinculante en relación con la protección de los organismos de radiodifusión y que se siga trabajando con miras a lograr un texto que nos permita apoyar la convocatoria a una Conferencia Diplomática para la adopción de un Tratado sobre su protección. Como lo hemos dicho en otras oportunidades y como lo menciono usted previamente Sr. Presidente, es evidente que lo expuesto en diversos estudios en materia de radiodifusión apoya la idea de que en la negociación de un posible Instrumento Internacional de carácter vinculante, debe procurarse que el mismo sea un verdadero avance en comparación con las diferentes convenciones internacionales existentes, especialmente la Convención de Roma y el Acuerdo sobre los ADPIC, en dirección a la era digital, tomando en consideración los nuevos modelos de negocios que se han venido desarrollando. Conforme a lo anterior, manifestamos que Colombia continúa apoyando el trabajo que se viene realizando frente a las discusiones sobre Radiodifusión, así como las iniciativas de otros Estados miembros encaminadas a promoverlas. Colombia manifiesta su disposición en contribuir con los trabajos del nuevo Presidente Sr. Abdul Aziz Dieng y de la Secretaria, con el propósito de tener un texto más consensuado sobre el Tratado de Radiodifusión, con miras al próximo Comité. Gracias Sr. Presidente

9. EIFL.net. I am speaking on behalf of Electronic Information for Libraries, the International Federation of Library Associations and Institutions, the International Council on Archives and the Society of American Archivists. At the outset, we join in offering our respects on the sad loss of Carole Croella - may she rest in peace. We congratulate the Chair on your election, and we welcome Mr. Daren Tang. Chair, for libraries and archives, the COVID-19 pandemic has highlighted the critical need for modern laws for copyright and related rights that support the shift to online education and critical research. As stated yesterday by Zimbabwe, on behalf of the African Group, never before have limitations and exceptions been more pertinent for education and research purposes. Thus, the pandemic lays bare a fundamental problem with the current text. The article on Limitations and Exceptions is optional, not mandatory. It does not even provide for exceptions that are mandatory in other treaties, e.g. quotation in the Berne Convention, and the making of accessible format copies in the Marrakesh Treaty. It also does not provide for exceptions deemed important enough to be made mandatory in other laws, such as preservation of cultural heritage in the EU Digital Single Market Directive. Mr. Chair, broadcast services have played a vital public information role in the pandemic. Educational TV has 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 SCCR/39/7 must be made mandatory, and countries should be allowed to introduce other exceptions as permitted by the Rome Convention, according to national needs.

10. Alliance of Latin American Intellectual Property Broadcasters (ARIP) Los Radiodifusores Iberoamericanos nos sumamos a las condolencias por la partida de Carole Croella. Sin duda, nos hará mucha falta y la echaremos de menos. Sr. Presidente, en el mismo sentido enunciado claramente ayer por el GRULAC, nos gustaría recordar brevemente que la resolución de la Asamblea General de 2019 en cuanto a que el SCCR “continúe su labor con miras a convocar una conferencia diplomática para la adopción de un tratado sobre la protección de los organismos de radiodifusión, con miras al bienio 2020/2021” sigue siendo totalmente válida para esta reunión y la del primer semestre de 2021. Este tratado es el tema más maduro de la agenda y, por lo tanto, habrá que finalizar el documento SCCR/39/7. Esto significa continuar con las reuniones informales de los “Friends of the Chair” entre las sesiones del SCCR, de las que da cuenta el informe sobre el SCCR/39 preparado por la Secretaría, a fin de que el SCCR/41 apruebe el texto en plenario y recomiende a la Asamblea General del próximo año que convoque a Conferencia Diplomática para fines de 2021. Como muchos ya

han comentado, la pandemia ha retrasado el trabajo de este Comité y, por lo tanto, es una razón más para avanzar la agenda fuera del acotado tiempo que se tiene durante las sesiones.

11. Health and Environment Program. Monsieur le directeur général de l'OMPI, chers délégués, Health and Environment Program a analysé le texte de synthèse de 18 pages sur les définitions, l'objet de la protection, les droits à octroyer et d'autres questions pour cette 40ème session du Comité permanent du droit d'auteur et des droits connexes. Nous remarquons qu'il ya de nombreux points sur lesquels le consensus entre Etats ne s'est pas encore dégagé notamment en ce qui concerne la pesée des intérêts entre titulaires de droits et utilisateurs de ces derniers. Par ailleurs, la crise du COVID-19 pourrait encore nous faire armer de patience quant à un possible consensus imminent. Toutefois, nous restons optimistes et espérons la tenue d'une conférence diplomatique en vue de l'adoption d'un traité dans les mois à venir. A cet égard, notre ONG souhaite que l'examen des deux questions actuelles à savoir les limitations et exceptions ainsi que les organismes de radiodiffusion nous sortent des 22 ans de négociations et qu'on ait enfin un traité de l'OMPI sur la protection des organismes de radiodiffusion. Sur ce, je vous remercie de votre attention.

12. Corporación Innovarte. Señor Presidente muchas gracias, y felicitaciones por su nombramiento. Primero quisiéramos sumarnos a las condolencias por la Sra Carol Croelle, a quien conocí por muchos años. Señor Presidente. De adoptarse el nuevo instrumento sobre organizaciones de radiodifusión, este debe otorgar claridad y seguridad en cuanto a las excepciones y limitaciones que deben y pueden ser adoptadas por los estados miembros. Ello es esencial para evitar que se profundice la falta de excepciones que actualmente afecta a varias áreas de interés público, que perjudica la legitimidad del sistema de propiedad intelectual, afectando el desarrollo humano, tecnológico y económico de sus estados miembros. la Convención de Roma, el instrumento sobre el cual se construye el nuevo tratado de radiodifusores, en cuanto a la las excepciones permitidas contempla una lista no exhaustiva de materias. La Convención de Roma, ni los ADPIC sujetan a los derechos de los organismos de radiodifusión a la regla de los 3 pasos como lo pretende el actual texto en negociación. La regla de los 3 pasos, por lo oscuro de su interpretación y por sancionar a quienes exceden en limitaciones, pero no a los países que no adoptan las excepciones necesarias, a resultado ser una barrera para la adopción de limitaciones oportunas y adecuadas a las necesidades de los países, por lo que no deber ser el estándar del nuevo instrumento. Por ello, es esencial que se siga el modelo del la Convención de Roma en cuanto a excepciones, ampliando el listado que contiene a las necesidades del siglo 21, incluyendo mandatos de limitaciones en áreas de interés público, entre otras, necesidades de salud pública,, educación, bibliotecas, desarrollo tecnológico. Muchas gracias.

13. Knowledge Ecology International (KEI). New measures to address signal theft are one thing. But durable post-fixation rights to entities that just retransmit works by authors, performers and producers, is a bad idea. Post fixation rights are controversial because they create thickets of related rights that make it more costly and difficult to clear, lead to perpetual protection if assigned at the time of each broadcast, and create a massive expansion of rights to non-creative entities, if extended to webcasting. The biggest beneficiaries will be Pandora, Netflix, Amazon, Spotify, and other giant technology firms. The proposed treaty would extend to services like Tik Tok, Youtube and Facebook. None of these rapidly growing technology platforms are asking for or need the proposed related right.

14. The Chinese Delegation. 感谢前任主席编拟的《经修订的关于定义、保护对象、所授权利以及其他问题的合并案文》，这一案文是根据上届会议讨论结果修订总结的，并特别针对最有争议的问题，纳入最新的备选方案，为开展深入讨论奠定了基础，为达成更多共识提供了可能。中国代表团充分认识到保护广播组织权利的重要性和迫切性，愿意积极配合主席和秘书处的的工作，以更加开放、灵活的态度参与讨论，加快案文磋商进度，推动早日召开旨在缔结保护广播组织条约的外交会议。

15. COMMUNIA. I'm speaking on behalf of COMMUNIA, an association that works to protect and defend the public domain and users' rights. We would like to start by congratulating you on your appointment. We would also like to pay our respects to Ms. Carole Croella. We understand that the draft of the Broadcasting Treaty gives broadcasters perpetual rights over public domain and freely licensed content, which is extremely problematic for users. Without this extra layer of rights, these works can be used without restriction, and this freedom should be maintained. In addition, we are concerned that the current proposal for exceptions only gives countries the option to extend already existing exceptions to broadcasting signals. Obviously, countries can choose not to exercise that option, and if they opt not to, the Treaty will be creating new obstacles to access to culture and information. Exceptions are essential to achieve a balance between the interests of the broadcasting organizations and the public interest. The vision that supra-national instruments should only mandate the introduction of new rights, without imposing adequate exceptions, is outdated and turns a blind eye to the fact that copyright can prevent the exercise of fundamental freedoms. It is about time for this Committee to align itself with the knowledge produced by its academics and by its courts, which have over and over again referred to the need for a balanced view of copyright. The Treaty should include a broad provision like the one contained in the Regional Comprehensive Economic Partnership Agreement, which makes it mandatory for each Party to provide an appropriate balance in its copyright system, including by means of exceptions for legitimate purposes. In addition, it should have a minimum set of mandatory exceptions, namely for the uses already required by other copyright treaties. Thank you.

AGENDA ITEM 6 AND AGENDA ITEM 7: LIMITATIONS AND EXCEPTIONS FOR LIBRARIES AND ARCHIVES, FOR EDUCATIONAL AND RESEARCH INSTITUTIONS AND FOR PERSONS WITH OTHER DISABILITIES

16. The Delegation of Botswana. Thank you, Mr. Chairman. We thank the Secretariat for the detailed report on regional seminars and the international conference on limitations and exceptions for libraries, museums, archives, educational and research institutions as provided in document SCCR /40/2 and the ensuing presentation. My delegation aligns itself with the statement made by the distinguished delegation of Zimbabwe on behalf of the Africa Group. Mr. Chairman, my delegation had the privilege to participate in the Nairobi regional seminar and the international conference held in Geneva. We thank Kenya for hosting the regional seminar for Africa. We affirm that the report as presented by the Secretariat captures the essence of what this delegation gathered from these events. We take note of the next steps as submitted in the document and categorized as General Principles and Ideas, the Roles Member States and WIPO. Mr. Chairman, it is apparent that the topic of limitations and exceptions remains an important matter for the SCCR with a view to ensure a balanced copyright system. In view of the impact of the global pandemic on the work of the Committee, my delegation calls upon WIPO to continue providing support to member states that request assistance to address limitations and exceptions at national level. The wealth of information generated through the work of this Committee, can, in the meantime enable countries to address some of the challenges highlighted in the report. Mr. Chairman, my delegation remains committed to cooperate with other member states in the future work of the SCCR on this important topic. Thank you Mr. Chair.

17. The Delegation of Trinidad and Tobago. Thank you, Mr. Chair. Since this is the first time that the delegation of Trinidad and Tobago is taking the floor, my delegation takes this opportunity to congratulate you on your appointment as Chair of the SCCR. We look forward to your astute leadership of this Committee and assure you of our full support. We wish to extend condolences to the WIPO Secretariat and to the friends and family of Ms. Carole Croella. Her invaluable contributions and her love for life will remain embedded in our collective memory for a long time. Chair, the delegation of Trinidad and Tobago acknowledges and values the work of

this Committee, as the issues arising from these deliberations continue to inform our domestic legislative agenda. In supporting the opening statement made by Panama on behalf of GRULAC, our delegation joins others in applauding the tireless work of the SCCR. We commit to continue working collaboratively towards consensus in text-based negotiations for a broadcasting treaty in future sessions of the SCCR. Mr. Chair, Trinidad and Tobago is heartened that, despite the difficulties presented by the COVID-19 pandemic, several delegations are able to participate in this fortieth (40th) session of the SCCR by virtual means. For Trinidad and Tobago, the work of the SCCR is of particular importance, given our recent accessions to the Beijing Treaty, the Marrakesh Treaty and the Rome Convention. We also applaud the focus of the SCCR as it relates 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. Indeed, Mr. Chair, 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 in 2019 through its Controller, Mr. Regan Asgarali. We take this opportunity to thank the Secretariat for the preparation of its report as contained in SCCR/40/2, and for the insightful presentation delivered today. In closing, Chair, my delegation expresses full support for the ongoing work on limitations and exceptions, including contractual agreements and licensing based solutions. We look forward to the continuation of work in this Committee. Thank you Mr. Chair for giving me the floor.

18. Delegation of Kenya. Thank you, Mr. Chairman for giving the Kenyan delegation the opportunity to make its intervention on exceptions and limitations. First, permit me, Mr. Chairman to thank the Secretariat for the comprehensive report on exceptions and limitation. The report is precise and reflects that deliberations and processes that we have so far had both the regional and WIPO levels. Since Kenya hosted the African regional meetings in June 2019 on exceptions and limitations, my delegation would restrict its intervention to the spirit and intent of the outcome of those meetings as well as the subsequent follow-up SCCR meetings of October 18&19, 2019. First, permit me, Mr. Chairman, to make the following preliminary interventions: Firstly, exceptions and limitations are designed to mitigate the rigors of exclusive rights granted by either copyright or any other forms of IP laws. In mitigating the effects of exclusive rights, exceptions and limitations serve, among others, socio-policy goals of balancing the interests of competing stakeholders while ensuring that there is no real or potential market failure. Since exceptions and limitations routinely result in free use of protected works of authorship in most jurisdictions, they must be well thought-out and conceptualized in order to avoid market disruption. Secondly, in many countries, copyright laws are designed to fulfill certain national cultural and social goals; and so are exceptions and limitations. Such goals differ from country to country depending on their unique socio-economic and cultural needs. While in Kenya and other African countries, exceptions and limitations may have been majorly designed to bridge the knowledge and information gap, but that may have not been the driving force in other jurisdictions. Thus, there is no single model of exceptions and limitations that can serve all jurisdictions. Arising from the Nairobi regional meetings of June 2019, it was observed that most of Africa's cultural institutions, notably archives, libraries, museums, and educational and research institutions are copyright intensive. However, most copyright laws in Africa have not been adequately modernized in order to address such phenomena as digitization, digital access, cross-border use, orphan works, private copy/reproduction or preservation. It was further observed that the major impediments to these activities include: non-updating of copyright legislation; lack or inadequate infrastructure to facilitate digital access or cross-border cooperation lack or inadequate technical capacity and resources; weak licensing frameworks and institutions like CMOs, lack of tool kits, guidelines etc. In light of the foregoing, Kenya needs more the revamp or redressing of these deficiencies than craving for a self-standing instrument on exceptions and limitations. The existing international instruments like the Berne Convention and TRIPs Agreement provide adequate flexibilities to address these issues. Additionally, a self-standing instrument on exceptions and limitations would create confusion and duplicity. Thank you, Mr. Chair.

19. The Delegation of Japan. The Delegation of Japan aligns itself with the statement made by the distinguished delegation of the United Kingdom on behalf of Group B. Regarding this topic, it is important that we aspire the appropriate balance between the interest of rights holders and the public interest. In this sense, the three-step test has worked well as a properly balanced international standard. The member states have established the balanced and suitable exceptions and limitations based on the three-step test taking into account the respective social and cultural backgrounds in each country. In this context, it is useful for the member states to share national experiences and practices each other, and the regional seminars and the international conference were so beneficial to that aim. We would like to thank the Secretariat for the hard work to compile this report. Thank you, Mr. Chair.

20. The International Authors Forum (IAF) is of the view that authors want the widest possible lawful access to their works. Authors welcome libraries, archives and educational institutions as vital points of access to their works, but there must be a balance of access and reward to ensure that they can continue to create the works that are enjoyed. Research in the UK, An economic analysis of education exceptions (2012, PriceWaterhouseCooper), identified that many authors, particularly of educational works, would potentially stop creating these works due to declining remuneration if a licensing scheme was not in place to fairly reward them for their efforts. Recent cases in Canada have shown that the unregulated expansion of the educational exception in their Copyright Modernization Act (2012) has led to significant losses of income for Canadian authors: a likely unintended consequence but an unjust, detrimental effect on authors nonetheless, considering it is their work that is being used for no reward. Authors believe that existing provisions contain enough flexibility for countries represented at WIPO to continue to work towards national solutions, such as licensing frameworks, which can be developed according to local needs. Authors recognize that each country must aim to respond to its local needs. However, in no country are authors able to work and create effectively when they are entirely either denied remuneration or inadequately paid. While each country represented at WIPO has libraries, archives and educational institutions seeking to secure access to works, it must not be forgotten that there are authors in each of the WIPO Member State whose rights and property are affected. In many countries, there are already copyright provisions in place that establish licensing frameworks which enable access through libraries, archives and educational institutions.

21. The Authors' Licensing and Collecting Society (ALCS) is of the view that the balance of copyright is of great significant to authors and supports a copyright regime that strikes the appropriate balance between accessing works under copyright and fairly rewarding authors and other creators to incentivize the creation of new works. ALCS would urge caution in any approach to expanding exceptions and limitations on copyright. It has been evidenced in Canada^{1 2 3} that overreaching amendments to copyright without due consideration of authors' remuneration has led to significant declines in authors' incomes. Studies in the UK and other countries have shown that authors' incomes are 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.

22. The Society of American Archivists (SAA), North America's largest organization of professional archivists, thanks the SCCR Member States' Delegates for their continued attention to the question of balanced copyright exceptions and limitations. We look forward to contributing to the work of the 40th session of the Standing Committee on Copyright and Related Rights and hope to assist in identifying the next steps for SCCR's work on limitations and exceptions related to libraries, archives, and museums. Many of you already are familiar with what archives do and why we desperately need certain copyright exceptions to carry out our essential missions. For those of you who are new to the topic of archives, let me briefly explain our situation. The archivist's mission is to identify, select, acquire, and preserve material so that

it lasts forever. Most importantly, we work to assist researchers in its use. For all of these tasks, we must be able to make copies—often in digital form—whether for preservation or for a researcher, whether on-site or across borders. Archives exist in all kinds of institutions, not just government agencies, and contain materials in all information formats, both institutionally and privately authored. These materials are predominantly unpublished, never-in-commerce works that are unique in the world. Thus, they are inherently resources of global heritage and knowledge that are needed across national borders. The very idea that we must preserve our cultural materials and make them useful to society is at the heart of UNESCO's *Universal Declaration on Archives* (unesdoc.unesco.org/images/0021/002134/213423e.pdf), which states that archives must—not *maybe* but *must*—be accessible to everyone to safeguard societal memory. To fulfill this extraordinary mandate, we need to make copies for purposes of preservation, education, research, heritage, and the securing of personal rights. Current copyright laws make this difficult and, at times, impossible. The distinctive characteristics of archival collections and their relation to copyright was thoroughly examined in a 2019 WIPO-commissioned study authored by David Sutton ([SCCR/38/7](#)). He described the role of archivists as the safeguards of human memory who are the “trusted custodians of our heritage, our administration, and our documentary future.” The problem, Dr. Sutton explains in great detail, is that myriad “divergences and contradictions between different national copyright regimes” are debilitating challenges for archivists trying to meet the mandate of the *Universal Declaration*. The Sutton study became an important background document for the three 2019 Regional Seminars, which led to the 2019 International Conference. As the report on the Seminars and the Conference ([SCCR/40/2](#)) makes apparent, the perspectives of the multiple stakeholders present were valuable but divergent. Three core impressions about archives matters do emerge from the report: 1) for archives as well as libraries and museums, the legal ability to make copies for preservation, including digitally, is a mission-central need; 2) although some countries have limitations and exceptions or other legislation that might enable archives to make copies, the counter-productive lack of consistency of exceptions often prevents the cross-border activity that is essential in working with the unique materials found in archives; and 3) the Marrakesh treaty was seen as an example of how an international treaty, possible only through WIPO, can provide a faster and more effective solution than incremental or uncoordinated changes to individual national laws. The importance of WIPO’s involvement stood out in particular in the remarks of two speakers at the conclusion of the conference. Kenneth Crews, whose 2008-17 SCCR reports are essential references on the international welter of copyright laws, emphasized the universal importance of copying for preservation. He noted that in today’s global environment, preservation must be digital. Similarly, Finland’s Jukka Liedes noted that digital and cross-border access should be “normal” and that WIPO has the unique capacity not just to work through these complex problems, but to do so quickly. The Sutton report, as well as the Seminars and Conference discussions, made it clear that, because of the significant copyright problems impeding archivists’ work, it is unreasonable to expect that archivists can serve as their own copyright lawyers. We simply cannot know the intricacies of the copyright laws of all WIPO member states, yet citizens from all 191 member states are potentially users of an archive anywhere in the world. Although many researchers cannot afford to travel to use archives in person, 21st century technology enables more equitable access. As the chief information officer of the Vatican Library recently told *The Guardian* newspaper about its massive project to scan or photograph its collections, digitization can solve that problem. “Swaths of history previously explored only by white-gloved historians are now made available to anyone with an internet connection,” he said. Yet the unclear copyright status of a large portion of archives worldwide prevents us from sharing them electronically. Archivists everywhere need a functional copyright framework so we can pursue our societal mission to make our collections accessible to anyone anywhere, regardless of where they live or their ability to travel. WIPO must step forward to establish broad standards for exceptions that recognize the non-commercial mission of archives to preserve and make available the world’s cultural heritage. An essential next step from all the work done in 2019 is for SCCR to begin text-based work on limitations and exceptions—especially for preservation, but also in

consideration of the problem of orphan works and the need to provide cross-border access to globally unique collections.

23. The International Council on Archives ([ICA](#)) represents archival institutions and archivists around the world. Archival institutions acquire, preserve, and make available for use records of enduring value. Such records were not created for commercial purposes and are largely unpublished. Because these records do not exist in multiple copies, they are unique. Their uniqueness implicates copyright in two ways. Cross-border delivery of copies (upon request) is essential because researchers anywhere in the world could require a copy for their research or private study. Even more pressing is the need to copy for preservation. As records deteriorate due to age and digital obsolescence, they must be copied to more stable formats to ensure that our documentary heritage remains available for ongoing use. Copying for preservation often requires cross-border collaboration, particularly in places that may lack the equipment or expertise to carry out the work. Without adequate exceptions, archives risk infringing copyright while fulfilling their fundamental public interest mission to preserve their holdings and make them available for research and education. I wish to thank the Secretariat for the report on the regional meetings and the international council that took place in 2019 ([SCCR/40/2](#)). The report continues the work started nearly a decade ago, including the reports by Dr. Crews ([SCCR/35/6](#)) and Dr. Sutton ([SCCR/38/7](#)), and the archival community's many interventions in plenary sessions, side events, and meetings with WIPO officials. While no normative work will occur, SCCR40 provides an opportunity to advance this agenda item by considering next steps. WIPO's mandate is to develop a "balanced and effective international IP system." Without an international instrument that sets out minimum exceptions for libraries, archives, and museums (LAMs), there is a gap in the system. We do not need more studies or sharing of national experiences. We already know from Professor Crews' studies that exceptions in national copyright laws vary widely. If WIPO does not act, the gap will be filled by ever more divergent national practices. The report gives clear direction for action in the areas of preservation and cross border/digital access. The need for action was already clear in the face of climate change, with many institutions risking the loss of irreplaceable collections unless they can carry out preservation activities. And if anyone still questions the need for action on these issues, COVID-19 leaves no doubt about the importance of cross-border digital access to our global cultural heritage as the pandemic closed LAMs around the world. The pandemic has taught us that "global" and "digital" are indisputably watchwords for the long-term. Thus, we urge the SCCR to identify concrete next steps to prioritize normative work on exceptions that support preservation and digital cross border uses by LAMs. Only through text-based work will the points of disagreement emerge, followed by discussion and negotiation that will ultimately lead to a consensus. A useful first step would be a request to the Secretariat to prepare draft provisions for a model law that addresses these important issues for discussion at SCCR 41. EU legislation in favour of cross-border and digital preservation exceptions, which apply regardless of format or contract terms, as well as provisions from progressive national laws, provide valuable precedents. Issues such as cross-border access must be addressed at the international level. Only WIPO can do that. Only an international instrument can establish a consistent global level of exceptions to ensure that our documentary cultural heritage can be preserved and made available for research and education. We note, however, that while licensing has a place in the broader copyright system, we strongly oppose broadening the agenda to include commercial uses covered by licenses, or efforts to subject to licensing uses previously carried out under exceptions. Licensing, particularly for archival material that was not created for commercial purposes, does not belong in the exceptions and limitations component of a balanced copyright system.

24. Canadian Federation of Library Associations (CFLA). I am speaking on behalf of the Canadian Federation of Library Associations. CFLA represents libraries of all types, public, academic, specialized and school libraries, provincial, regional and national library associations, and libraries located in cultural heritage and memory institutions. Libraries, archives and

museums continue to experience barriers to access and preservation that are not addressed by approaches that focus on licensing, made even more acute by the COVID pandemic. After decades of effort by libraries, licensing has failed to create a digital environment that provides the level of access and preservation that print offered. We support continued work related to preservation, and recommend a report on possible instruments or model law for a preservation exception for libraries, archives and museums. There is broad agreement among member states that preservation is an important issue to address so that cultural and historical records are preserved. CFLA supports work on an international instrument or model law that can be the catalyst to advance international considerations. CFLA asks that the committee consider setting aside issues of purely national scope like public lending right. Authors and other content creators deserve compensation and government support to encourage the production of culture and to recognize their contributions to national stories, history, and identity. There are many successful, national public lending right programs that meet these goals, in addition to grants and other financial supports that member states provide to their citizens through cultural programs. At an international level, these cultural goals can be supported within the mandate of UNESCO, and do not need to be addressed at WIPO through copyright. Public lending right has no international scope, is not included in any international treaty, and operates outside of copyright regimes in many countries, including Canada. In Canada, the public lending right has operated successfully for decades as a cultural heritage program, with the support of public libraries. Authors benefit from library lending. Libraries provide income to authors and publishers through the millions of dollars they spend on purchases and licences. The promotion of books and activities by libraries lead readers to discover new works. Surveys conducted by the publishing industry show that libraries are one of the top ways for readers to discover new books, and Canadians who borrow from libraries buy more books than non-library users. In the United States, studies have found that 50% of readers go on to purchase books that they first borrowed from a library. In a study of unlimited borrowing during a promotion by libraries in North America, sales of the promoted book grew 818% for ebooks and 201% in print, sustaining higher volumes in subsequent months. Borrowing in libraries creates new sales and enables authors' success. Limitations and exceptions for libraries, archives and museums are part of the balance in copyright. We must ensure that our mandate is not diluted by the addition of further topics while we have yet to move forward on productive outcomes from the numerous studies, Dr. Crews' typology, and our learning from the discussions of the past year. CFLA asks that SCCR prioritize an instrument or model law on preservation for libraries, archives and museums.

25. Knowledge Ecology International (KEI). KEI thanks the secretariat for the clear and useful report on the meetings on limitations and exceptions and the Chair for his very able leadership. Limitations and exceptions are important for individuals and society, particularly as regards education and research, which are key to development and economic growth, as well social aspects, for example, in sharing information and views. None of the right holder groups acknowledged an important fact that they depend upon limitations and exceptions to create works. As mentioned by some delegations, the current pandemic has disrupted education and in some cases, closed schools and libraries. The global norms for patent laws include provisions for extra flexibility, as regards access to inventions, in cases of emergencies. WIPO should share information and consider soft or hard norms to make it clear that controlled digital lending by libraries and schools during a pandemic is appropriate. Also, the SCCR should address two areas for global norms for limitations and exceptions. There is an opportunity for an instrument on preservation and archiving. Preservation is an urgent global public good, and many national laws are inadequate. With regard to other disabilities, we propose that the SCCR use the language in Article 15, paragraph b, of SCCR/18/5 as the basis of a joint resolution to extend the benefits of the Marrakesh treaty to persons with other disabilities, who, due to their disabilities, need an accessible format of a type that could be made, and which would allow them access "to the same degree as a person without a disability." This would be consistent with the UN convention on the rights of persons with disabilities.

26. Corporación Innovarte. Agradecemos a la Secretaria por su trabajo en la preparación del Reporte que nos ha presentado. Si bien hay una agenda de largo plazo sobre excepciones para este Comité mandatada por la Asamblea General, que data desde el año 2004, La pandemia de COVID mata a miles de personas en cada país y cambia la vida económica y social que conocíamos. Ello no puede ser ignorada por este Comité. Si bien la pandemia afecta múltiples ámbitos del derecho de autor, en el caso de educación, bibliotecas, archivos y museos, las consecuencias han sido devastadoras para su crítica función. Sin embargo, en países, con robustas excepciones a los derechos de autor, como EE.UU., por la digitalización de obras para la educación a distancia, el préstamo digital controlado, han podido mitigar los efectos de la pandemia en estos ámbitos, tanto en acceso como en salud pública. Por el contrario en países como Chile y en otros países del mundo, cuyas legislaciones carecen de la suficiente flexibilidad, por ejemplo, para el préstamo digital controlado conocido en inglés “controlled digital lending”, las bibliotecas públicas están cerradas. En el caso de Chile el gobierno si bien compra libros para ellas, estos no pueden ser usados, disminuyendo incentivos para continuar esas compras. Así la falta de una excepción para préstamo digital controlado, genera un círculo vicioso privando de acceso a la sociedad y de mercado para esos libro, y generando un riesgo a la salud pública. Por otro lado, la necesidad de hacer minería de datos por investigadores para encontrar soluciones a la pandemia, solo ha podido ser hechos en los países que contienen excepciones para estos efectos disminuyendo la capacidad mundial para acabar con la pandemia. Señor Presidente es urgente que se este Comité se focalice en una agenda de emergencia para la identificación y análisis de las flexibilidades a los derechos de autor con miras a un instrumento modelada sobre la Declaración de Doha, cuya adopción se hace urgente con motivo de la pandemia de Covid-19 y futuras emergencias sanitarias, especialmente en el ámbito de la educación en línea, y el acceso a las colecciones de las bibliotecas, archivos y museo para permitir el desarrollo de las actividades educacionales en todos los niveles, así como la investigación privada y pública, de una manera que ellas continúe sin ser un riesgo a la salud y el control de la pandemia a nivel mundial. Igualmente es urgente que se amplíe el alcance del Tratado de Marrakech para las demás personas con discapacidad, aplicando mutatis mutandi sus disposiciones.

27. International Publishers Association (IPA). The IPA congratulates you on your ascension to the Chair during this unprecedented online event. We also want to express our deep sorrow at the news of the passing of our friend and colleague Carole Croella. We join the staff at WIPO, the delegates of the Member States at the SCCR, and the representatives of other observers in mourning for Carole. She is profoundly missed by all of us. The International Publishers Association (IPA) would like to thank the WIPO Secretariat for the *Report on Regional Seminars and International Conference on Limitations and Exceptions*. The IPA participated in all three Regional Seminars along with local publishers from each region, as well as in the International Conference in 2019. During each event, we found the process transparent and conducive to intense discussion. The exchanges between Member States and observers 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 were underscored and acknowledged when considering the delivery of educational resources. We were pleased to hear that Member States also acknowledge the importance of copyright protection for their local publishing industries to exist and thrive. The IPA underlines that, as stated in the *Report*, “It is important to recall the essential role of copyright to support and reward creativity. Creators have an indispensable role in providing what will become cultural heritage as well as what is at the core of education and research.” Therefore, strong copyright protection as an enabler of local creative industries must be the starting point of any debate on limitations and exceptions. Both during the Regional Seminars and at the International Conference, numerous Member States stated they had yet to assess their national needs in order to establish national strategies that, while accounting for limitations and exceptions, also promoted the development of their creative industries. Establishing a strong copyright protection

framework is essential to such strategies, and the issue of whether and how limitations and exceptions can contribute to such a framework can only be addressed as part of broader national strategies that must prioritize the survival and sustainable development of creative industries in all WIPO Member States. As the *Report on Regional Seminars and International Conference on Limitations and Exceptions* points out, Member States agree 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 points to the Berne Convention, by stating that “it offers significant leeway to Member States for interpretation and implementation of its provisions. Limitations and exceptions are guided by the three-step test.” The existing international legal framework already enables all WIPO Member States to legislate and address their individual challenges. In doing so, the IPA calls on national legislators to conduct fair impact assessments that are grounded in a deeper understanding of the ecosystem which enables production and consumption of cultural products and that consider the vast array of licensing solutions which are made available by publishers across the world to respond to the needs of their audiences and promote the work of authors. The International Publishers Association would like to highlight the time-tested importance of the global copyright framework, which enables publishers around the world to invest in authors and make literature, research, and learning solutions available to so many. In these unprecedented times, this framework has once again proven to be inherently innovative and has enabled publishers to support governments, teachers, parents, and the public, as people adapted to home-schooling, and governments sought reliable scientific data upon which to base policies to protect their citizens. While physical bookshops remain closed in many countries, the digital marketplace has become more important than ever, with many booksellers offering online purchases and delivery of physical books as well as a wide variety of eBooks and audiobooks. However, it is clear that digital licensing is nowhere near compensating for the overall drop in sales due to the closure of bookshops. Despite the challenging circumstances for our sector, the publishing community has yet again stepped up to support governments, teachers, parents and the public. In education, the efforts of the publishing industry to develop innovative business models over the past few years have proven timely, and publishers continue to work with both public and private sector partners to create digital educational content and platforms for both the short and long terms. Some of the initiatives by the publishing sector are available at WIPO’s COVID-19 IP Policy Tracker and at the IPA’s website. The COVID-19 pandemic does not make copyright protection less viable. On the contrary, this is a time when we need authors, publishers, and a strong legal framework more than ever.

28. Unidos por el Desarrollo de la Propiedad Intelectual en Latinoamerica (ELAPI). Muchas gracias señor presidente por concedernos el uso de la palabra por su intermedio, en primer lugar, expresamos nuestras condolencias por el fallecimiento de Carole Croella y de Hugo Contreras Lamadrid Director General de INDAUTOR. Por otro lado, le felicitamos por su designación como presidente del comité y a la secretaria por la organización del comité, así como también felicitar al señor Daren Tang por su designación como director general de la OMPI. En esta nuestra primera intervención como miembros observadores queremos expresarle que tanto la OMPI, como este comité, que cuentan con los más de 70 jóvenes que agrupa la ELAPI para ser una organización articuladora y con un claro propósito de difusión, enseñanza, desarrollo y construcción de los derechos de propiedad intelectual. Las limitaciones y excepciones deben ser un acto de soberanía de cada Estado, estas responden a situaciones excepcionales del derecho, la cultura, la idiosincrasia y la política pública de cada país. Son los países quienes deben regularlas de forma específica y no un tratado que avance sobre los criterios generales, cuando aún no hemos discutido otros derechos. Pensar que estas situaciones particulares y excepcionales deben ser abordadas por un tratado internacional generaría una gran inseguridad jurídica y una marcada perdida de las condiciones para que los autores puedan vivir y mejorar nuestra vida con sus creaciones. La propiedad intelectual y los derechos de autor y conexos, en particular, son herramientas fundamentales en el desarrollo económico y cultural y una condición esencial para una mejor calidad de vida. Incluso, se ha

visto como impacta directamente en el PIB de los países lo que se ha conocido como economía del conocimiento, generando empleos, ayudando al crecimiento de las economías y creando oportunidades de expansión. Es por ello, que no se debe normalizar el pensamiento que para todas las situaciones deben existir limitaciones y excepciones. Tanta flexibilidad en el derecho crea inseguridad jurídica y le cerca, como se dijo, las posibilidades a los autores de vivir de sus creaciones, debemos proteger y mantener la regla de los tres pasos, como herramienta fundamental para la regulación de las limitaciones y excepciones. En consecuencia, la ELAPI exhorta a los países del Grupo Regional de América Latina y el Caribe GRULAC que no vuelvan a la excepción una norma, porque se acaba con el derecho. Por cuanto, estamos convencidos que no es necesario ni pertinente que se aborde o se piense en hacer un tratado sobre limitaciones y excepciones, nosotros estamos dispuestos a colaborar con el GRULAC y la región teniendo puentes para este propósito. Para terminar señor presidente, quisiera invitar a todos los miembros aquí presentes, a las delegaciones y organizaciones del tercer sector a seguir promoviendo la protección del Derecho de Autor y Derechos Conexos para impulsar y ayudar a nuestros autores, cuenten con la ELAPI para estos propósitos.

29. International Federation of Library Associations and Institutions (IFLA). The International Federation of Library Associations and Institutions (IFLA) represents all types of libraries, with members in 155 countries around the world. As this is the first time that IFLA is taking the floor, we would like to congratulate you on your new role. IFLA is confident that your leadership skills will enable you to initiate impactful work on exceptions and limitations to copyright, as essential elements of a balanced copyright system and on which libraries rely. On the report of the regional seminars and International Conference, IFLA thanks the secretariat for its work. We believe that this provides firm evidence of consensus among delegates in particular around the need to allow for heritage preservation, and to find solutions for access. Now, therefore, is the time for action. Action to address the lack of clarity in existing international law that leads not only to the inexistence or inadequacy of copyright laws, but uncertainty for institutions when trying to work with digital tools, or across borders to ensure the survival and availability of heritage. Mr. Chair, in the context of the global pandemic that we are currently facing, IFLA continues to support, more than ever, the need to adapt or interpret laws to allow libraries, archives, museums, educators and researchers to function in a digital environment. Yet COVID is not the only crisis we face. This time next year, governments will meet in Glasgow for COP26, to present what they have done, and plan to do, to adapt to the impacts of climate change. With collections threatened by the effects of global warming, this Committee can do much to remove copyright-related barriers to preservation, and so make an important contribution to wider adaptation efforts. We urge WIPO to use its unique capabilities to consider concrete, international responses. Clearly in the medium term, we believe that text-based work is essential. Yet in the short term, by the next meeting, a known expert such as Professor Crews could be asked to prepare model provisions on preservation and access for discussion by Members. In parallel, this Committee can offer valuable guidance to members about the interpretation of current international laws at a time of COVID-19. Mr Chair, rather than being left behind, as individual countries or groups race ahead, we have confidence that WIPO can continue to show its relevance, and offer governments, libraries and their users alike the support they need to operate in these difficult times. To ensure that, as far as possible, the health crisis and the climate crisis do not become an education, a research, a heritage crisis.

30. Canadian Copyright Institute (CCI). Thank you for this opportunity to speak on this issue. The authors, creators, publishers and distributors who participate in the work of the Canadian Copyright Institute respectfully note that any discussion of copyright based on human rights or the public interest should support robust copyright protections. Copyright is a human right, and strong copyright protections function in the public interest. Individual cultural professionals and independent cultural industries, particularly small and medium-sized enterprises, are essential to the practice and preservation of the rich and diverse cultures that thrive locally, nationally and

regionally around the world. They are essential to education, scholarship, and local economies. Freedom of expression suffers when they suffer. As conveyed by the Report on the International Conference on Exceptions and Limitations in its General Principles and Ideas, exceptions and limitations should not be the only lens through which SCCR views copyright. To quote the report, "Copyright should not be seen as an obstacle, but as a facilitator." (para 394) We respectfully recommend that all member states ensure their national copyright laws protect the exclusive rights necessary to sustain their creative sectors, rather than approaching the matter as a question of which rights to extinguish. In particular, during 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 who rely on copyright-protected information. They had the capacity to do so *because* their copyrights are protected. This crisis confirms the importance of a strong creative sector supported by strong copyright protections. Thank you Mr. President.

31. Program on Information Justice and Intellectual Property (PIJIP). Many exceptions for education, research and access to the collections of cultural heritage institutions contain narrow criteria that could impede online and distance activities during COVID. PIJIP has been researching these issues, including with reference to the WIPO studies already conducted. For example: laws commonly permit "reproduction," but fail to authorize "communication" needed for sharing in controlled networks; uses are often restricted to "face to face" or "classroom" teaching; and research uses "on the premises" of libraries; we have even found laws that specifically restrict uses to "paper." Strict interpretation of such laws during COVID violates fundamental rights - including the right to "seek, receive and impart information . . . through any media and regardless of frontiers," recognized in Article 19 of the Universal Declaration of Human Rights. This Committee could use the Doha Declaration on TRIPS and Public Health as a model and draft a resolution that explains and promotes the current flexibilities in the international system that can be used to respond to COVID. We urge a process to work on such a declaration. We thank the Secretariat for the very thorough Report on the action plans. Paragraph 400 of the Report records the agreement to work on solutions "at national and international levels," with development of "instruments appropriate at these levels." We find that the Report contains a large amount of agreement that the priorities of this work should include: work toward instrument(s) on preservation, digital, and cross border uses for education, research and libraries, archives and museums; and model laws and other forms of guidance for other issues, such as for safeguards from liability, technological protection measures, and contractual override. The work plan would also benefit from new studies, including a study of research exceptions and of measures being taken to during COVID.

32. COMMUNIA. Statement on Limitations and exceptions for educational and research institutions and for persons with other disabilities (Agenda Item 7) Thank you, Mr. Chair. This Committee has been discussing the issue of copyright exceptions for almost 15 years. During this time, a number of studies were conducted and we learned that many countries fail to guarantee the right 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 we were seeing a clear trend towards cross-border uses, taking place online. Now, that state of affairs could be acceptable before the massive disruption to society caused by the COVID-19 pandemic. But over the last six months those cross-border online uses have become the new normal. All over the world, institutions are opting for remote formats or hybrid models of in-person and online access and use of content. And we may never go back to the way things were, namely for education, where we now have teachers and students working from home, often located in different Member States, and having to deal with a fragmented treatment of exceptions across those locations. We understand that Northern countries prefer to negotiate bilaterally with developing countries. In our opinion, this perpetuates an unbalanced power relationship between the Global North and the Global South. This forum can provide more transparency and legitimacy to these discussions. We thus urge

you to not leave your mandate unfulfilled. In the Report on Regional Seminars and International Conference on Limitations and Exceptions, prepared by the Secretariat, we can find something for everyone's taste. Now it's up to this Committee to set priorities for its work. We urge the Committee to respond to the pandemic with a declaration or resolution to assert the flexibilities that exist; then work on model laws and on a binding solution for cross-border uses; and eventually discuss a minimum set of mandatory exceptions. Thank you.

AGENDA ITEM 8: OTHER MATTERS

33. The Delegation of the Dominican Republic. Excelentísimo Sr. Omar Zniber, presidente de la Asamblea General de la OMPI; Sr. Daren Tang, director general electo; Excelentísimos señores y señoras, representantes permanentes y embajadores; Distinguidos delegados: Junto al presidente de la Asamblea General de la OMPI. Es un honor dirigirme a ustedes en esta hermosa mañana, dándole una cordial bienvenida a todas las delegaciones a las Asambleas de 2020, que se celebran en las difíciles e inusuales circunstancias de la pandemia de COVID-19. Hoy le estaré platicando de nuestra gestión en mi función de director de la Oficina Nacional de Derecho de Autor, ONDA, en República Dominicana. Es para mí un placer hacer una breve reseña de la labor que hemos desarrollado en apenas, dos meses de gestión. Trataremos el tema Derecho de Autor en el país y Derechos Conexos, Automatización de los Registros en tiempo de Pandemia y qué está haciendo la Onda para contrarrestar la piratería. La Piratería representa uno de los mayores perjuicios en materia de derecho de autor, sobretodo en este tiempo de un gran predominio de los medios digitales y las redes sociales, lo cual nos enfrenta a mayores desafíos en la República Dominicana donde históricamente la Piratería ha sido una de las áreas en derecho de autor más difíciles de contrarrestar a pesar de está tipificado como una violación en la ley 65-00 y se establecen en el artículo 169 las sanciones de hasta tres años de prisión y multas de hasta 50 salarios mínimos. Otro de los aspectos que dificulta las soluciones, lo encontramos en el hecho de que, los ciudadanos no manifiestan mucho interés por proteger sus obras, quizás por el gran desconocimiento de lo que establece la ley 65-00, el poco conocimiento del impacto económico y social que representa la piratería y por la escasa cultura de registrar las obras. En virtud de las situaciones continuas de violaciones de la ley, la ONDA iniciará una campaña publicitaria a nivel nacional de sensibilización y motivación para que todos los creadores, autores, registren sus obras, para ello, estaremos firmando convenios con instituciones como el Colegio Dominicano de Ingenieros y Arquitectos, CODIA, así como los ayuntamientos para que los registros y pagos se realicen en estos lugares de fácil acceso a los ciudadanos. Por otro lado, estamos revisando las tarifas de los servicios más demandados por los autores para adecuarlas y modificarlas, asimismo se está fortaleciendo la operatividad del Centro de Mediación, Conciliación y Arbitraje de manera que se pueda dar una más efectiva y rápida respuesta en sede administrativa. Los casos más complejos de violaciones al derecho de autor están siendo enviados a la fiscalía para ser procesados y sancionados penalmente de acuerdo a lo que establece la ley 65-00 y su reglamento 362-01. La Academia de Derecho de Autor está en el proceso de preparación de talleres sobre la propiedad intelectual con el fin de fomentar una cultura de importancia y respeto. El Departamento de Inspectoría en el ejercicio de las funciones de vigilancia sobre aquellas actividades que puedan dar lugar al goce o ejercicio de los derechos protegidos por la Ley 65-00 Sobre Derecho De Autor Del 21 De Agosto Del 2000 y su Reglamento de aplicación 362-01 Del 14 De Marzo Del 2001, continúa llevando a cabo actividades investigativas tendentes a impedir la reproducción comercial de obras protegidas por el derecho de autor sin la debida autorización. Realizando Inspecciones a solicitud de partes en contra de las empresas de Transmisión abierta y por cable de señales satelitales por la difusión ilegal de contenidos, regulando dichas empresas y aplicando las sanciones correspondientes establecidas en la Ley 65-00. Ejerciendo inspecciones de oficio a los importadores,

distribuidores y comercializadores de bienes, servicios y equipos vinculados al derecho de autor, dado que es un plan permanente de la institución para mantener el control del uso de los servicios irregulares en todo el Territorio Nacional. A nivel tecnológico la oficina Nacional de Derecho de Autor, ha trabajado arduamente con la automatización de los servicios en línea, beneficiando en gran parte a los autores dominicanos en medio de esta pandemia, más de 2000 registros hemos obtenido por la plataforma de los registros en línea, en ahorro de costes, tiempo y seguridad de los autores. Actualmente tenemos más de 30 servicios en línea entre ellos, registro de letras para una canción, libros, tesis, guiones, escultura, pintura, poemas, documentales, dibujos, folletos, ensayos y personajes que son los más frecuentes para el registro. Lanzaremos próximamente la segunda fase con 20 servicios más de registros donde los autores continúen desde sus hogares o cualquier parte del mundo realizando sus registros online. Utilizando esta plataforma nos ha permitido seguir ofreciendo los servicios de registros mejorando así, la productividad de la institución y optimizando la calidad del servicio a los autores. Finalmente doy las gracias a todos los Estados miembros por su muy positiva participación en la Organización y por el apoyo que le prestan a la misma.

34. COMMUNIA. We request the floor to express our discontentment at the unequal treatment of 'Other Matters' and 'Limitations and Exceptions' at this SCCR. The issues discussed under Other Matters (Agenda Item 8) are treated separately and participants are given the possibility to make a statement for each of these 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 has given the floor to participants to pose questions and make comments related to reports prepared by the Secretariat. This arrangement meant that although two days were allocated for L&Es, only one day was used for this important item, while today we are running over time for Other Matters. At a time when other United Nations agencies have shown their readiness to act to address the education, research and heritage crisis, there is a risk of appearing irrelevant by limiting discussion on these topics, rather than seizing the opportunities already available in the agenda. While recognizing the complexity of planning meetings in these extraordinary times, we trust we can learn from this in future. Thank you.

Digital Environment

35. The International Authors Forum (IAF) is of the view that in the digital environment, creators' works are used more than ever and we would like to thank the members and speakers who have acknowledged the importance of appropriate remuneration to foster the work of creators. IAF hopes that analysis of Copyright Related to the Digital Environment propose by Group of Latin American and Caribbean Countries (GRULAC) could holistically consider the impact of the digital environment on authors and, in particular, the impact of business models in streaming on creators. We thank the GRULAC for its proposal on this important area of work and hope this issue will remain on the agenda. While the works of authors across the world are now being accessed online more than ever before, creators are not always fairly remunerated for such access. Screenwriters, for example, often remain unpaid for the use of their work online despite audio-visual works generating significant revenues for on-demand services. It is often difficult to resolve this 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) have called for the need for an additional right as well as better creator contracts to resolve this. Therefore, authors urgently need remuneration rights that reflect the myriad uses of their works in the digital age. An unwaivable Right to Remuneration (URR) for online uses would ensure that authors are properly rewarded for their contribution to the vast libraries of work now being

made available by on-demand streaming services.

Resale Right

36. Delegation of Japan. This delegation would like to express our appreciation to Ms. Marie-Anne Ferry-Fall, Professor Ricketson, and the Secretariat for the report of the taskforce. The Artist Resale Right is stipulated in the Berne Convention as a non-mandatory provision. Japan is one of the countries which does not have the Artist Resale Right in national legislation. We are of the opinion that the fact-finding study conducted by the taskforce is useful for better understanding of the Artist Resale Right. Therefore, Japan is deeply interested in the item of this study. This delegation would like the taskforce to add the following points to the study. First, what kind of transaction should be subject to the Artist Resale Right and how to track 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 right holder cannot be identified. Third, this delegation would like the taskforce to research other aspects as well. That is, this delegation think the taskforce should research not only practical issues but also the necessity and acceptability of the Artist Resale Right, such as the reason for justification of returning a part of the resale benefit to the artist and the reason 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, Artist Resale Right is not the only measure to protect artists. It would be preferable to discuss the other protection system or measures for artists besides Artist Resale Right at the SCCR. Therefore, this delegation believes that the broader study for the effective way to protect artists' rights is also important. Thank you, Mr. Chair.

37. The Delegation of Botswana. My delegation aligns itself with the statement made by the distinguished delegation of Zimbabwe on behalf of the Africa Group. Botswana thanks the Secretariat and the Task Force for the work carried out on the artist resale royalty right. Botswana appreciates and thanks the Chairpersons of the of the three groups for the presentations. The reports and the presentations once again indicate the importance of discussing this topic at international level. Therefore, Mr. Chairman, my delegation supports the proposal by 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 this right at an international level and hopes that the 41st session of the Committee will make such a decision. Thank you, Mr. Chair.

38. The Delegation of Malawi. The Delegation of Malawi congratulates you Mr. Aziz Dieng on your appointment as Chairperson of the SCCR following the resignation of the former Chairperson Mr. Daren Tang, the Director General. The Delegation has every confidence that under his leadership we shall make positive progress in our deliberations. The Delegation also acknowledges and appreciates the Secretariat for their hard work in preparing the documents and conference facilities albeit these difficult circumstances. We align ourselves with the statement of Zimbabwe on behalf of the African Group. The Malawi Delegation continues to give its strong support to the proposal of Senegal and Congo to include of the Artist's Resale Right as a standing agenda item of the SCCR. Mr. Chairman, the Government of Malawi recognized the significant role of visual artists and therefore places great importance to the protection of the visual artworks as well as the welfare of the visual artists. For this reason, the Copyright Act of 2016 made provisions for the introduction of the Resale Right. Implementation of the provisions will ensure that the rights of visual artists are aligned with those of other categories of authors who continue to receive the royalties for as long as their works are available on the market. We urge the Committee to consider prioritizing the artists' resale right as a substantive item of the SCCR Agenda. I thank you Mr. Chairman

39. The International Authors Forum (IAF) is of the view that the Artist's Resale Right (ARR), through its global application, not only helps authors receive fair payment for work that will be sold before its value is known to them but can also be a means of fairness to artists when their work is resold into an international market. ARR provides a fair contribution to artists from the proceeds of ongoing sales in the global art market, as well as an incentive to continue creating. IAF wishes to express its thanks and support to the proposal from Senegal and Congo to include ARR as a standing item on the future agenda of the SCCR. It is important that artists in all countries can benefit from the resale of their creations. This is a matter of equity with how creators of other works are respected and rewarded for the continued enjoyment of their creation. ARR can comprise a significant part of an artist's income. A survey of artists in the UK found that 81% 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 supports the inclusion of ARR on the SCCR agenda and the progress of the Resale Right task force at WIPO.

40. Knowledge Ecology International (KEI). KEI supports work on the proposal tabled by Senegal and Congo to include the *droit de suite*, the artist resale right, so long as the right is for physical works for art. The Sam Ricketson study on this topic was particularly useful. KEI believes the artists resale right for physical works of art is an appropriate area for norm setting at the SCCR. The proposal benefits artists, and provides a modest redistribution of income from the collectors and dealers, to artists, particularly those artists who, at a point in their lives, were in a weak bargaining position as regards the prices they charged. We also note that there is a strong cross border trade in physical works of art. A work created in Africa, Asia or Latin America may be sold in London, Paris, New York or Hong Kong, for example. There is strong rationale for a global norm, if the right is limited to physical works for art, such as paintings, sculptures, and original manuscripts. We should note that KEI does not support a global norm on the resell right as regards reproduction rights or copies of works, and if WIPO wants to have success here, it would be wise to be narrow and focused, to physical works. Sometimes WIPO seems more concerned about corporate rights holders than artists themselves. But this is an example where WIPO can 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.

41. The International Federation of Journalists (IFJ). The International Federation of Journalists (IFJ) strongly supports the proposal to place *droit de suite* on the agenda of this Committee. The nature of the art market and the significant number of member states that make no provision for artists to share in the increasing value of their work as it is sold on and on make this a case in which a binding international instrument is merited. This would, we hope, go some way to fulfilling WIPO's mission to facilitate a "system that enables innovation and creativity for the benefit of all."

Rights of Theater Directors

Public Lending Rights

42. The Delegation of Malawi. The Delegation of Malawi congratulates you Mr. Aziz Dieng on your appointment as Chairperson of the SCCR following the resignation of the former Chairperson Mr. Daren Tang, the Director General. The Delegation has every confidence that under your leadership we shall make positive progress in our deliberations. The Delegation also acknowledges and appreciated the Secretariat for their hard work in preparing the documents and conference facilities albeit these difficult circumstances. The Delegation of Malawi supports a proposal by Sierra Leone and Panama for WIPO to commission a study focussed on the Public Lending Rights Systems around the world, how they benefit creators and how to make such a system work. The Government of Malawi recognises the importance of the Public Lending Rights system for the benefitting the authors. To this end, the Malawi Copyright Act of

2016, introduced provisions on Public Lending Rights, and draft regulations to operationalize the System have also been developed and await approval by the Government. Mr Chairman, creators are an entry point for the economic value chain of the creative sector which includes the print and other media in the country. According to a Study conducted by COSOMA in 2013 with the support of the World Intellectual Property Organization (WIPO), the creative sector contributed 3.46% to the national GDP which surpassed areas such as construction and manufacturing. This testifies the need for creativity to be nurtured and the PLR is one of the significant elements that can foster creativity. The Government therefore considers PLR as a source of vital financial support for the authors more especially in this age when incomes from publishing are falling due to largely the digital technology. For Malawi in particular, authors who are not among the best sellers, the PLR will be their biggest source of income because their published books which are not sold on the market but still being lent out by the libraries will be entitled to remuneration even when they are out of print. It will also be a life-saver for established, retired and authors requiring medical attention will directly benefit individual authors in such circumstances. Such a study would therefore be necessary to: identify the benefits that authors and other rightsholders gain from participating in PLR Schemes; facilitate introduction of the PLR System in the world particularly in Africa; identify issues to be faced in setting up PLR in developing countries; identify best practices in working with other cultural agencies such as libraries operating in PLR. Thank you Mr. Chairman.

43. The Delegation of Botswana. Thank you Mr. Chairman Botswana aligns itself with the statement made by Zimbabwe on behalf of the Africa Group. My delegation thanks Sierra Leone, Panama and Malawi for a proposal 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 World Intellectual Property Organization contained in document SCCR/40/3/Rev. 2. Public lending rights is an important topic for countries to understand as they deal with copyright issues. Mr. Chairman, Botswana would appreciate gaining more knowledge on this topic, how it is provided for in the laws of various countries, its administration and the cumulative benefit for both the rights holders and the users. For that reason, and at a high level, my delegation would appreciate a study that would give this Committee and its members a global view of the application of the PLR. Notwithstanding, my delegation is still considering the proposal, bearing in mind the already existing work before the Committee particularly issues under the Other Matters agenda item. Thank you, Mr. Chair

44. The International Authors Forum (IAF) supports 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 World Intellectual Property Organization (WIPO)' put forward by Sierra Leone, Panama and Malawi. IAF wholeheartedly supports remuneration measures such as Public Lending Right (PLR), which fairly rewards authors and ensures they can keep creating, while helping to maintain indigenous arts, literature, language and culture. PLR is a positive mechanism that provides recognition for authors for the loans of their books from libraries. The scheme is greatly valuable to authors both as a connection to ongoing readers and enhancing literacy, as well as providing the seed of the authors' next creation. It can be a valuable way for governments to support authors writing in local languages and is a means to reward authors for the contribution they make to a vital public good; the availability of culture in public libraries. PLR can also be a valuable way for governments to protect authors' writing in local languages. It's a recognition of creators' contributions to culture and also supports the role of education, helps maintain psychological health and protects a country's cultural heritage by preserving literature and language. At the PLR International Conference in London in 2019, and the side event on PLR held at WIPO during the SCCR38, we had opportunities to hear about the successes of PLR systems around the world in supporting authors and cultural sectors. This has meant enabling more authors to continue to create while their work is enjoyed in libraries. IAF supports the development of centrally funded PLR schemes that are to the benefit of authors – writers and visual artists alike – readers and libraries, and hopes the

committee can look to support international cooperation to this end. Government support for libraries remains as vital as ever, and goes hand in hand with PLR, but PLR encourages the surge of industry support for cultural goods from local creators in indigenous languages. IAF strongly supports the proposal for a study, outlined in SCCR/40/3. IAF particularly supports the intent to study the benefits of PLR for authors. It is particularly positive that the proposal considers opportunities for setting up PLR in developing countries, while considering the benefits for a nation's cultural and linguistic support. This proposal is a significant step to achieve support for authors and diverse cultures around the world.

45. The Authors' Licensing and Collecting Society (ALCS) supports the proposal by 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 is a not-for-profit organization, set up in 1977 and owned by its writer members. It collects money due for licensed secondary uses of authors' work and currently has over 100,000 members. Under its umbrella ALCS represents 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 is a way to provide authors and creators with fair monetary remuneration for their work through the public library system. It has been an issue that ALCS has campaigned for and continues to advocate, as the scheme ensures that funds reach a wide range of authors beyond top-sellers, which is vitally important in encouraging diversity in writing. The proposal in SCCR/40/3 identifies 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 is strongly positive: when PLR funds are distributed to authors it is welcomed with an outpouring of support. In the UK, PLR supports the author at no cost to either readers or libraries through government compensation. This is because the UK copyright regime strikes 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. This enables, among other things, exceptions for libraries and educational establishments which allows lower-cost access to works used for education while ensuring that educational writers still make a living writing the books used in our schools and exported abroad. PLR in the UK has 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 has 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 has worked best in the UK with centralized support from the Government. The current circumstances of COVID-19 have made it a particularly difficult time for the creative industry, with authors' incomes feeling the impact. The outbreak has exacerbated an ongoing problem, with ALCS research finding there has been a 42% 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 SCCR/40/3, we support 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 is good to see that the proposal also suggests a study that covers 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 is our

view that PLR has significant potential for supporting authors in continuing their contribution to culture.

46. The African Regional Intellectual Property Organization (ARIPO) thanks the Chairman, and the Secretariat for the good preparation of this meeting and the work done so far which aims to make progress on the different items of the SCCR agenda. ARIPO looks forward to having constructive and fruitful engagements on all issues to be discussed in this 40th Session of the SCCR. ARIPO supports the proposal made by the Government 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 Standing Committee on Copyright and Related Rights of WIPO. Though there are 35 countries across the world with PLR system, 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 is worth noting that among the ARIPO Member States, Tanzania Zanzibar has 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 23rd September 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 has 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 is the slump in global collection of royalties as reported by (CISAC, 2020), due to the Covid-19 pandemic which has 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% to 35%, 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 has affected the licensing activities and how responsive they were ([IFRRO Report](#)). It is worth noting also that during the pandemic many people are 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 encourages the ARIPO Member States to support and contribute constructively to the proposal made by the Government of Sierra Leone, Malawi, and Panama. Mr. Chairman and your team, may I thank you for this opportunity you have given us, and I wish you well as you Chair this Committee to have fruitful deliberations.

47. Knowledge Ecology International (KEI). Public lending rights, which are essentially a tax on libraries, may be appropriate in some countries, but are controversial and not an area for harmonization. That said, if countries want to adopt laws on the public lending rights, they should ensure that revenues are 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 create the works, as opposed to the corporate owners of rights.

48. International Federation of Journalists (IFJ). The International Federation of Journalists (IFJ) wishes to stress 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, functions well and is an important source of income to journalists who write or illustrate books: it offers an example that other countries could follow now. We welcome and support the proposal for a study.

49. Federazione Unitaria Italiana Scrittori (FUIS). Federazione Unitaria Italiana Scrittori (FUIS) is a Federation of trade associations representing over 25,000 Italian authors (writers, visual artists, screenwriters, playwrights, musicians), and working to protect their rights in human, moral and economic fields. It is the main association of authors in Italy. FUIS is a member of the IAF (International Authors Forum), which also participates in this Committee, shares its aims and supports its initiatives. FUIS would like to congratulate the chair on his appointment and pay its sincere condolences for the passing of Carole Croella, who has been of great assistance in the representation of authors at WIPO. FUIS supports the 'Proposal for a Study Focused on Public Lending Right' put forward by Sierra Leone, Panama and Malawi. FUIS supports 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. We are lucky to enjoy the right in Europe already, and of course would be delighted if this 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 enables local authors to thrive and encourages 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 does exist, which is facilitated by discussion and exchange of challenges and experiences through international efforts such as PLR International, is something that FUIS strongly endorses. A study such as the one proposed by Sierra Leone, Panama and Malawi would therefore be a crucial and positive initiative.

50. The Delegation of Japan. This delegation believes that sharing information regarding Public Lending Right would be important and useful for us in order to analyze objectively this issue, and would like to thank Sierra Leone, Panama, and Malawi for proposing this study. If the objective of the study is to make a recommendation of implementation, however, this delegation has a concern. This delegation thinks it should be policy neutral and be focused only on fact-finding research, like the background or the reason for the implementation of Public Lending Right in each member states. Furthermore, as an objective fact-finding research, it would be desirable to research the possibility of negative impact or the reason for not implementing the PLR in some member states. Having said that, Japan reiterates that a priority should be given to more mature subject, as the delegation of the United Kingdom referred on behalf of the group B. Thank you, Mr. Chair.